

PROCUREMENT CAPACITY ASSESSMENT REPORT

Proposed Project Name: Urban Primary Health Care Services Delivery Project, Bangladesh	Proposed Amount: US\$81 Million
Executing Agency: Local Government Division (LGD), Ministry of Local Government, Rural Development, and Cooperatives (MOLGRDC)	Sources of Funding: ADB Loan, \$50 million; Sida Loan, US\$20 million; Government Finance, \$11 million
Assessor: Consultant	Date: 21 January 2012

Expected Procurement

1. The planned procurement will comprise (i) **civil works** including construction of 12 CRHCCs and 26 PHCCs, expansion of existing facilities for upgrading of one PHCC to CRHCC, renovation and maintenance of 128 existing health care facilities, pilot program for rainwater harvesting at 10 existing facilities, and pilot program for solar energy systems at five selected facilities; (ii) **goods** including (a) 26 utility vehicles and ambulances; (b) furniture and medicines and medical equipment (by partner NGOs); and (c) ICT equipment, peripherals, and software packages; (iii) **procurement of partnership agreements** with NGO/ private entities for delivering primary health care services in 30 partnership areas; and (iv) **services** including four consulting firms and specialized institutions for (a) surveys and investigations; (b) ICT solutions and urban health management information system; (c) behavior change communication; and (d) action-oriented operations research on selected topics related to public health management, and eleven individual consultants for project management support and training of LGD, ULB, and PA NGO staff.

Assessment of the National Environment

2. The *Public Procurement Act (PPA)* of 2006, supported by the *Public Procurement Regulations (PPR)* of 2008, has sought to ensure transparency and accountability in public contracts and 'fairness' to participants in government or public purchases. Further reinforcing the PPA, the *Public Procurement Rules (PPR)* were enacted in 2008. The Implementation Monitoring and Evaluation Division (IMED) is the central and apex organization of the Government for monitoring and evaluation of the public sector development projects that are included in the Annual Development Program (ADP). IMED also deals with matters relating to PPA, 2006. The Central Procurement Technical Unit (CPTU), established under IMED in 2002, acts as the central organ of government for policy formulation, coordination, monitoring, and improvement of the public procurement process. The CPTU also has the authority to intervene in the bidding process if any complaints are made by one or more bidders. It also acts to resolve such disputes or complaints. Recently, CPTU has introduced, with the assistance of the World Bank, an online platform for the National e-Government Procurement System (e-GP) (<http://eprocare.gov.bd>). The e-GP system is an online platform for procurement activities of public agencies as procuring agencies (PAs) and procuring entities (PEs). Presently, only 16 PEs under four PE or sector agencies use the e-GP. These are the Bangladesh Water Development Board (BWDB), Local Government Engineering Department (LGED), Roads and Highways Department (RHD), and Rural Electrification Board (REB).

3. The procurement regulations generally follow international standards, and improvements have been made in the procurement tools and procedures, but the public procurement regime remains weak. This is usually attributed to the (i) over-bureaucratization of procurement

processes, (ii) a lack of understanding of applicable procurement rules and regulations among officials involved in procurement, and (iii) weak compliance. Moreover, in some cases, the discretion given to procuring entities to choose one or the other method of procurement, along with largely ineffective systems of appeals and review of procurement decisions appears to undermine the integrity of the public procurement system.

Executing Agency Resource Assessment

4. The EA's procurement resources reflect the general picture at the national level. While the project will rely on the existing EA structure (e.g., approval authority and bid evaluation committee), the PMU will be responsible for most of the procurement work, as was the case in UPHCP-II. The procurement team within PMU consists of three persons, viz., an executive engineer, an assistant engineer, and a logistics and stores officer. Most of the team members have substantial experience in procurement procedures since they have been working in the previous two projects, and are expected to be retained in the next phase. Although these procurement personnel do not have formal procurement qualifications, they have been trained in ADB procurement procedures by ADB and have expressed interest in undergoing further training in procurement. There exists a well-described list of functions/job descriptions for each staff member related to procurement, along with specifications and types of goods and supplies with ceilings in the Development Project Proforma (DPP), meeting the requirements of the PAM, RRP, and the Loan Agreement including all project procurement. All staff has access to computers, printers, the internet, and a photocopier, and all procurement announcements are posted on ADB, CPTU, and project websites. The project website is accessible via the LGD website. Therefore, the overall capacity of the PMU procurement staff is considered adequate to carry out the procurement that is envisaged for the next project.

