

Mapping of Institutional Arrangements and Procedures for Public Procurement in Bhutan

Identifying strategic and administrative leverage points for
implementing green public procurement

September 2015

Green Public Procurement in Bhutan

ABOUT GPP BHUTAN

The Green Public Procurement in Bhutan project (GPP Bhutan) is an EU-funded project under the EuropeAid SWITCH-Asia Programme. It aims to establish a strategic approach to scaling-up public demand for environmentally and socially preferable goods, services and infrastructure in Bhutan. The project seeks to promote value-for-money across the asset life cycle rather than simply at the point of purchase, in order to reduce the negative environmental impacts and maximize social benefits from procurement.

The project is implemented by a consortium of two international and three national organizations, namely the International Institute for Sustainable Development (Project Lead, Canada), the Bhutan Chamber of Commerce and Industry (Bhutan), the Royal Institute of Management (Bhutan), the Royal Society for Protection of Nature (Bhutan), and the Collaborating Centre on Sustainable Consumption and Production (Germany).

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ABOUT THIS REPORT

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Acronyms

ACC	Anti-Corruption Commission of Bhutan
ADB	Asian Development Bank
AFD	Administrative and Finance Division
APO	Assistant Procurement Officer
DNB	Department of National Budget
DPA	Department of Public Accounts
FYP	Five Year Plan
GNHC	Gross National Happiness Commission
GPP	Green Public Procurement
ICT	Information and Communication Technology
IRB	Independent Review Body
MOF	Ministry of Finance
PPD	Policy and Planning Division
PPPD	Public Procurement Policy Division
PRR	Procurement Rules and Regulations
RAA	Royal Audit Authority
RGOB	Royal Government of Bhutan
SAI	Supreme Audit Institution
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
SOE	State Owned Enterprise
SRP	Standard Request for Proposal
VFM	Value for Money
WLC	Whole Life Cycle Cost

EXECUTIVE SUMMARY

This report maps the institutional arrangements and procedures for public procurement in Bhutan in order to identify strategic and administrative leverage points for implementing green public procurement (GPP). The specific objectives are to: i) illustrate the formal national organization of public procurement, ii) confirm procurement procedures in practice, iii) discuss limitations in formal provisions for procurement, iv) undertake gap analysis between formal provisions and real practice, and v) examine capacity and socio-cultural aspects affecting procurement.

With the Public Finance Act of Bhutan 2007 mandating full responsibility to the Ministry of Finance (MOF) for procurement and disposal of assets of the Royal Government of Bhutan (RGOB), the Procurement Rules and Regulations (PRR) document was developed in 2009. The PRR 2009 applies to all government agencies, except in cases of national security interests and external funded projects, if the external funded projects have specific procurement procedures under the relevant financing agreement. Corporations other than municipal corporations and financial institutions who are fully or partly owned by the RGOB are allowed to adopt separate rules and regulations, provided such rules are within the broad principles of PRR and approved by their respective board of directors/trustees. The PRR 2009 prescribes seven different tender committees with different team compositions and thresholds. Procurement thresholds for different tender and bidding procedures are also defined in PRR 2009.

PRR 2009 provides for sound, transparent and clear procurement procedures with fair and equitable procurement opportunities, well defined roles and responsibilities of the procuring agencies and the bidders, well-defined evaluation criteria and a formal dispute resolution process. In addition, any procurement activity is followed by mandatory and regular auditing, which reviews the financial aspects of project expenditure and checks the specific steps of the procurement cycle.

In the planning phase, the Five Year Plan (FYP) is the main policy document for identifying goals and targets that are closely linked with the government's plans and programs. Therefore, all government activities including procurement should be in accordance with the objectives of the FYP.

Findings from both the case studies and procurement survey conducted for this report show that tenders are effectively advertised in the country through print media and broadcast television. Procurement is also adequately planned from the need identification phase through to the contract management phase. Communications by the procuring agency appear to be transparent with most procuring agencies maintaining proper records and informing the public on the bid opening and contract negotiations. Shortage of experienced and skilled professional staff in the procurement departments are general concerns expressed by the respondents. In addition, it is also observed that most procurement officers are not involved in planning, writing specification and budgeting.

The implication of these findings for the GPP Bhutan Project is that the team must target not only procurement officers but also relevant policy makers and program officers in order to effectively implement the concept of green public procurement in Bhutan, thereby contributing to sustainable consumption and production. Subsequent project activities must involve a range of stakeholders involved in strategic decision-making and executive levels. In addition, the legal space available in the PRR 2009 to implement green public procurement system needs to be made clear and understood by all relevant stakeholders.

SECTION 1: INTRODUCTION

Streamlining of public finance started with the introduction of the Financial Manual in 1988 with development assistance from the government of the Netherlands. The Ministry of Finance (MOF) was then the leading agency for financial management services and economic advice to the Royal Government of Bhutan (RGOB). In the mid-1990s, the RGOB, with development assistance from the Asian Development Bank (ADB), introduced a chapter to the Financial Manual incorporating procurement rules and regulations. In 2005, the RGOB, with financial assistance from the World Bank, reviewed the Financial Manual in order to align it with international best practice. While doing so, it also identified gaps in procurement provisions. Since then several measures, policies and initiatives have been put in place to streamline procurement in the country.

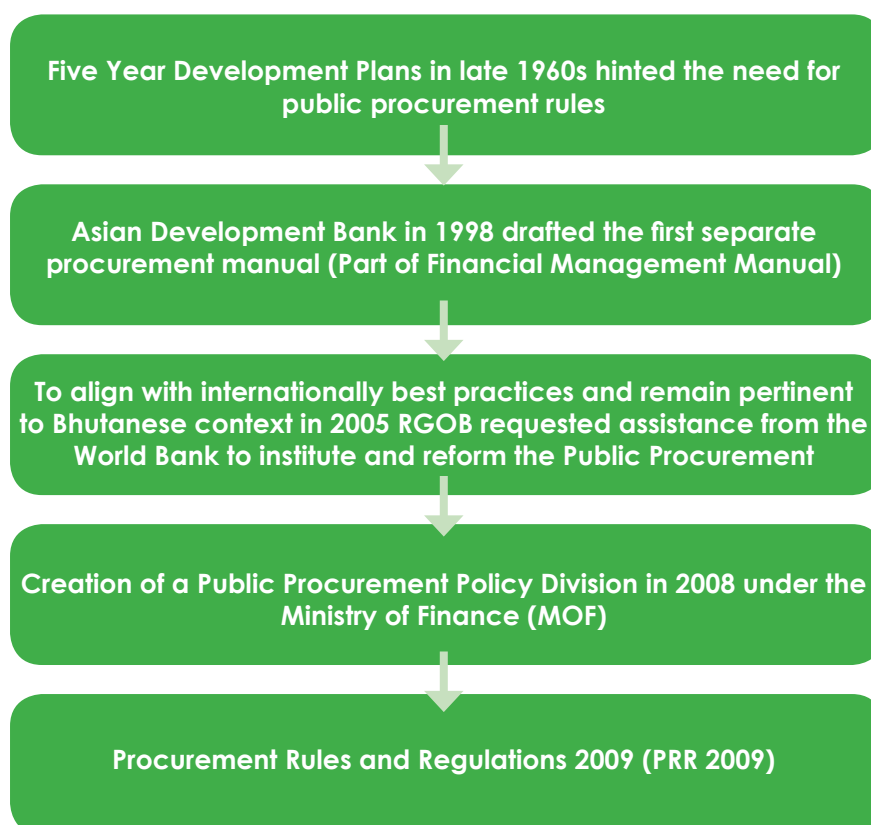


Figure 1: Process of Introduction of Public Procurement Rules in Bhutan (Source: www.pppd.gov.bt)

The Public Finance Act of Bhutan 2007 mandates full responsibility to the MOF for procurement and disposal of assets of the RGOB. Following the mandate, the Public Procurement Policy Division (PPPD) was created under the MOF and the Procurement Rules and Regulations developed in 2009, making it the first legal guiding document on procurement. The PRR 2009 was developed and implemented primarily to ensure transparency in the government procurement system through the application of standard and uniform procurement procedures.

Some of the important reforms in public procurement in recent years include: development of Standard Bidding Documents (SBDs) for goods and works and Standard Request for Proposals (SRPs) for services; creation of a Public Procurement Policy Division; institutional and individual capacity building, and; creation of an Independent Review Mechanism for dealing with procurement complaints and assessing the readiness for adopting electronic Government Procurement (e-GP).

This report maps the institutional arrangements and procedures for public procurement in Bhutan in order to identify strategic and administrative leverage points for introducing green public procurement (GPP). The specific objectives are to: i) illustrate the formal national organization of public procurement, ii) confirm procurement procedure in practice, iii) discuss limitations in formal provisions for procurement, undertake a gaps analysis between formal provisions and real practice, and examine capacity and sociocultural aspects affecting procurement.

1.1 Methodology

This research is based on a combination of desk research, key informant interviews and survey questionnaire with procurement officers. The PRR 2009, the SBDs and the SRPs were the primary documents reviewed in order to understand the formal and prescribed rules and regulations for public procurement. To understand the broader national setting and institutional roles affecting public procurement, further desk research and interviews were conducted. Secondary data from government bodies were obtained through accessing their archives.

In order to validate our findings with procurement practice on the ground, three case studies were conducted in each of the broad categories of public spending – goods, services and works. Through one-on-one interviews with junior-level, mid-level and senior-level officers who were involved in procurement, their experiences and practices were noted in order to get an in-depth understanding of the procurement process in their organization for the particular category of procurement. The case studies were purely based on recollection of a past procurement process by the interviewee.

