

Terms of Reference (ToR)
for
Post Procurement Internal Review (PPIR) of LGED District
Executive Engineer Offices

1. Background

Government of Bangladesh established Central Procurement Technical Unit (CPTU) under Implementation Monitoring and Evaluation Division (IMED) of Planning Ministry in 2002. The Government issued and enacted a uniform regulation for government purchases titled "The Public Procurement Regulations, 2003". Based on the real experience on the applicability of the Public Procurement Regulations, 2003 (PPR, 2003), Public Procurement Act, 2006 (PPA, 2006) and Public Procurement Rules, 2008 (PPR, 2008) were issued on 06 July, 2006 and 24 January, 2008 respectively and both the act and rules were enacted on 31 January, 2008. To make the act and rules more useful, the PPA, 2006 and the PPR, 2008 were amended several times. Besides, to ensure the transparency and accountability in the public expenditures, e-Government Procurement (e-GP) was launched in 2011. E-GP system is a national portal (<http://www.eprocure.gov.bd>) by which procuring agencies and institutions use to do online procurement.

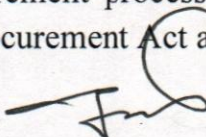
Section-24 of the PPA-2006 and Rules-45 & 46 of the PPR-2008, entrusted the concern Head of the Procuring Entities (HOPE) and CPTU the responsibility to review the procurement processes undertaken by the Procuring Entities. According to Rule 45, the records of Procurement activities shall be reviewed periodically by independent Consultants and the findings provided to the Procuring Entity and CPTU so that it can properly carry out its monitoring responsibilities and inform the Government and the general public about its recommendations for remedial measures concerning adherence to the relevant Rules, contract management, and delays.

LGED has reviewed the Post Procurement Activities of 2018-2019 and 2019-2020 under 3+3=6 district LGED offices by appointing Individual Consultant. But due to shortage of allocation of fund under the revenue head, the Post Procurement Review coverage is not adequate in compare to the minimum Area of Procurement Review Activities need to accomplish as instructed in Rule 46(3) of PPR-08. On the other hand, these activities shall be performed within a timeframe as instructed in Rule 46(1) of PPR-08. In view of the fact, LGED administration decided to perform the Post Procurement Internal Review by in-house special procurement committee in addition to the Post Procurement Review by Individual Consultant.

2. Objective of the Assignment

The objectives are to:

- Determine whether the procurement processes and contracting proceedings are in accordance with the Public Procurement Act and Rules;



- Review and assess the capacity of the Procuring Entity in handling procurement from procurement planning to contract implementation and maintaining documentation as per Rules & required standards;

3. Scope of the Services

The Procurement Committee will review the procurement contracts awarded in the financial year 2021-2022. The Committee will select contract packages for post-review under Goods & Related Services and Works & Physical Services at least fifteen percent (15%) contracts in number in such a manner as to cover at least thirty percent (30%) of the total contracts' value in various methods of procurement and various contract sizes of the review period of the concerned district.

The committee will-

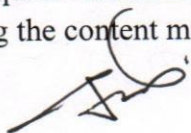
- Verify and assess whether APPs are prepared and approved by the competent authority according to the Section 11 of PPA-2006 and the rule 16 (5) of PPR-2008;
- Verify and assess whether Official Cost Estimates are prepared, approved and maintained by the competent authority according to the rule 16(5)(Ka) & 16(5)(Kha) of PPR-2008;
- Review and verify whether PE has used Standard Tender Documents(STDs) in its Procurement content & customization tender document as requirement of PE;
- Verify to the extent possible, whether the Goods, Works and Consulting Services contracted following advertisement of Rule 90 of PPR to ensure transparency principle of public procurement;
- Verify to the extent possible, whether the Goods and Works contracted were supplied and/or completed according to the required specifications and/or technical standards and that ensures quality control;
- Verify to the extent possible, whether the Goods and Works contracted were supplied and/or completed ensuring time and cost control;
- Verify whether documentation and record keeping systems that are in place are adequate for ensuring post review requirements;
- Verify whether goods and works exist at intended locations and are being used for the purposes they were acquired;
- Determine remedies to correct the identified deficiencies;
- Review the Procurement management Capacity of Procuring Entity (PE).