5. The procurement team primarily handles the procurement of various types of goods and supplies, including medical equipment and partnership agreements with NGOs. The upcoming project has a budget of \$15.7 million for capital and development expenditures for civil works and around \$42.4 million for contracts with partner NGOs, which is the largest cost component of the project.¹

6. UPHCP-II. The procurement team has members with engineering qualifications to oversee and supervise the work and ensure adherence to designs and specifications. However, there is no financial expert in the team for improved internal control and oversight and for ensuring that payment procedures are in line with prevailing rules and regulations **Procurement Processes.**

7. The procurement team has experience with international procurements. Goods and services specifications and terms of reference (TORs) are normally prepared with assistance from technical experts and project consultants, as necessary. A procurement expert is also present for more complex procurement. For civil works, specifications are drafted with the assistance of the outsourced firm for civil works. Standard bidding documents prepared by the Ministry of Planning and are used nationwide by all government agencies are used. The procurement team is responsible for the bidding process, with bids opened in public; late bids are rejected and minutes are available to all bidders. Most of the civil works contracts were awarded within 120 days from the receipt of bids. The team also has experience in procuring the services of consultants, but it usually takes but it usually longer than the civil works to conclude the contracts. Other procurement processes take between 2-3 months. There have

¹ In the previous phase of the project procurement under civil works was of USD 12.9 million.

been some problems in the past with the release of payments to contractors, with payments sometimes taking as long as 60 days to process.

Process Control and Oversight, Records Keeping and Audit

8. While oversight and control processes are in place, it was difficult to assess their effectiveness. Bidders have a complaint mechanism in place and can make complaints directly to the Secretary or Project Director. Copies of all procurement documents are retained by the procurement team at PMU. All procurement documents are kept for a minimum of five years after project completion as mandated by the Government. There is no scope to undertake internal audits, and external audits are carried out by the FAPAD, as is the case for all foreign-assisted projects. The previous phases engaged an audit accounting firm to complete an external audit.

Summary Assessment and Recommendations

Overall Assessment:

9. Overall capacity of the PMU procurement team is considered to be adequate, with staff highly conversant with GOB and ADB procurement procedures and practices.

Procurement Issues and planned initiatives:

(i) Decentralization

10. The proposed project will require the upgrading of existing facilities, construction of new PHCCs and CRHCCs, green clinics, and renovation and routine maintenance, at a total estimated civil works cost of \$15.72 million, thereby constituting a major expenditure heading of the project. The upgrading cost is estimated at \$0.21 million, new construction at \$14.2 million, green clinics at 0.8 million. Administering of all these contracts by PMU, which plans to implement all the civil works over a period to two and half years, will be difficult. As such, the PMU plans to progressively delegate some of the related function and responsibilities to city corporations and experienced municipalities.

(ii) Procurement of Medicines

11. The project will finance medicine for about \$3.9 million and the amount is built in the 30 PA NGO contracts. The PA NGOs will procure it in batches over a period of five years. There are no set guidelines in a Government Procurement Act and Rules. Due to the unique nature of drugs procurement, the current system of procurement by NGOs using shopping method from quality certified suppliers is argued to be having the most economy and efficiency in medicine procurement. Project guidelines will need to be prepared to guide procurement and management of drugs across partnership areas.

(iii) Partnership Agreements

12. The project will procure services of private non-profit entities for delivering PHC services in 30 partnership areas, for the expected total amount of \$36.7 million (excluding drugs and supplies). Implementation plan for partnership agreements is included in Annex 5 of PAM. Due to complex and potentially sensitive nature of the bidding process, EA capacity will need to be supported with an international procurement consultant experienced in PPP transactions.

Procurement Methods

13. ADB's *Procurement Guidelines* will be applied for all goods, works, and services to be procured under the project. However, for small works and supplies of goods/medical equipment, the following are recommended.

- (i) Procurement of medical equipment and vehicles will be through national competitive bidding (NCB) procedures. This would be changed to ICB if the total amount exceeds the thresholds mandated for NCB procedures.
- (ii) Overseas training will be procured via quality and cost based selection (QCBS) using ADB procurement guidelines for consulting services.
- (iii) Procurement of PA-NGO services will be through ICB.

14. The ceilings for the different procurement methods will follow UPHCP-II and are specified in the procurement plan in the PAM.