In addition, a survey of procurement officers was conducted to understand capacity, culture and perception of procurement at the administrative level. Survey questionnaires were developed incorporating key points and issues related to procurement system and PRR 2009. A total of 29 respondents participated in the survey, from various organizations covering ministries, autonomous agencies, corporate bodies, dzongkhags (districts) and gewogs (blocks). The sampling framework is depicted in the figure below:

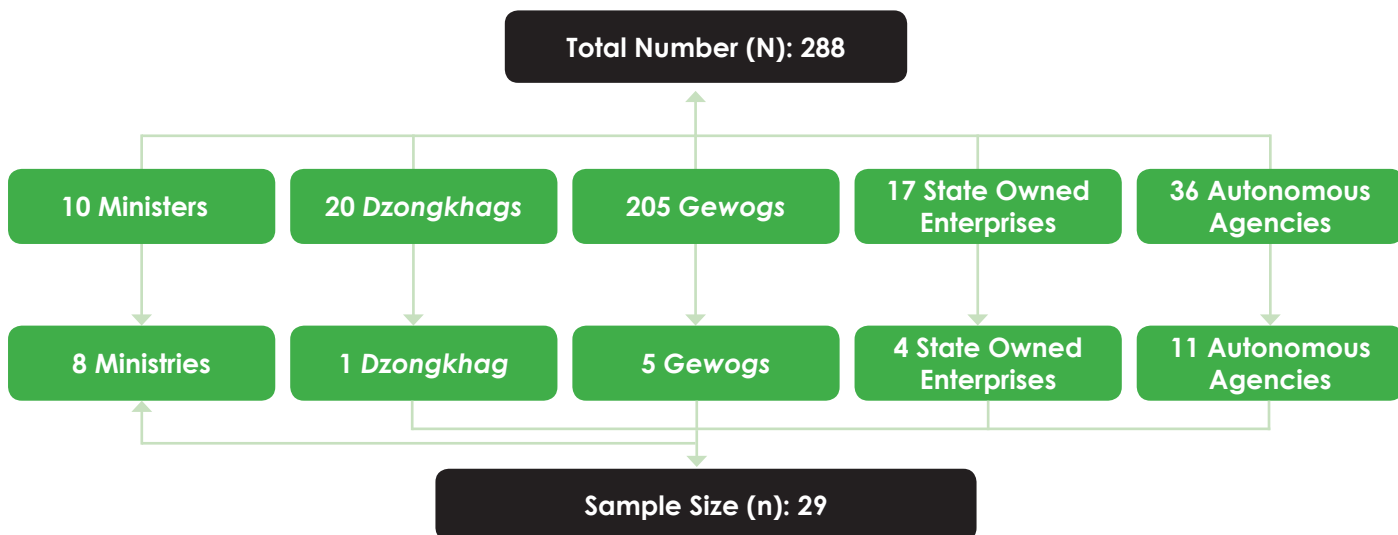


Figure 2: Sampling Framework

1.2 Research Limitations

The following are some limitations of this research that need to be considered:

- While the desk research and secondary data collection of this research were conducted thoroughly, the in-depth interviews and survey of the procurement officers were mostly conducted only in Thimphu. Thus, the ground realities of procurement in other more remote *dzongkhags* and *gewogs* may or may not be fully captured. However as most of the country's procurement (over 70 per cent) occurs in Thimphu, it is assumed that this geographic limitation is not distortionary.
- The three case studies presented do not fully capture all procurement practices. Especially since the case studies were conducted on procurement of lower spend thresholds, the full complexity of larger procurement, especially for works, may not be captured.
- Some results gleaned from the survey conducted among procurement officers are subjective and shed light on their perception which may or may not be representative of the actual procurement practices in Bhutan. In addition, most of the interviewed procurement officials had limited experience in dealing with procurement of works. Therefore, the survey results may be more representative of procurement in goods and services.
- The case studies and the survey were conducted among procurement officers who are more involved in the tendering and administrative aspects of procurement rather than planning and strategy. Thus, their experiences and knowledge may not cover the full picture of procurement, especially that of the planning phase.
- Although, procurement officials in State Owned Enterprises (SOEs) were interviewed, their procurement procedures and manuals are not detailed in this report. Therefore, gap analysis and implications for the procurement in SOEs is not drawn.

SECTION 2: NATIONAL SETTING AND INSTITUTIONAL ROLES IN PUBLIC PROCUREMENT

In order to identify strategic and administrative leverage points for introducing Green Public Procurement (GPP), it is important to first understand the overall procurement cycle in the Bhutanese context and have knowledge on the corresponding stakeholders involved in various stages of the cycle. This section gives an overview of the national setting, details the roles of various institutions in public procurement and identifies the different steps involved in the procurement. The study is based on the desk research and review of documents such as PRR 2009, Standard Bidding Documents (SBDs) for goods and works and Standard Request for Proposal (SRP) for services, Five Year Plan (FYP) Documents and National Budget reports.

2.1 Institutional Mapping

In this research, the procurement cycle reflects the key steps undertaken when procuring goods, services or works - from the identification of a need to the actual tendering process and onto the management of contracts and performance.

Although not expressly mentioned in any formal documents reviewed for this research, it can be said that in the larger national context, the need identification process for procurement occurs when developing the FYP. The FYP is the main document that guides the broad policy framework including strategies, planning and resource allocation for all ministries and department for the forthcoming period of FYPs. All annual government activities, programs and projects are planned according to the FYPs which then inform procurement needs in the various ministries and departments. The process of public procurement is largely governed by PRR 2009 made pursuant to the Public Finance Act 2007. The PRR 2009 along with the SBDs and SRPs guides public procurement process of goods, works and services. Generally, the contract management is defined and managed between the procuring agency and the supplier or service provider. Figure 3 provides a graphical representation of the entire cycle of procurement in Bhutan.

The roles of various stakeholders during the pre-procurement (planning & budgeting), procurement (tendering) and post-procurement (contract management and auditing) phases are detailed in the following subsections to provide an overview of how their roles affect and determine public procurement in Bhutan.

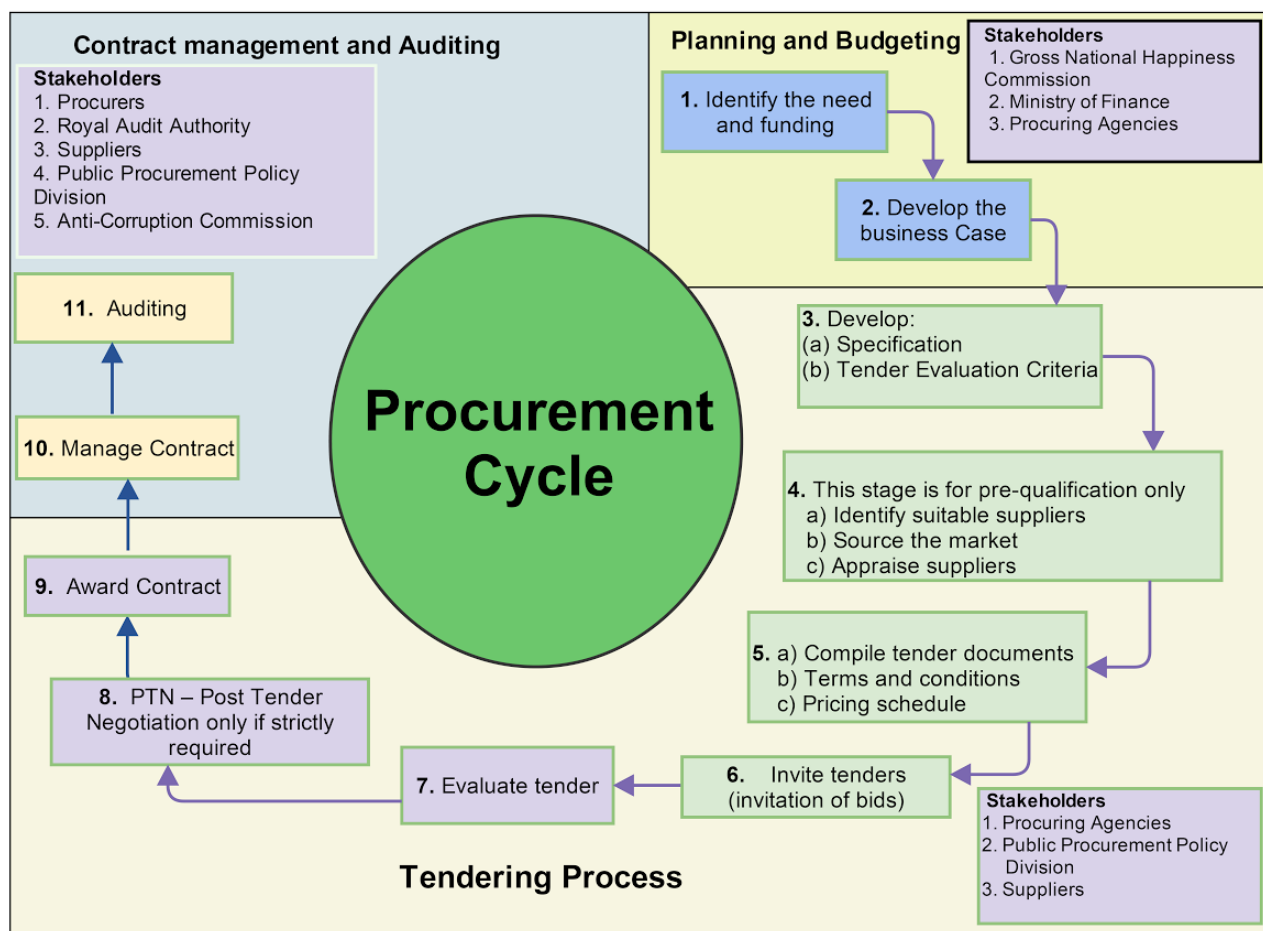


Figure 3: Procurement Cycle in Bhutan involving different stakeholders (Team analysis)

2.2 Planning and Budgeting

While the main purposes of FYPs and annual work plans are to inform the government's strategic planning and programming mandates, they influence and affect procurement planning by predetermining the broad and general procurement needs of the nation and allocating specific budget to all government agencies. Therefore, this research considers the national planning and budgeting process a part of the public procurement cycle in the 'pre-procurement phase.' As mentioned earlier, procurement decisions in Bhutan largely stem from the annual plans that are based on the FYP. The FYP is the main national planning document that identifies specific goals and targets that closely link with the broader and strategic national development objectives. Unless specified, all development activities are planned in accordance to the objectives of the FYP and national budget is allocated to each ministry accordingly. The Gross National Happiness Commission (GNHC) and MOF are the apex bodies for formulation of national FYP and budget allocation respectively.