4. Methodology

The post procurement Internal review should follow four broad phases:

a. Preliminary Tasks

The committee will obtain the list of all signed contracts executed by the PE in the concerned financial year and shall select a sample of contracts to be reviewed, taking care to have adequate distribution among different methods, category and value of contracts following the content mentioned in the '**Scope of the Services**'.


b. Procurement Review

The Procurement Committee will review selected contracts at offices of the Procuring Entity and on implementation sites. The Procurement Committee is expected to consider the notes on procurement review as attached in Annex-3.

c. Preparation and Submission of the Draft Post Procurement internal review report

The Procurement Committee will prepare the draft post procurement review report based on findings of the review and following the format attached in Annex-4. The LGED procurement unit will arrange a dissemination workshop at LGED Headquarter and the committee shall present the draft post procurement internal review report before the senior, mid and field level officers of LGED.

d. Submission of Final Post Procurement Internal Review Report

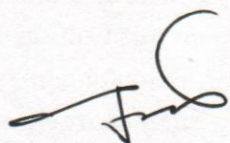
The Procurement Committee will incorporate the comments/recommendations from the participants of the workshop and submit the Final Post Procurement Internal Review Report.

5. Deliverables

- (i) **The List of Contracts to be reviewed:** The Procurement Committee shall select and finalize the samples of contracts to be reviewed within 15 calendar days from the date of the issuance of the order and submit the list of contracts to be reviewed to the Superintending Engineer(Procurement), LGED.
- (ii) **Draft post procurement Internal Review Report :** The Committee shall submit the draft post procurement internal review report within 45 calendar days from the date of the issuance of the order to the Superintending Engineer(Procurement), LGED.
- (iii) **Final Post Procurement Internal Review Report :** The Committee shall submit the final post procurement internal review report within 10 calendar days of workshop held to the Chief Engineer, LGED.

6. Time Schedule

The post procurement internal review shall be completed within **60 calendar days** from the date of the issuance of the order.



Tentative list of Documents that will be reviewed by the Procurement Committee

1. Total Procurement Plan in Project Document, Annual Procurement Plan, Official Cost Estimate	
2. Publication of Procurement Notice in newspaper, CPTU website and other media	
	Invitation for tender notices Days allows for submission of Tender
3. Procurement type, category, method	
	a) NCT/ICT b) Works/Goods c) OTM/LTM/RFQ/DPM/OSTETM
4. Tender document	Clarifications requested and issued Addendum issued Minutes of pre-tender meeting No of issuance Tender Document
5. Tender Opening	Formation and Approval of TOC Tender Opening report
6. Tender Evaluation	Formation and Approval of TEC(no of members, external members); Clarifications requested and received Complaints received and responses Tender Validity Extension Evaluation report and approval Notification of Award (NOA) Signed Contract
7. Contract Implementation	Document related to extension of time, contract variation, amendment, if any All Bills and payments records/ documents up to the post review date Documents related to Schedule of Program of works, program updates, progress report etc. Insurance provided by the contractor. Record of deduction of liquidated damages, if any Certification of work completion (final certificate), if any for completed contract Goods received /Works completion records Asset recording and distribution documents Disputes of Contracts
8. Any other relevant information/documentation required by the Procurement Committee relating to post procurement review	

A. Profile of Procurement Items Reviewed

A.1

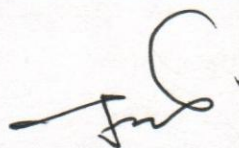
No. of Contracts Awarded in review period(2021-22)									
Category	OTM	LTM	RFQ	OSTETM	DPM	Others	NCT	ICT	Total
Works									
Goods									
PSN									
Total									

A.2

No. of contracts reviewed									
Category	OTM	LTM	RFQ	OSTETM	DPM	Others	NCT	ICT	Total
Works									
Goods									
PSN									
Total									

A.3

No. of Physical Inspections										
Category	OTM	LTM	RFQ	OSTETM	TSTM	DPM	Others	NCT	ICT	Total
Works										
Goods										
PSN										
Total										


B. Worksheet for Request for Quotations Method

Part B1. General

Date of Review:	Name of Reviewer:
Contract number, Description and Date:	Contract Amount:
Contractor/Supplier Name and Address:	Category:

Part B2: Process Review

Aspects Reviewed	Findings and Comments
Procurement Documentation (Filing)	
Reference in Procurement Plan	
Name and number of firms to whom Request for Quotation sent	
Time allowed for submission of quotations	
Verification (not evaluation) of existence of the quotations; Names of suppliers who submitted quotations	
Quotation evaluation report and date;	
Signed Contract/Purchase Order document	
"Delivery Receipt" or "Store Receipt" or like instrument	

Part B3. Contract Administration

Aspects Reviewed	Findings and Comments
Contract document or purchase order	
Planned contractual completion date	
Actual completion date	
Delivery receipt or similar instrument	
Timeliness of payments	
Amendments or contract modifications: number, amounts, and %	

Contractual disputes and resolution, if any	
Cost overruns reasons and explanations	
Closing of contract	



C. Worksheet for Post Reviews of Goods/ Works Contracts (OTM/LTM/OSTETM)

Part C1. General

Date of Review:	Name of Reviewer:
Contract Name, Number and Date:	Contract Amount:
Contractor/Supplier Name and Address:	
Procurement Method:	Category:

Part C2. Process Review

Aspects Reviewed	Findings and Comments
Procurement Documentation (Filing)	
Reference in Procurement Plan	
Advertising	
Pre/post qualification	
Time allowed for submission of Tenders.	
Tender opening & minutes of Tender opening	
Tender security records	
Tender Evaluation Report, verify existence of Tenders- Names of Tenderers.	
Reference to DPs and "no objection," if any (not required under Agreement)	
Performance security details	
Complaints and Appeals	
Compliance with agreed provisions- Yes or No (Explain)	

Part C3. Contract Administration

<i>Aspects Reviewed</i>	<i>Findings and Comments</i>
Contract document	
Advance payment guarantee details and records	
Insurance	
Performance security details and records	
Bill of lading, customs clearance, license and	

<i>Aspects Reviewed</i>	<i>Findings and Comments</i>
permits if required	
Inspection of supervision or testing records and reports	
Planned contractual completion date	
Provisional acceptance or testing	
Actual completion date	
Delivery receipt or similar instrument	
Liquidated damages, details and enforcement for delays	
Timeliness of payments	
Amendments or contract modifications: number, amounts, and %	
Contractual disputes and resolution, if any	
Cost overruns reasons and explanations	
Adjudication and arbitration	
Closing of contract	





D. Worksheet for Direct Procurement Method

Part D1. General

Date of Review:	Name of Reviewer:
Contract No.:	Contract Date:
Contract Description:	Contract Amount:
Contractor / Supplier Name and Address:	Category:

Part D2. Process Review

Aspects Reviewed	Findings and Comments
Procurement Documentation (Filing)	
Reference in Procurement Plan	
Adequacy of justification for direct selection	
Use of e-procurement system	
Negotiations	
Publication of contract award	
Complaints and results	
Justification for direct selection	

Part D3. Contract Administration

Aspects Reviewed	Findings and Comments
Contract document	

Aspects Reviewed	Findings and Comments
Advance payment guarantee details and records	
Insurance	
Performance security details and records	
Bill of lading, customs clearance, license and permits if required	
Inspection of supervision records and reports	
Planned contractual completion date	
Provisional acceptance or testing	
Actual completion date	
Delivery receipt or similar instrument	
Liquidated damages, details and enforcement for delays	
Timeliness of payments	
Amendments or contract modifications: number, amounts, and %	
Contractual disputes and resolution, if any	
Cost overruns reasons and explanations	

Aspects Reviewed	Findings and Comments
Closing of contract	



E. Report on Physical Inspection

Contract name and number	
Location	
Date of visit	
Date of contract	
Intended completion date	
Actual completion date	
Contract value	
Final contract value	
Supplier/Contractor	
Scope of work	
Materials (supply and quality)	
Workmanship quality	
Construction supervision	
Time overruns	
Cost overruns	
Deficiencies/defects observed	
Timeliness of payments to contractor	
Comments and recommendations	



Notes on Procurement Review

1. Selection of contracts for review

- 1.1 On the basis of the information provided by the Procuring Entity, the Procurement Committee is fully responsible for the selection of the contracts to be reviewed.
- 1.2 The selected contracts for review should be representative of the overall procurement by value, Category and methods.