Recommendations

15. The proposed progressive decentralization of selected procurement will expedite project implementation and improve ownership at the ULB and PA NGO levels. Given the amount of time required for procurement of partnership agreements (18 months under UPHCP and 12 months under UPHCP II), advanced procurement actions should be undertaken as soon as possible for smooth transition between project phases. Due to complex nature of the bidding process, PMU should be supported with an international procurement consultant (under TA resources) to assist in the bidding and evaluation processes.

Appendix 1: Procurement Risk Assessment

Description	Risk Assessment		
	Low	Average	High
1. Is there a procurement law?	✓		
2. Are these laws and regulations clear and concise?	✓		
3. What does the law (or regulations applicable to procurement) cover?	✓		
4. Does the law cover the procurement of consulting services?	✓		
5. Does the law differentiate between processes for consulting services and Goods/Works?		✓	
6. Does the law require advertisement of all procurement opportunities?		✓	
7. Are contract awards advertised?		✓	
8. Are there restrictions on goods and works services on the basis of origin?	✓		
9. Does the law or relevant legislation and regulations provide acceptable provisions for the participation of state owned enterprises?	✓		
10. Are there restrictions on the nationality of bidders and consulting firms invited?	✓		
11. Are foreign bidders and consultants forced to offer through or with local partners		✓	
12. Is there a domestic preference scheme?	✓		
13. Is there a national standards mandate used for quality control purposes	✓		
14. Are agencies exempt from the law?	✓		
15. Is the default method of procurement open competition?	✓		
16. Is open procurement easily avoided?		✓	
17. Do the rules and regulates require prequalification?		✓	
18. Do the rules and regulations require registration?			✓
19. Are there systematic procurement process audits?		✓	
20. Is there a national procurement manual or guide?	✓		
21. Do the laws and regulations mandate the use of standard documents?	✓		
22. Have these standards bidding documents been approved for use on ADB projects?	✓		
23. Do the regulations require the collection of nation wide statistics on procurement?			✓
24. Is consolidated historical procurement data available to the public?		✓	
25. Do procurement laws and regulations contain provisions for dealing with misconducts?	✓		
26. Is fraud and corruption in procurement regarded as a criminal act?	✓		
27. Have there been prosecutions for fraud and corruption?	✓		
28. Is there an alternative disputes resolution process independent of government and courts?		✓	
29. Does the law allow for sovereign immunity to the EA for claims against it?	✓		

Description	Risk Assessment		
	Low	Average	High
30. Do the regulations allow for black listing (disbarment) of firms and individuals?	✓		
31. Which body oversees procurement?	CPTU, Ministry of Planning		
32. What powers does the oversight body have?	✓		
33. Is there a nationwide procurement training plan?	✓		
34. Is there a procurement accreditation or professionalization program?	✓		
35. Are major projects identified within an agencies appropriation or budget?	✓		
36. Is the procurement cycle tied to an annual budgeting cycle?	✓		
37. Once an appropriation or budget is approved will funds be placed with the EA or can the EA draw them down at will?	✓		
38. Can an EA draw directly from a loan or imprest account or will it spend budgeted funds with the borrower claiming reimbursement?	✓		
29. When an EA is implementing a project using funds from the national budget has a delay in funding significantly delayed procurement?	✓		

Appendix 2: EA Procurement Capacity Assessment Questionnaire

Part A. General Agency Resource Assessment	Response
A.1. Is there a procurement department	No; 3 project personnel trained overseas on procurement
A.2. What procurement does it undertake?	Goods, services, and works
A.3. Are staff provided with written job descriptions?	Yes, detailed descriptions are present in the DPP
A.4. How many years' experience does the head of the procurement unit have in a direct procurement role?	N/A
A.5. How many staff are in the procurement department? i. Full-time? ii. Part-time? iii. Seconded?	There are three full-time staff with procurement functions and a procurement consultant available intermittently: 1 Executive Engineer 1 Assistant Engineer 1 Logistics and Store Officer
A.6. At what level does the department report (to head of agency, deputy)?	The Procurement Team reports to the Project Director or the Secretary depending on the ceiling of the procurement value. The ceilings are stated in the GOB project delegation of financial power, 2004: consulting services, Tk20 million; seminars/ studies/training, Tk3 million; vehicles, Tk7.5 million; other equipment, Tk20 million; and civil works, Tk 80 million.
A.7. Do the staff that will be involved with the procurement have English language skills sufficient to undertake international procurement?	Yes
A.8. Is the number and qualifications of the staff sufficient to undertake international procurement?	Inadequate, but their capacity will be supplemented with the support of an outsourced firm (for civil works) and experts (consultants).
A.9. Does the unit have adequate facilities such as PCs, internet connections, photocopy facilities, printers, etc. to undertake the additional procurement that will be required under the proposed project?	The procurement staff have access to PCs, internet connections, and a photocopier.
A.10. Is there a procurement training program?	Yes, the procurement team has been provided procurement training, but they felt it was insufficient.
Part B. Agency Procurement Processes, Goods, and Works	
B.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months or last 36 months)?	Yes, by PMU.
B.2. If the above is yes, what were the major challenges?	Long duration for obtaining approval, difficulties in performance monitoring, and delays in payment to PA-NGOs.
B.3. Is there a procurement process manual for goods and works?	Detailed procurement processes are contained in PPA 2006, PPR 2008, and ADB Procurement Guidelines.
B.4. If there is a manual, is it up to date and does it cover foreign-assisted procurement?	PPA 2006 and PPR 2008 both cover foreign-assisted procurement as well as ADB's procurement guidelines.