2.2.1 Role of Gross National Happiness Commission

The Gross National Happiness Commission is the apex body for coordinating and spearheading public policies and planning in the country, including the FYP. The FYPs are prepared by GNHC in two stages. In the first stage, GNHC develops guidelines for preparation of FYP in consultation with central and local government agencies. In the second stage, central and local government agencies prepare their plans and programs, based on the guidelines circulated by GNHC.

The strategic framework of the FYP articulates the outcomes and outputs that need to be achieved in the next five years in line with the FYP objectives. The FYP framework is identified by GNHC through a process of extensive consultation with relevant stakeholders both at the central and local government level. In this way, the procuring agencies have adequate opportunity to be associated in identifying the needs in planning as well as procurement of goods, services and works.

The FYP plays an important role in strategic planning and in identifying the public procurement needs and corresponding budgetary appropriations. For example, critical infrastructure needs to support economic growth and poverty alleviation may be given priority in a FYP (e.g. roads, bridges, schools), thus informing the nature and budget for procurement. The strategic framework of the 11th FYP (2013-2018) is depicted in Figure 4.

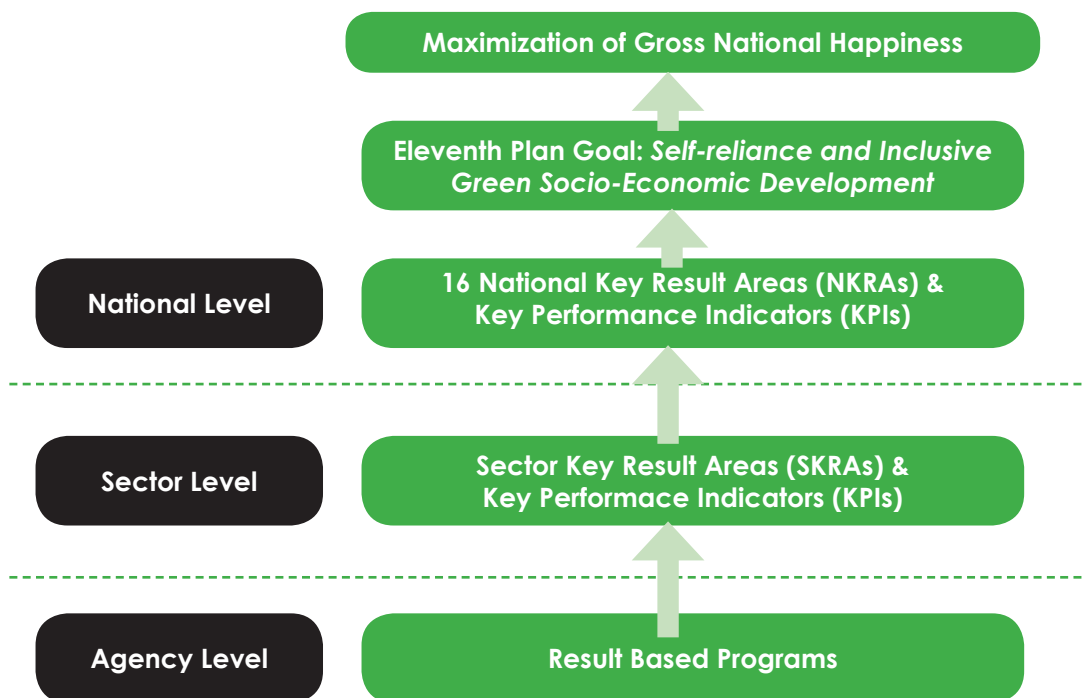


Figure 4: 11th Five Year Strategic framework (Source: Eleventh Five Year Plan Vol. 1)

2.2.2 Role of Ministry of Finance

The Ministry of Finance is the apex body for budget management of the RGOB. On an annual basis, the MOF calls for budget proposals based on approved plans and programs of the FYP. Budget proposals are comprehensive proposals containing detailed activities, estimates, drawings, procurement and necessary clearances. The ministries, autonomous agencies, *dzongkhags* and *gewogs* then submit their budget proposals with detailed activities (also prescribing procurement) to MOF annually. MOF submits the annual budget proposal to the Parliament for approval. Upon approval of the annual budget by the Parliament, the Department of National Budget (DNB) under MOF is responsible for disbursement of budget. Likewise, the Department of Public Accounts (DPA) under MOF is responsible for timely receipt of accounts from the spending agencies. The systematic representation of the budget approval process is depicted in Figure 5.

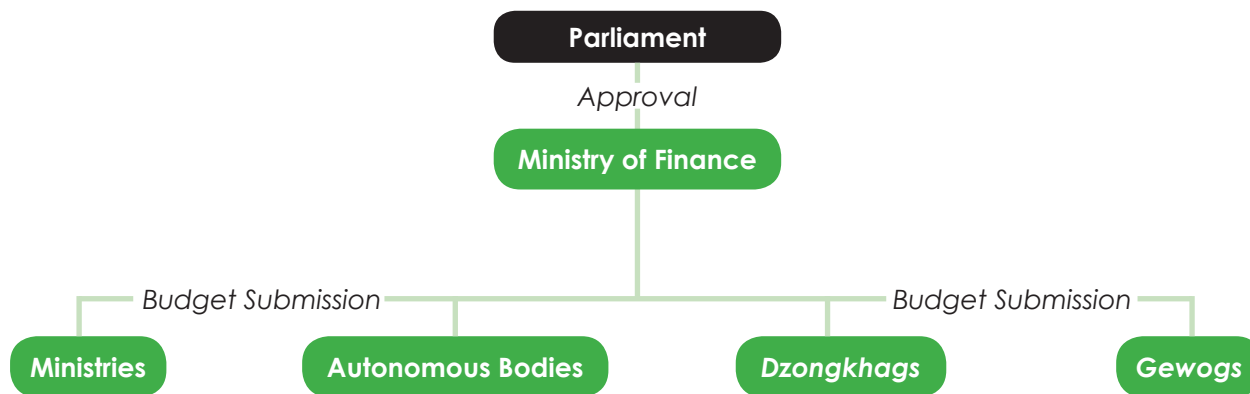


Figure 5: Budget Approval Process in RGOB (Team analysis)

2.2.3 Role of Procuring Agencies

Based on national goals and priority areas identified by the guidelines provided by GNHC, the Policy and Planning Division (PPD) of each ministry is responsible for the formulation of their ministry's plans and programs for informing the national FYP. Although not specifically for procurement, procuring agencies (that is, all government agencies) submit their plans and programs, which consequentially determine their procurement needs. The PPD of each ministry identifies their plans based on the FYP documents, in consultation with the various departments and divisions within their ministry. Therefore, respective ministries, autonomous bodies, *dzongkhags* and *gewogs* have crucial roles to play in formulating FYP and thus could play a major role in introducing strategic procurement planning within the framework of the FYP documents. Similarly, the procuring agencies play a central role in formulating their annual work plans and budgeting for their activities -including procurement- for a particular fiscal year.

2.3 Tendering Process

The tendering process is the main process in the procurement cycle which involves a series of steps, as summarized in Figure 6. Although this research considers the national FYP and annual planning & budgeting process as a part of the procurement cycle as it affects need identification, the tendering process is what is commonly and widely considered as "procurement" in the Bhutanese context. The Procurement Rules and Regulations (PRR 2009) and the Standard Bidding Documents (SBDs) are the main documents that inform and guide the tendering process in Bhutan. An analysis of PRR 2009 shows that the tendering process in Bhutan can be broken down into roughly seven steps, although not all the steps are required or followed for all procurement activities.

The roles of different stakeholders involved in the tendering process are highlighted in the subsequent subsections to help understand how their roles and decisions affect the process of tendering.

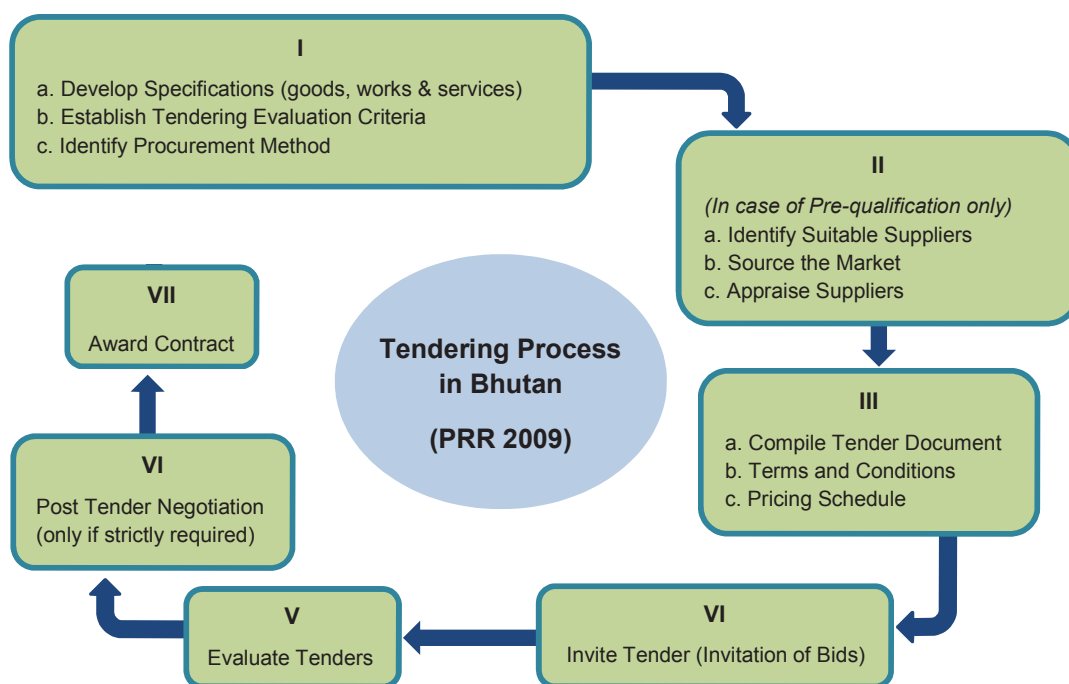


Figure 6: Tendering process in Bhutan (Adapted from PRR 2009)