2. The procurement post review team shall review project files with special focus on as mentioned in Annex-1.

3. Procurement post review process

3.1 Initial documentary review

It may be useful to develop a standard "procurement post review data sheet" to perform the initial documentary review. For each of the selected contracts, key information should be gathered based on documents obtained from the Procuring Entity (tendering procedures, prequalification/tendering documents, pre-qualification/tender evaluation reports, signed contracts, change orders, claims, payment certificates, acceptance certificates, etc.).

3.2 Further documentary review

For all contracts included in the review sample, the Procurement Committee should specifically review:

- a) the prequalification and tendering documents to assess the compliance of these documents with the Regulations and standard documents issued by CPTU;
- b) the prequalification and tender evaluation reports to verify the compliance of the Procuring Entity's evaluation with the prequalification/tendering documents;
- c) the signed contracts to verify their consistency with the tendering documents;
- d) the time lags between key procurement activities to determine the effectiveness of the procurement process;

3.3 Documentary checks of contract performance

In addition to the documentary review mentioned above, specific file checks should be performed. The main objective of this additional control is to evaluate the performance of contracts awarded and to assess their degree of compliance with agreed requirements and technical specifications (e.g. test, inspection certificates), payment terms and timely performance. This review should cover all the contracts procurement post reviewed and focus on the following items:



- a) qualitative and quantitative changes in contract scope: based on the information included in the contract data sheet, change orders should be reviewed in order to assess their compliance with the Regulations;
- b) status of deliveries: the dates of the different deliveries agreed in each contract should be checked and any discrepancy noted. In appropriate instances, the final destination of deliveries should also be verified;
- c) status of payment: evidence of payments by the Procuring Entity should be checked. Payment information should also be used to cross check and to confirm the date of completion; and
- d) quality documentation: the procurement post review team should also check the availability of quality documentation mentioned in each contract, such as certificates, inspections performed and laboratory tests.

3.4 Physical inspections

These should normally cover contracts of each category like Goods & Related Services, Works and physical services as many contracts as possible. Depending on the type of goods/works, the following types of inspections should be performed as appropriate:

- a) standard physical inspections of goods/installations: quality control (conformity with technical specifications stipulated in the contract) and confirmation that quantities were delivered;
and
- b) on site visits to works: field visits should be undertaken to verify the status of works or to confirm their completion. Documentary checks (certificates of acceptance/ completion, defects list, tests, etc.) should also be made.

3.5 Review of costs and price verification

Review the invoices and compare with the quoted prices as per contract.

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SAMPLE FORMAT FOR POST PROCUREMENT INTERNAL REVIEW REPORT

Procuring Entity	
Financial Year	
No. of Contracts Signed	
No. of Contracts Reviewed	
Total Value of Contracts Reviewed	
% No. of Contracts Reviewed	
Procurement post review conducted by	
Date	

1. Executive Summary

Provide a brief description of Post Review objective, key findings/issues, and recommendations.

Post Review Objective:

Key Findings/ Issues:

Recommendations:

2. Discussion on the Selection of the Contract Samples Reviewed

Provide a brief description of the selection of the contract sample and summary list of the contracts reviewed, including procurement category, procurement method, contract number, contract date, short contract description, name of contractor/supplier/consultant, contract amount.

Selection of Contract Sample:



Summary List of Contracts Reviewed:

Sl. No	Contract Number, Date and Description	Procurement Category and Method	Contract Amount (BDT)	Name of Contractor/Supplier/Consultant
1.				
2.				
3.				
4.				

3. Findings on the review of the Procuring Entity's capacity

4. Findings on the Review of Procurement Processes

Provide a brief description of findings on procurement processes, including procurement planning, publications, tendering, evaluation, complaints handling, awards and timeliness of procurement.

Findings on Procurement Processes:

Procurement Planning:

Publications:

Tendering:

Tender Evaluation:

Complaints Handling:

Awards and timeliness of Procurement:

5. Findings on the Review of Contract Administration & Management

Provide a brief description of findings on contract administration, including implementation, payments, disputes resolution, and compliance.

Findings on Contract Administration:



Implementation:

Payments:

Disputes Resolution:

Compliance:

6. Indication of Possible Governance Issues

Provide a brief description of any findings that could indicate possible fraud or corruption related to the procurement processes, contract administration, or any other related issues at contract.

Procurement Processes:

Contract Administration:

Any other Related Issues:

7. Mitigating Measures or Corrective Actions

8. Recommendations:



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