B.5. Is there a systematic process to identify procurement requirements (1 year or more)?	All procurement is outlined and budgeted for in the beginning of the financial year in the form of Annual Procurement Plan (APP).
B.6. Who drafts the specifications?	The procurement team drafts the specifications sometimes with the assistance of the ministry for complex civil works and consultants.
B.7. Who approves the specifications?	The EA, which is LGD, as well as ADB's approval is sought.
B.8. Are there standard bidding documents in use and have they been approved for use in ADB-funded projects?	Yes, the bidding documents are prepared by the CPTU and have been approved by ADB.
B.9. Who drafts the bidding documents?	Bidding documents are prepared by the procurement team; sometimes technical inputs are received from respective experts/consultants.
B.10. Who manages the sale of the document?	PMU procurement staff
B.11. Are all queries from bidders replied to in writing?	Yes
B.12. Is there a minimum period for preparation of bids and if yes, how long?	Minimum is approximately two weeks. For civil works, it is 28 days for NCB and 45 days for ICB.
B.13. Does the bidding document state the date and time of opening and how close is it to the deadline for submission?	Yes, all bidding documents include this information.
B.14. Is the opening public?	Yes
B.15. Can late bids be accepted?	No
B.16. Can bids be rejected at bid opening?	No. Only the technical evaluation committee can reject non-responsive bids.
B.17. Are minutes taken?	Yes
B.18. Who may have a copy of the minutes?	All bidders and any concerned parties.
B.19. Are the minutes free of charge?	Yes
B.20. Who undertakes the evaluation (individual/s, permanent committee, ad-hoc committee)	Bid Evaluation Committee may include experts from other departments or as stated in the project DPP.
B.21. What are the qualifications of the evaluators in respect to procurement and the goods and works under evaluation?	ADB guidelines as well as PPR are followed regarding the qualifications of the evaluators.
B.22. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	Either the Project Director or the Secretary provides final approval based on thresholds established under Delegation of Financial Powers.
B.23. Using at least three real examples of how long between the issue of the invitation for bids and contract effectiveness?	Approximately 4-5 months for goods and works; 8-12 months required for services.
B.24. Are processes in place for the collection and clearance of cargo through ports of entry?	N/A
B.25. Are there established goods receiving procedures?	Yes
B.26. Are all goods received recorded as assets or inventory in a register or similar?	Yes

B.27. Is the agency/procurement department familiar with letters of credit?	Yes
B.28. Does the procurement departments register and track warranty and latent defects liability periods?	Yes
Part C. Agency Procurement Processes, Consulting Services	
C.1. Has the agency undertaken foreign-assisted procurement of consulting services recently (last 12 months, last 36 months)?	Yes
C.2. If the above is yes, what were the major challenges?	Time constraints for the approval process were cited as the major challenge.
C.3. Is there a procurement process manual for consulting services procurement?	Not separately; ADB manual adopted.
C.4. Is the manual up to date and does it cover foreign assisted projects?	Yes
C.5. Who identifies the need for consulting services requirements?	GOB/ADB
C.6. Who drafts the TOR?	GOB/ADB
C.7. Do the TOR follow a standard format such as background, tasks, inputs, objectives, and outputs?	Yes
C.8. Who prepares the request for proposals?	The procurement team with the assistance of consultants
C.9. Are assignments advertised and expressions of interest called for?	Yes – all assignments are advertised.
C.10. Is a consultants' selection committee formed with appropriate individuals in terms of procurement and technical expertise?	Yes
C.11. What are the criteria to evaluate EOIs?	They are stipulated in the RFP.
C.12. Historically, what is the most common method used (QCBS, QBS, etc.)?	QCBS
C.13. Do firms have to pay for the proposal document?	Yes
C.14. Does the evaluative criteria follow a predetermined structure and is it detailed in the RFP?	Yes
C.15. Are pre-proposal visits and meetings arranged?	Yes
C.16. Are minutes prepared and circulated after pre-proposal meetings?	Yes
C.17. To whom are the minutes distributed?	All bidders
C.18. Are all of the queries from consultants answered to in writing?	Yes
C.19. Are financial and technical proposals in separate envelopes?	Yes
C.20. Are proposal securities required?	No