2.3.1 Role of Public Procurement Policy Division, MOF

While the Public Procurement Policy Division (PPPD) does not involve itself directly in tendering process of procuring agencies, it plays a major role in establishing procurement rules. It is the authority that is responsible for establishing and revising the rules for procurement and is the custodian of PRR 2009 and SBDs. The PPPD was established in order to promote an open and uniform purchasing policy and to ensure an effective and efficient use of government money. The roles and responsibilities of the PPPD include:

- Monitoring and implementation of the PRR 2009
- Focal point for enquires and information regarding public procurement
- Review of SBDs and Procurement Rules and Regulations
- Capacity building of procurement officers
- Provide guidance, interpretation and application of PRR, SBDs, SRPs

2.3.2 Role of Procuring Agencies

The procuring agency is indeed the most important stakeholder and plays an active and central role in the tendering process. Respective government organizations are responsible for implementation of different activities including purchase of works, goods and services within the framework of the FYP, the annual budget allocated and approved by the Parliament. The administration and finance division is responsible for proper execution of their activities in accordance with the annual budget allocated. In the tendering process, the procuring agency mainly performs the following activities, with some variations depending on the thresholds and method of procurement as described in Section 3:

- In consultation with the Administration and Finance Division, the procuring agency prepares the tender documents

- The procuring agency consults internal experts and engineers on the technical specifications, selection criteria and contract conditions
- The procuring agency compiles tender documents, invites tenders, facilitates evaluation, and awards the contract to the lowest evaluated bid

2.3.3 Role of Suppliers/Contractors

Suppliers/contractors have a role to play in the tendering process in fulfilling the terms and conditions set out in the bidding documents. Suppliers/contractors are responsible for ensuring that all bidding documents are prepared in an honest, fair, transparent manner, so as to be treated as a responsive bid.

In case of large and/or complex projects, suppliers/contractors may be required to attend a pre-bid meeting with the procuring agency, when stipulated in the tender document. Suppliers/contractors also may witness the tender opening process, provide clarification and/or additional information on their bids during the evaluation stage (when asked by the procuring agency) and partake in the negotiation of the contract terms and conditions with the procuring agency. Suppliers/contractors are allowed to challenge the bid selection outcome on grounds permissible under the relevant provisions of the PRR 2009.

2.4 Contract Management and Auditing

Just as we have considered the planning, programming and budgeting phase as a part of the broad procurement cycle in Bhutan, this report also considers the contract management and auditing phase as a part of the procurement cycle. Although auditing is not strictly or expressly considered a part of procurement in Bhutan, it affects procurement decisions considerably. Internal controls and auditing at the procuring agency level, as well as an effective external audit system are key elements to ensure economy, efficiency and effectiveness in the use of public resources. Together they form the governance and public financial management system particularly important for effective and efficient operations of the public procurement system.

All procuring agencies take extra care to ensure compliance with PRR 2009. All due process is followed during tendering and the most cost-effective decision is made. Unfortunately, more often than not, the cost-effectiveness and value for money is determined by the price at the point of purchase, often times even more than the technical and functional aspects, let alone the environmental and social ones. The strict rules and regulations of the Royal Audit Authority is the most common reason cited by procuring agencies for awarding contracts to the lowest bidder. It should be noted that, in fact, PRR 2009 allows for procuring agencies to award contracts to a “lowest evaluated bid” that offers the best value for money, based on various aspects such as - but not limited to - technical requirements, after-sales service, security of supplies and price thereof, running costs, date of completion and goods of Bhutanese origin.

Subsequent subsections highlight roles of different stakeholders in the procurement managing and auditing.

2.4.1 Role of Procuring Agencies

Once a contract is awarded and signed, it is the primary responsibility of the procuring agency to check whether the suppliers have delivered the goods/ works/ services in accordance with the contract. The procuring agency is also responsible for management of the contract and finally closing the tendering process. Contract management processes differ by the type of procurement (goods/works/services) as noted below:

- Works: The buyer employs professional staff or an engineer (Project Officer) to manage the contract and to determine when payments are due.
- Goods: Delivery of goods from the supplier to the buyer including warranty period as per the terms and conditions set forth in the contract documents. The procurement divisions are responsible for timely delivery of goods.

- Services: Reports and documents as specified in the terms of references. The procurement divisions are responsible for timely delivery of services.

In addition, the procuring agency has the right to levy penalties, which may differ by types of procurement (goods/ works/ services).

- Works: The contractor may pay the procuring agency at the rate per day as stated in the Special Conditions of Contract (SCC), if the completion date is later than the intended completion date.
- Goods: The procuring agency may deduct from the contract price for delay of goods or unperformed services or failure to delivery of the goods as stated in Special Conditions of Contract (SCC).
- Services: The procuring agency may levy penalties or terminate if the consultant fails to perform any of its obligation or submits false statement which has a material effect on the rights of the procuring agency.

2.4.2 Role of PPPD, MOF

Similar to their role during the tendering phase, the PPPD, as the custodian of PRR 2009, provides clarifications on the interpretation of the PRR clauses, SBDs, and so on, as and when required by the Royal Audit Authority and/or procuring agencies and/or suppliers during the auditing phase. Section 8.1, Chapter 8 of PRR 2009 stipulates provision on the grievance mechanism to remind procuring agencies of their obligations and duties owed to suppliers, contractors and service providers under PRR 2009.

In keeping with the provision under Chapter 8 of the PRR 2009, an Independent Review Body (IRB) was established by MOF in June 2015 comprising of seven members from various agencies and ministries as a part of grievance mechanism in public procurement. The scope of review by the IRB is limited to procurement decisions up to the award stage of the procurement process and/or where the contract has not been concluded. The PPPD/MOF serves as the Secretariat for the IRB.

2.4.3 Role of Royal Audit Authority

The Royal Audit Authority (RAA) is the Supreme Audit Institution (SAI) of Bhutan and is responsible for auditing and reporting on efficiency and effectiveness in the use of public resources. Most procuring agencies cite scrutiny from RAA as an important reason for awarding contract to the lowest bidder, signifying RAA's important role in influencing procurement decisions made by public officials in Bhutan. RAA audits public procurement based on: i) efficient use of resources; ii) compliance to PRR 2009 and, iii) timely payments to suppliers.

2.4.4 Role of Suppliers/Contractors

Suppliers/contractors are involved in the auditing phase as per the terms and conditions specified in the contract documents. Either or both RAA and Anti-Corruption Commission (ACC) may require suppliers to furnish additional information or clarify relevant procurement matters during the auditing phase.

2.4.5 Role of Anti-Corruption Commission

With regard to the procurement grievance mechanism, Sub-section 8.1.11 in the PRR 2009 requires that "If the facts disclose a potential issue of corruption, the Independent Review Body shall immediately refer the case to the Anti-Corruption Commission." The ACC then follows up on the case in keeping with the laws of the Kingdom of Bhutan.

SECTION 3: REVIEW OF PUBLIC PROCUREMENT RULES AND REGULATIONS

This section describes and illustrates the formal public procurement procedures in Bhutan, as prescribed by the PRR 2009. The study is based on the desk research and reviewed documents such as PRR 2009 and Standard Bidding Documents (SBDs) for goods and works and Standard Request for Proposal (SRP) for services.

All government agencies in Bhutan apply the procurement procedures as stipulated in PRR 2009. As a rule, any contract for goods, services or works between a public entity and a private supplier must be preceded by a procurement procedure. The PRR 2009 applies to all government agencies excluding certain cases:

- When the RGOB grants specific exemptions to projects funded by external assistance and provides for adherence of some specific procurement procedures under the relevant project financing agreement.
- When the RGOB grants exemptions related to security interest of the State or the requirement of special security measure in particular works, goods and services contract.
- Corporations and financial institutions owned by the RGOB, Trust Funds and Welfare Funds. These organisations are allowed to adopt separate rules and regulations for procurement.

The regulation of public procurement in Bhutan is developed under a set of principles that include guaranteeing transparency through the application of standard procedures, achieving uniformity of procedures across the agencies, ensuring economy and efficiency in the procurement, and ensuring fair and equal access to all suppliers, consultants and contractors. Furthermore, to ensure the smooth application of procurement rules and regulations across all public agencies and to strengthen the monitoring of all the public procurement aspects, MOF created the Public Procurement and Policy Division (PPPD) under its Department of National Properties in 2008. The following subsections highlight some aspects of PRR 2009 that contribute to the decision-making process during procurement.

3.1 Prescribed Hierarchy and Decision Making

PRR 2009 prescribes a hierarchy of seven tender committees at different levels of the organization with different composition, decision making powers and thresholds. The tender committees are:-

- i. Gewog Level Tender Committee
- ii. Field Level Tender Committee
- iii. Departmental Tender Committee
- iv. Autonomous Bodies tender Committee
- v. Dzongkhag Level Tender Committee
- vi. Ministerial Tender Committee
- vii. Higher Level Tender Committee for autonomous bodies

Decisions that require higher level approval than the Gewog Tender Committee are submitted to the Dzongkhag Tender Committee. Likewise, Field Level Tender Committee is either submitted to the Dzongkhag tender Committee or the Departmental Tender Committee or the Ministerial Tender Committee, as appropriate. The Dzongkhag Tender Committee and the Departmental Tender Committee reach the Ministerial Tender Committee for approvals. The Autonomous Bodies require higher level approvals from the Higher Level Tender Committees for the Autonomous Bodies. Figure 7 illustrates the hierarchy of tender committees in the government.

3.3 Threshold Levels and Corresponding Methods of Tendering

Table 1 presents the monetary threshold levels for procurement that determines which tender committee will oversee the tendering process. PRR 2009 states that threshold levels shall be reviewed and revised by the MOF if required, in relation to the consumer price index.

Table 1: Threshold for different level of tender committees (Figures in Ngultrum)

Type	Gewogs	Dzongkhags	Fields	Departments	Ministries	Autonomous Bodies	Higher Level
Goods	Up to 2 million	Up to 20 million	Up to 5 million	Up to 20 million	20 million and above	Up to 20 million	20 million and above
Works	Up to 4million	Up to 50 million	Up to 15 million	Up to 50 million	50 million and above	Up to 50 million	50 million and above

Depending on the value of the tender, different methods of public procurement is followed. As a general rule, the highest value procurements must follow Open Tendering, the mid-level values follow Limited Tendering, and the lower thresholds may follow the Limited Enquiry process. Direct Contracting and Framework Contracting (in procuring yearly catering services, for example) are also followed for certain procurement activities. A detailed depiction of the threshold levels and the corresponding procurement method and tendering requirements is provided in Figure 9.

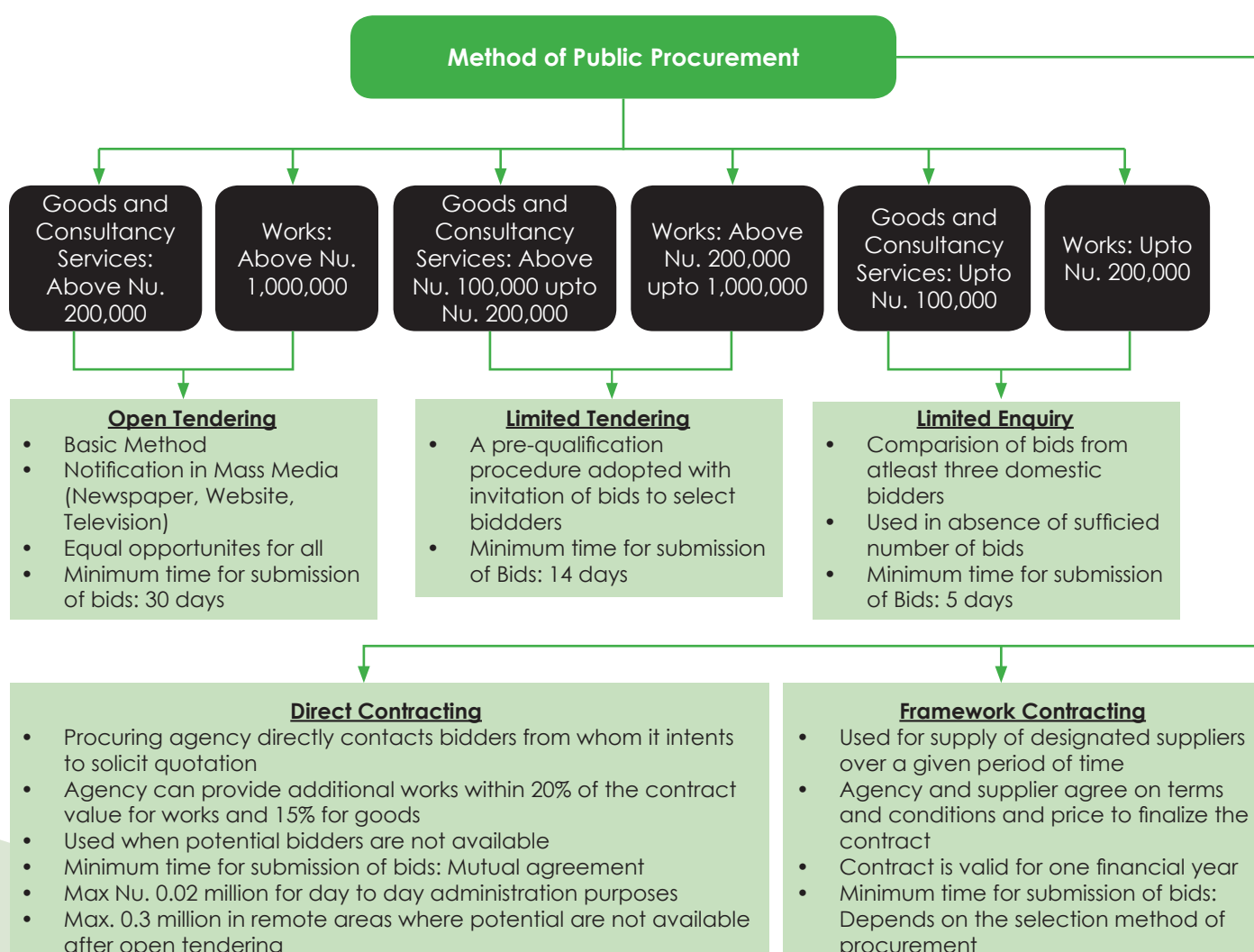


Figure 9: Methods of procurement (Adapted from PRR 2009)

3.4 Prescribed Tendering Process

Depending on the chosen method of tendering (see Figure 9), an invitation for bids shall be notified to all potential bidders. The invitation for bids includes:

- i. The identity of the procuring agency
- ii. A summary of the assignment under bid
- iii. Period for execution of assignment
- iv. Address for obtaining the bidding documents, further information and submission of bids
- v. Cost of bidding documents where applicable
- vi. Procedural requirement
- vii. Final date and time for submission of bids

SECTION 4: PUBLIC PROCUREMENT ADMINISTRATION AND TENDERING IN PRACTICE

The preceding sections provided an overview of the institutional settings and formal provisions for procurement in Bhutan. This section illustrates public procurement in practice in Bhutan with regard to administrative and tendering activities, based on three case studies and a survey of procurement officers. The case studies elucidate how the procurement process is carried out in real practice and the survey results shed light on the human resource capacity in procurement, cultural aspects that influence procurement and perception about public procurement among those who administer this function.

4.1 Case Studies: Public Procurement Processes in Practice

Three case studies were conducted on the procurement of goods, services and works at the department and ministry levels. In order to maintain confidentiality, names of interviewees and details of the procuring agency are not disclosed in the report. The case studies were developed using the following method:

- At least two officials were interviewed per case study to allow in-depth understanding of the particular case.
- All stages of procurement cycle, namely pre-bidding, bidding and post-bidding, were adequately covered during the interview.
- Information was collected based solely on recollection of a past procurement process by the interviewees, though attempts were made to access the past procurement documents to verify accuracy of information provided.

Case Study 1: Procurement of Services

As described in Section 2, procurement originates principally from specific programs which are submitted to the policy and planning division of the ministry (each ministry has its own policy and planning division). After the budget endorsement from the Parliament, the respective ministry receives the approved budget, which is further broken in to financial years. The departments and divisions then conduct scheduling for procurement and procure accordingly.

Service procured: Development of audio-visual material

Procurement value: Less than Nu. 0.5 million

Procurement method: Limited tender

The need identification process: Prior to submitting the requisition of the services to the Administrative and Finance Division (AFD), a detailed note sheet was prepared by the concerned division on the need of procurement. This was the standard protocol practiced at the ministry. The Audio Visual wing provided the detailed Terms of References (ToR). Upon receiving the note sheet, the AFD reviewed the ToR in consultation with the concerned division. The Assistant Officer then prepared the bidding documents.

The bid invitation process: The procuring agency issued an invitation for bids to a select list of bidders capable of providing the services. As prescribed in the standard request for proposal in procurement of consulting services, a two stage procurement process was adopted (first the technical proposal and then the financial proposal). The procuring agency allowed 14 days for the bidders to prepare their proposals as prescribed in PRR 2009.

The committee formation process: The Tender Opening Committee, Evaluating Committee and the Award Committee were formed based on the availability of required staff and capabilities of assessing the particular procurement of services. Upon approval by the Chief of the AFD on the formation of the committee, office memos were issued among the committee members on their appointment. No tender committee members were allowed to participate in more than one committee to avoid conflict of interest. However, no certificate of declaration or the "no conflict of interest" document was signed prior to the sittings in this case. The procurement officers were allowed to participate in only opening committee. The parties did not sign the "integrity pact" as an official requirement for the contract with the consultant.

The evaluation and award process: The evaluation committees were made up of technical personnel with backgrounds in audio-visual skill and ICT. Upon completion of the evaluation of the technical proposal by the evaluation committee, the financial proposal was evaluated as outlined in PRR 2009. Finally, the Award Committee awarded the assignment to the firm based on the recommendation by the evaluation committee. The contract was awarded based on price. Upon awarding the assignment, the firm was notified and the contract was signed.

Good Practice: To minimize the cost of printing; the ministry began producing bidding documents in soft copies with seal and signature of the procuring agency. The procuring agency now sells compact discs instead of printed version of the bidding documents.

Case Study 2: Procurement of Goods

Good procured: Office equipment

Procurement value: Nu. 1.5 million

Procurement method: Open tender

The need identification process: The ministry undertook the procurement of office furniture based on a grassroots organization requiring it for their activities. The concerned division in the ministry then submitted the requisition to the AFD, which was then directed to the procurement section. A note sheet along with the forwarding letter outlining the need, technical specification of the goods and budget was submitted to the procuring division.

The bid preparation process: The Assistant Procurement Officer (APO) prepared the bidding documents in line with the SBDs for goods and as per the specifications provided by the program officer and IT personnel. The Sr. Procurement Officer then verified the bidding documents. The APO was responsible for preparing the bidding documents.

The bid invitation process: The procuring division reviewed the documents and sent official public invitation of bids via Kuensel, Bhutan's national newspaper, and the ministry website. Only national / domestic suppliers were invited to compete in the bid. Public bid invitations are made only if there is a proper note sheet to procure the goods and if the need assessment is clearly defined. The procurement officer verified the need assessment and specification for the particular good in accordance with the guidelines of the ministry. The procuring division prioritizes the procurement of goods based on the needs assessment and urgency.

The bid submission process: A total of 10 bidders purchased the bidding documents. However, only four bidders competed. Bids were submitted in two copies compiled in one sealed outer envelope without the mention of the bidder's details. On the bid opening day only two bidder representatives were present. To minimize the advertisement cost, information such as specification of the product, date of submission, administrative details, and so on, were provided in the procuring agency's website. Time frame for submission of bids was 30 days. Bidders were also required to bring the sample of the goods as specified in the bidding documents.