C.21. Are technical proposals opened in public?	Yes
C.22. Do the financial proposals remain sealed until technical evaluation is completed?	Yes
C.23. Are minutes of technical opening distributed?	Yes
C.24. Who determines the final technical ranking and how?	Bid Evaluation Committee following GOB/ADB guidelines
C.25. Are the technical scores published and sent to all firms?	No, the scores are not published; only shortlisted firms are requested to submit a proposal.
C.26. Is the financial proposal opening in public?	Yes
C.27. Are there minutes taken and distributed of financial proposal opening?	Minutes are taken and distributed
C.28. How is the financial evaluation completed?	Through Bid Evaluation Committee
C.29. Are face to face contract negotiations held?	Yes
C.30. How long after financial evaluation is the selected firm invited to negotiate?	1-2 weeks or as per PPR
C.31. What is the usual basis for negotiation?	Technical and financial proposals and the TOR
C.32. Are minutes of negotiation taken and signed?	Yes
C.33. How long after negotiations until the contract is signed?	14 days
C.34. Are advance payments made?	Yes, certain contracts have a 10% mobilization advance.
C.35. Is there an evaluation system for measuring the outputs of consultants?	Stipulated in TOR
Part D. Process and Oversight Control	
D.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes
D.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes
D.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) outside of the budgeting process?	No
D.4. Who approves procurement transactions and do they have procurement experience and qualifications?	The Project Director or the Secretary depending on the value of the contract amount.
D.5. Which of the following actions require approval outside of the procurement unit or a permanent evaluation committee and who	Project Director or Secretary as per threshold and ADB

(a) grants the approval? Bidding document, invitation to prequalify, or request for proposal	Project Director or Secretary as per threshold
(b) Advertisement of an invitation for bids, prequalification, or call for expressions of interest	Project Director or Secretary as per threshold and ADB Project Director or Secretary as per threshold
(c) Evaluation of reports and draft contract	Project Director or Secretary as per threshold
(d) Notice of award	Project Director or Secretary as per threshold
(e) Invitation to consultants to negotiate	Project Director or Secretary as per threshold
(f) Contracts	Project Director or Secretary as per threshold
D.6. Is contractual performance systematically monitored and reported upon?	Yes, there is a Monitoring & Evaluation position
D.7. Does the agency monitor and track its contractual payment obligations?	Yes
D.8. On average how long is it between receiving a firm's invoice and making payment?	Usually within contract terms, or up to 30 days
D.9. What is the standard period for payment included in contracts?	Payments are made within 15-30 days of goods or services delivered
D.10. When payment is made late, are beneficiaries paid interest?	No
D.11. Are payments authorized by the same individuals empowered to approve invitation documents, evaluations and contracts?	No
D.12. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes, decisions made by Bid Evaluation Committees are recorded and kept on file.
D.13. Are procurement decisions and disputes supported by written narratives such as minutes of evaluation and contracts?	Yes
D.14. Is there a formal non-judicial mechanism for dealing with complaints	Yes
D.15. Is a complaints mechanism described in national procurement documents?	Yes
Part E. Records Keeping	
E.1. Is there a referencing system for procurement files	Yes, procurement documents are stored and filed, and can be referenced as needed.
E.2. Are original contracts secured in a fire and theft proof location?	Yes
E.3. Are copies of bids or proposals retained with the evaluation?	Yes
E.4. Are copies of the original advertisements retained with the pre-contract papers?	Yes
E.5. Is there a single contract file with a copy of the contract and all subsequent contractual	Yes

correspondence?	
E.6. Are copies of invoices included with contract papers?	Yes
E.7. For what period are records kept?	For a period of 5 years after end of project