Bidders were not allowed to seek clarification on the bidding documents through verbal or telephonic communication. Clarification on the bidding documents in writing were provided within five working days or prior to 15 days of the deadline for submission of bids.

The committee formation process: The opening, evaluation and award committee members were identified and formed as prescribed in PRR 2009 and a note sheet was submitted by the procurement section to the Secretary of the ministry for approval. An officer of appropriate level was appointed in writing to replace a designated member in absence of the appointed member. The evaluation committee was composed of technical personnel such as Accounts Officer, Sr. ICT officer, IT Associate and others. The opening committee was chaired by the Director General (DG) of a department and the documents were forwarded to the evaluation committee for evaluation.

The evaluation and award process: A maximum of 15 days was allowed for the evaluation process. The evaluation results were then submitted for approval to the award committee which was chaired by the DG. The award committee was composed of a minimum of five members with profile of senior officials such as chiefs, head of divisions and others. In each of these committee sittings, a “no conflict of interest” certification of declaration was signed by the members and minutes and records of deliberations and decisions of the committees were prepared and signed, which were submitted to higher committees.

The third lowest evaluated bidder was selected for the supply of the goods based on the quality and functionality. Following the decision of the award committee, the bidder entered into a written contract. The successful bidder was informed via notification letter. An integrity pact was then signed between the procuring agency and the supplier. The other bidders were also informed of the results and were requested to retrieve their samples. Since the quoted per unit rate for the specific goods were reasonable for the procuring agency, an additional number of the same goods were procured not exceeding 20 percent of the total value of the initial procurement.

Timeframe: The entire procurement process, starting from submission of requisition of the goods by the user to the final delivery of goods to various places in Bhutan took a total of 118 days.

Good Practice: The procuring agency has developed an internal control mechanism to promote transparency. The bidders or bidder representatives can lodge an official complaint or grievance on any matter related to the bidding process on the specific time of the opening of the bid via a form provided by the procuring agency.

In order to avoid collusion and manipulation of the procurement documents, the procuring agency does not allow the procurement officers to be the members of evaluation and award committees.

Case Study 3: Procurement of Works

Work procured: Construction of an orchidarium

Procurement value: Nu. 2.5 million

Procurement method: Open tender

The need identification process: The construction of an orchidarium in the botanical garden was planned by the program division in the department. The proposal was then integrated into the ministry's plan and further into the 11th FYP. At the time of the interview, almost 60% of the works had been completed.

The bid preparation process: The administration officer in the department prepared the bidding documents. However, the technical specification was provided by the Department of Engineering in the ministry.

The bid invitation process: The official invitation for bids was sent via the website of Construction and Development Board and through Kuensel. The invitation for bids contained information on: procuring agency identity, summary of the assignment, period of assignment, address for obtaining the bidding documents, cost of bidding documents and date and time for submission of bids. A bid preparation time of 30 days was provided. No 'conflict of interest' pact was signed for this procurement by the committee members.

The bid submission process: A total of 5 bidders participated and submitted the bidding documents and were present during the opening of the bidding documents. No bids were rejected for this procurement. Bids were submitted in two copies (original and duplicate) compiled in one sealed outer envelope without the mention of the bidder's details. All bids were received in person and no postal or online bidding documents were received by the agency. Bidders were allowed to visit and examine the site of work and its surroundings to obtain information for this work. Although no minutes of the meeting were kept during the opening of the bids, a bid opening record form was maintained. The bids, along with the bid opening record form, were submitted to the procurement officer in the ministry for evaluation on the next day after the bid opening.

The process of committee formation: The opening and award committee members were from the department consisting of all the program heads, the project director and one representative from the AFD. The opening and award committee was chaired by the Program Director. Due to lack of technical assessment capacity in the department, the evaluation committee was formed at a higher level in the ministry.

The department sent notification of the award to the successful bidder within 15 days.

Monitoring & evaluation: The project manager and the assistant administration officer were the project managers for this construction and were well informed on the general methods, arrangement orders, and timing for all activities for the work. The project manager and the assistant administration officer verified the site and conducted monitoring on a timely basis.

Observation: There was an error in the bidding document regarding the construction period which was noticed by the contractor only after signing the contract agreement. However, this was rectified with approval from the ministry.

In all three cases studies, the procuring officials directly responsible for the purchase were not trained in procurement. Their working experience in procurement averaged to 2.8 years. Lack of trained staff in procurement was one of the main difficulties expressed by the interviewed procurement officials across all three case studies. Due to lack of expertise in procurement functions such as planning, scheduling, and estimating cost and expenditure, procuring officials mostly carry out only the administrative functions. In all three case studies, unsuccessful bidders were not informed about why they were not selected.

The case studies revealed that most procurement officers are not involved in planning, specification and budgeting. The needs identification and development of specifications are mostly dealt with by the planning divisions and the guidelines are set by different ministries, as detailed in Section 2 of this report.

In summary, it is observed that most of the procurement officers are only involved in the tendering process and not in the planning, specification, budgeting and monitoring aspects of procurement. The process of tendering complies with PRR 2009 to a great extent such as following all prescribed procedures for choosing method of procurement, bid solicitation, bid acceptance and committee formation. The need identification and specifications are mostly conducted by the planning divisions and are in accordance with the FYP and annual budget guidelines.

4.2 Survey: Capacity and Culture in Procurement

In order to understand the capacity and cultural aspects affecting procurement in Bhutan, a field research was carried out in January 2015. Data was collected from procurement officers who are directly or indirectly involved in procurement process. The research design also included interviews with procurement experts and consultants. Survey questionnaires were developed incorporating key points and issues related to the procurement system and PRR 2009.

4.2.1 Capacity in Public Procurement

A total of 29 respondents were interviewed from various organizations covering ministries, departments, SOEs, *dzongkhags* and *gewogs*. Descriptive statistics was used to analyze the data. A total of 29 procurement officers were interviewed. The distribution of the respondents is depicted in Table 2 and their qualification level provided in Table 3.

Table 2: Distribution of respondents

	Respondents	Percent	Type
Ministry	8	28	Government
Corporations	4	14	Corporations
Autonomous Agencies	10	34	Autonomous
Dzongkhag	1	3	Government
Municipality	1	3	Government
Gewog	5	17	Government
Total	29	100%	

Table 3: Educational qualification of procurement officers

Type of Organization	High School	Higher Secondary	Diploma	Bachelors Degree	Postgraduate Diploma	Masters Degree	Total
Government	0	1	1	13	1	1	17
Autonomous agency	1	0	1	5	0	1	8
Corporation	0	0	0	3	0	1	4
Total	1	1	2	21	1	3	29

As shown in Table 3, the majority of respondents have a bachelor's degree (72 per cent). None of the surveyed officers have any procurement-related qualifications. In addition, the majority of those surveyed responded that adequate training does not exist (whether in a formal institution or on the job) for entry-level and higher-level staff working in the procurement section. In some cases, when procurement needs cannot be met by the national market, agencies procure from international markets. However, a large number of respondents (83 per cent) did not themselves procure anything internationally, indicating limited experience and expertise in their job functions.

Procurement officers have defined terms of references and are expected to follow a published code of ethics. In the survey, only 76 per cent of the respondent said that they have defined terms of reference while the rest expressed that such job descriptions were not in place. The survey revealed that besides procurement functions, procurement officers also perform other functions, such as in the administration, human resource and finance departments. Only 34 per cent of the respondents were observed handling only procurement jobs. The survey also revealed that procurement contracts are prepared more so by the administration department (28 per cent) than by procurement officers (17 per cent).

4.2.2 Culture in Public Procurement

Of the procurement officers surveyed, 82 per cent felt that working in procurement is either “highly vulnerable” or “vulnerable” to corruption, indicating a great sense of awareness among procurement officers about the riskiness of their jobs.

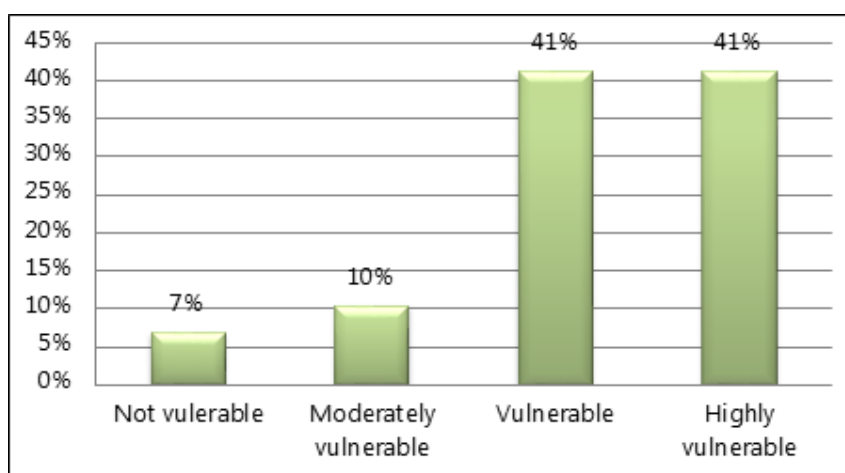


Figure 10: Vulnerability to corruption

A small group of respondents (21 per cent) expressed that procurement decisions are overridden by higher authorities, implying some irregularities in procurement. However, 90 per cent of the respondents agreed that violations and complaints are investigated and the concerned officials held accountable. The

organizations also have internal quality and control mechanisms while procuring goods, services and works. A total of 24 respondents (83 per cent) expressed that such mechanisms exist, while 5 respondents (7 per cent) stated otherwise.

The majority of respondents (69 per cent) stated that project implementation units are adequately staffed with trained procurement, planning, scheduling, expenditure and cost estimating personnel. However, when respondents were asked whether adequate planning is done in sufficient detail to produce realistic project definition, completion and cost estimation, 66 per cent said that procurement planning is not done in sufficient detail. These results imply that while there are relevant and adequate personnel, the task is not performed adequately. During the need identification stage, market surveys to collect information on prevailing prices for goods, services and works are not being conducted, as illustrated in Figure 11.

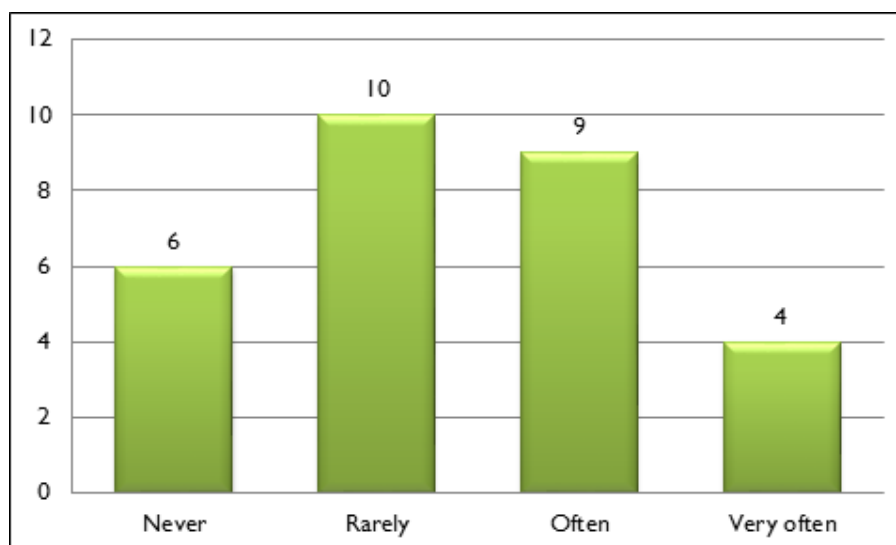


Figure 11: Conduct of market surveys

Surprisingly, when asked about the consideration of Whole Life Cycle Cost (WLC) and Value for Money (VFM) in procurement planning, the majority of respondents felt that such concepts are considered, as shown in Table 4. A small number of respondents felt such concepts are not adequately considered. It should be noted that WLC is not mentioned in PRR 2009, and VFM is mentioned only in the definition of 'lowest evaluated bid' in the PRR. More detailed research needs to be carried out to validate the findings as there is little evidence otherwise that suggests consideration of these concepts in procurement, especially of WLC.

Table 4: Consideration of WLC and VFM (number of respondents)

	Not considered	Considered	Adequately considered	Total
Whole Life Cycle Cost	11	14	4	29
Value for Money	4	17	8	29

In order to gain perspective on factors influencing the selection of suppliers, respondents were asked to rank the basis on which suppliers are selected, results of which are shown in Table 5. Results show that price is the most important factor, followed by quality.

Table 5: Basis for selecting suppliers

Factors	Most Important → Least Important							
	1	2	3	4	5	6	7	8
Ranking	Frequency							
Location	1	1	8	0	2	1	3	13
Price	17	9	1	1	1	0	0	0
Reputation	0	4	5	6	2	6	2	4
Quality	11	10	1	3	1	0	2	1
Capacity	0	1	10	3	12	2	1	0
Reliability	0	3	3	12	3	0	7	1
Flexibility	0	0		3	3	7	11	5
Consistency	0	1	1	2	4	6	10	5

In order to assess the capacity as well as the culture around use of technology for procurement, respondents were asked if they had ever used an e-procurement system or portal. The results showed that a significant portion of the respondents (72 per cent) have not used e-procurement systems at all. 28 per cent have experienced e-procurement to some extent, as shown in Table 6.

Table 6: Experience with e-procurement system or portal

	Frequency	Percent
Yes	0	0
Not at all	21	72
Yes to some extent	8	28
Total	29	100

4.2.3 Concerns Pertaining to Public Procurement

Due to inadequate sample size for performing statistical analysis, the survey data was analyzed using simple descriptive statistics. Respondents were asked for their general opinion on the overall experience in procurement in their organization. As shown in Table 7, the top three concerns of the procurement officers are: i) poor training of procurement staff, ii) shortage of experienced professionals, and iii) low pay for procurement staff.

Table 7: Factors affecting procurement

Factors affecting procurement	Most Problematic → Least Problematic				
	1	2	3	4	5
Ranking	Points				
Inappropriate or outdated rules and regulations (RR)	3	2	7	7	10
Poor compliance with and enforcement of existing RR	4	4	3	8	10
Poor information about procurement needs	6	5	5	7	6
Shortage of experienced professional staff	9	11	3	5	1
Poor training of procurement staff	13	11	3	1	1
Low pay for procurement staff	9	4	5	4	7
Weak procurement planning	6	6	9	5	3
Poor procurement methods and procedures	4	5	7	10	3
Lack of good standard procurement documents	1	2	4	11	11
Poor technical specifications	1	8	8	8	4
Cumbersome contract approval procedures	2	4	12	9	2
Lack of clear delegation of contracting authority	4	7	7	7	4
Interference by higher level officials	1	5	9	6	8
Inadequate appeals mechanism	2	5	9	7	6
Lack of anti-corruption measures and enforcement	2	5	5	7	10

In summary, findings from the survey of procurement officers point towards a lack of adequate capacity in procurement as well as weaknesses in culture surrounding procurement that could undermine some of the good practices and ethics required for the implementation of green public procurement.

SECTION 5: GAP ANALYSIS

The previous sections detailed the formal settings for public procurement and illustrated real world practices. This section analyses the two aspects together and separately in order to identify gaps in public procurement in Bhutan. Furthermore, this section discusses capacity and cultural factors affecting public procurement.

5.1 Limitations in the Formal Provisions and Public Procurement Settings

Some limitations in the formal setting and provisions in public procurement that should be considered when implementing GPP in Bhutan are:

1. Separation of strategic planning, operational and contract management aspects of procurement. The planning and budgeting takes place as a separate process (via the FYPs and corresponding annual budgets) from the actual procurement process. While there may be some overlap in the personnel involved in both processes, procurement planning as a strategic decision must be introduced to multiple stakeholders including policy-makers and senior bureaucrats, tender committee members and other personnel involved in procurement. Similarly, since auditors play an important role in providing external control measures to procurement decisions, they too must be introduced to GPP in order to align their method of auditing to the new method of procuring green.
2. Lack of GPP implementation despite space in PRR 2009. Under Section 1.1.2.2 of PRR 2009, Bhutanese origin goods or goods manufactured in Bhutan are given a 5 per cent preferential treatment in bid evaluations. The same set-aside is offered to domestic bidders in the procurement of works. However, implementation of these provisions to date remains weak.
3. While price is an important consideration during the bid evaluation process, a proper market survey to estimate the cost - particularly for goods and services - is neither mandated nor voluntarily carried out by the procurers. Without realistic cost estimation, a proper benchmark for evaluation of quoted prices does not exist, which leaves ample room for suppliers to inflate the market price. Clause 5.4.6.1, pertaining to evaluation of bids, empowers the procuring agency to reject a bid if the price quoted substantially exceeds the estimated cost or if the price quoted is abnormally low with unacceptable rate analysis. It is, therefore, crucial that the procuring agencies carry out their own market survey and cost estimation in order to determine whether the price quoted by a bidder lies within an acceptable range of the prevailing market price.
4. Similar to market surveys, vendor evaluation is a critical step in establishing appropriate choice of suppliers which is not adequately addressed in PRR 2009 and the SBDs. Due to the lack of a vendor rating system, neither is poor performance history penalised, nor good performance rewarded.
5. Lastly, project evaluation is an important task to be carried out by procuring agencies for effective public procurement. Lessons both positive and negative should be collected and recorded as part of the formal closure process of public procurement in order to continuously improve procurement practices within the agency and beyond.

5.2 Gaps between Formal Provisions and Practice in Procurement

Broadly considered, the practice on the ground of following all due procedure in administering procurement was closely aligned to the prescribed procurement process. Some gaps identified between the formal provisions and real practices were:

1. Inadequate consideration of factors besides bid price in evaluating tenders. Although PRR 2009 and SBDs provide space for considering many factors besides bid price (in the SBD on Goods, Section 1, Clause 39.5 states that the evaluation of a bid may consider other factors such as the characteristics, performance and terms and conditions of purchase of goods and services), in

practice, most contracts are awarded based on the lowest bid price. Whereas PRR 2009 defines a 'lowest evaluated bid' as one that offers the best value for money, procurement officers in the survey were of the view that erring towards lowest cost bids has not always produced the best value for money in their experience..

2. Low margin of preference for local goods/works. The 5 percent margin of preference allowed for local goods/works (meaning that local goods/works should be given preference if the price differential is up to 5 percent greater than imported goods/works) is found to be inadequate for promoting competitive local bids.

5.3 Human Resource Capacity in Procurement

Lack of adequate competencies is a hindrance for an efficient procurement system in general, let alone for a sustainable one. Most procurement officers have general bachelor's degrees but they do not have adequate formal professional background or on-the-job training in procurement, which impedes their ability to carry out the prescribed procurement tasks satisfactorily. Moreover, most procurement officers are required to assume additional administrative, human resource and finance functions. Conversely, many procurement documents including contracts are prepared by the administrative staff with limited knowledge and/or no training on procurement. Although the government has six specific job descriptions for procurement officials - from Assistant Procurement Officer to Chief Procurement Officer - they are not fully adhered to in practice.

PRR 2009 stipulates the requirement of technical expertise during bid evaluation. In practice, particularly in gewogs, evaluations are carried out without technical expertise. Due to the lack of necessary skills for evaluation, financially lowest bidders are usually awarded the contracts without consideration for quality and other relevant criteria.

5.4 Cultural Factors Affecting Procurement

Cultural norms significantly influence work culture and employee behaviour, which is one important factor to consider in procurement. While the linkage may not be obvious, the analysis of procurement in Bhutan reveal common practices that are accepted but may infringe upon ethics of procurement and proper procurement procedures. The survey indicated that due to the bureaucratic nature of the tendering process, procurers often compromise on the quality of the products and it is sometimes difficult to consider VFM, especially when procurement officials have to conduct ad hoc procurements that are not a part of the annual plans. Further, the lack of a specific WLC provision in the PRR 2009 comes in the way of integrating life cycle thinking in public procurement.

On a positive note, the research reveals that at the administrative level, much attention is paid to the procedures of procurement. Due to the perceived (and real) risk and vulnerability of working in procurement, all prescribed process for tendering is followed. Most organizations included in the survey have the required tender committees such as opening, evaluation and award committees.

However, at strategic planning and managerial levels, there is very limited or no indication of initiatives to improve or change procurement objectives, whether it is to seek the best VFM, increase efficiency or include GPP criteria. It is important to interact with business communities and suppliers to discuss procurement issues in order to improve the process, but the research shows that only a small number of procuring agencies do so. Respondents in the survey identified the need for timely stakeholder meetings to address issues related to procurement and sensitization on the importance of proper planning.

SECTION 6: CONCLUSIONS

The institutional setting, formal provisions for procurement and the real practice in public procurement provide important insights into Bhutan's procurement system. This research provides the following key takeaways:

- i. In order to implement GPP in Bhutan, it is important to target stakeholders at various levels such as program and project planners, policy-makers and senior bureaucrats, technical experts, tender evaluating committees and procurement officers. The case studies and the survey show that composition of the committees and the process of evaluation differs for goods, services and works. Therefore, it is important to structure the activities and target for the training programs based on different committees involved. In addition, it is important to develop training tools targeting different committees.
- ii. Since procurement is largely based on the FYP objectives, plans and programs, it is important to involve the following stakeholders in incorporating the concept of GPP in the procurement cycle:
 1. GNHC, along with PPDs of all ministries, to impact the FYP process in favor of GPP
 2. MOF, along with AFDs of all ministries, to impact the annual budget proposal call in favor of GPP
 3. PPPD/MOF to impact the PRR, SBDs, SRPs in favor of GPP
 4. Procurement officers to improve technical skills and education on procurement
- iii. The national rules and regulations for public procurement need to be supplemented by criteria for green goods, services and works. Currently, a process whereby procurement officers can seek to purchase goods, services and works with a reduced environmental impact is limited as the procurement officers need to follow the specification and identification as provided by the program managers.
- iv. With rapid advancement in ICT, procurement cannot be perceived as a merely clerical job. Procurement is recognized as an important profession in effective governance and one that can benefit immensely from technology. Using ICT can be one of the effective policy tools to enhance transparency, efficiency and accountability in public procurement. Proper adoption of an e-procurement system can expand transparency in the procurement process and contribute to the prevention of corruption. PPPD has already initiated the Central Public Procurement Portal to facilitate all central government organizations to publish their tender enquiries, corrigendum and award of contract details. Towards this, it is recommended that procurers switch to use of the portal and start digitization of procurement records.
- v. Finally, the 5% margin of preference given to national goods needs to be reexamined in order to promote the competitiveness of local products in public procurement. In addition, incorporation of green criteria in the margin of preference could encourage public authorities to procure in a more environmentally friendly and socially responsible manner.

DEFINITIONS

Autonomous agency: an agency under the Executive, established and mandated to function with autonomy by Royal Charters, Royal Kashos (decree).

Bidding documents: the set of documents sold or issued by the intending employer/purchaser/procuring agency to potential bidders in which the specifications, terms and conditions of the proposed procurement are prescribed. The terms “bidding documents”, “tender documents” and “bid documents” are synonymous.

Consultancy services: expert services provided by the contractor based on specialized expertise and skills as to prepare and implement a project, conduct training, provide technical assistance, conduct a research and analysis, work out a design, and supervise the contract execution.

Contractor: an individual or a legal entity entering into a contract to execute works, supplies or services.

Goods: any object in solid, liquid or gaseous form that has an economic utility or value, which can be exchanged or traded.

Green Public Procurement: a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured.

Life cycle cost: This is the cost of an asset, or its part throughout its cycle life, while fulfilling the performance requirements.

Lowest evaluated bid: the bid which offers the best value for money, evaluated on the basis of various objective criteria set out in the bidding document. It does not necessarily mean the “lowest quoted price”.

Procurement cycle: cyclical process of key steps when procuring goods or services, from identification of a need and conducting market analysis through to the process of selecting the supplier, managing their performance and reviewing lessons learnt.

Procurement: the purchase of goods, services or the engagement of contractors for execution of works by procuring agencies.

Services: expert services provided by the contractor based on specialized expertise and skills as to prepare and implement a project, conduct training, provide technical assistance, conduct a research and analysis, work out a design, and supervise the contract execution.

State Owned Enterprise (SOE): any enterprise with state ownership, a distinct legal form (separate from the public administration) and having commercial sales and revenues.

Suppliers: refers to any business entity that supplies goods and services to the Government.

Value for Money: a term used to assess whether or not an organisation has obtained the maximum benefit from the goods and services it both acquires and provides, within the resources available to it.

Whole Life Cycle costing: assessing the cost of a product or service throughout its life cycle (manufacturing, use and disposal) taking into considerations the environmental and social impacts of consumption.

Works: infrastructure development works undertaken by the Government such as: public building; airports; schools; correctional facilities; power plants and distribution grids; water treatment facilities; sewage treatment plants; municipal/hazardous waste management facilities; and roads.

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ANNEXES

Annexure 1

Framework and questionnaires for case studies

A case study will be conducted for the procurement of goods, services and works executed within the ministries in Thimphu. The purpose of these case studies will be to see how procurement process and procedures are followed as outlined in the PRR 2009 and Standard Bidding Documents (SBDs). Procurements are usually done on the basis of approved budget by the parliament. Procurement however, needs to be prioritized base on the needs of the procuring agency.

Choosing procurer

Walk in to any random ministries/ departments/ agencies and meet the procurement officer and find out a list of executed procurement. Also find out whether people involved in the procurement such as the procurement officer, tender committee member are still available in the institution. Based on this choose the case for the procurement. If not choose a case where the procurement officers, tender committee member are aware of the procurement.

Choosing Respondents

The following officers will be chosen from the respective departments/ agencies/ ministries.

Goods	Services	Works
Interview 1) Administration officer (ADM) 2) Procurement officer (PO) 3) Two Tender committee (TCM) member and one award committee member 4) Finance officer (CFO) 5) Head AFD	Interview 1) Administration officer 2) Project/program officer 3) Procurement officer 4) Two Tender committee member and one opening committee member 5) Finance officer 6) Head of AFD	Interview 1) Relevant Engineer 2) Procurement officer 3) Administration officer 4) Project Manager (PM) 5) Interview each from: opening, evaluation and award committee 6) Head of AFD 7) Head of Dept. or Secretary

PART I: GOODS

Institutional Arrangements (PRE-BIDDING)

1. What is the priority for procurement of the specific goods? (why this particular goods is purchased)	Sr. PO/ FO
2. What is the source of funding? RGOB/ Donor/ grants?	Sr. PO/ FO
3. What was the method of procurement? Open/ Limited/ Direct / limited enquiry/ framework contracting?	Sr. PO
4. Who was responsible for preparing the bidding documents, monitoring and evaluating the procurement of goods?	Sr. PO

Bidding Process (PRE-BIDDING)

5. What mode of announcement was used to announce the invitation of bids?	ADM/ Sr. PO
6. Was the bidding documents prepared in line with the Standard Bidding Documents for goods?	Sr. PO
7. What is the technical specification for this procurement? And who prepares the specification?	Sr. PO
8. Who prepared the Bidding Data Sheet (BDS) for the procurement of these goods?	Sr. PO
9. Who was responsible for preparing bidding documents for this work?	Sr. PO
10. Are bidders allowed to submit more than one bid for this work?	Sr. PO
11. Did you addendum bidding documents prior to the last date of submission? What was the process?	Sr. PO
12. Was clarification on bidding documents sought and what are the procedures followed? Was the clarification sought through written or other means?	Sr. PO/ ADM
13. How were the committees formed and who were responsible for formation of the committee?	Sr. PO/ T Comm.
14. What is the composition of Opening Committee? Name and designation During the opening of tender, who were absent	Sr. PO/ T Comm.
15. What is the composition of Evaluation Committee? Name and designation During the evaluation of tender, who were absent	Sr. PO/ T Comm.
16. What is the composition of Technical Committee? Name and designation During the technical evaluation of tender, who were absent	Sr. PO/ T Comm.
17. Did the committee members sign the 'no conflict of interest packed' before the sitting?	Sr. PO/ T Comm.
18. What is the composition of Award Committee? Name and designation During the award of the tender, who were absent	Sr. PO
19. Did you require bid security for the procurement this work? What was the amount?	Sr. PO
20. How was the bid submitted? i. Sealed original copy ii. Sealed duplicate copy	Sr. PO
21. Were the following documents included in the bidding documents? 1) The bid form 2) Bid Security 3) Priced bill of quantities 4) Qualification information form and documents 5) Integrity Pact Statement 6) Alternative offers where invited	Sr. PO
22. Did you require the approval of higher authority prior to the award of the procurement of the good?	Tender Comm.
23. Did bidders/ representative participate in the opening of the bids?	Sr. PO
24. Did you maintain the confidentiality for this procurement with regard to examination, clarification, evaluation, and comparison of bids and storage for the award of a contract? Who is responsible?	Sr. PO/ Tender Comm.
25. Were there any international bidders for this procurement and how the preference for domestic bidders was considered?	Sr. PO
26. Who was the successful bidder for this procurement?	Sr. PO
27. Did you have to reject any bids for this procurement? Were the bidders notified for the rejection and how?	Sr. PO
28. What was the notification procedure of the award for this procurement?	Sr. PO
29. Was the results published in your website? Was remedial measure for improvement of tender document recommended to the unsuccessful bidders?	Sr. PO
30. Did you receive performance security from the successful bidder?	Sr. PO/ Adm.
31. How are advance payment request received and made to the successful bidders?	Sr. PO/ FA/ADM

Contract Management and Evaluation (POST-BIDDING)

32. What is the warranty period for the goods?	Technical Comm.
33. In case of defect/ unserviceable, is it repaired/ replaced by the suppliers?	Sr. PO/ Adm.

PART II: WORKS

Institutional Arrangements

1. What is the priority for procurement of the specific works? (Why this particular works is purchased)?	Sr. PO/ FO
2. What is the source of funding? RGOB/ Donor/ Grants	Sr. PO/ FO
3. What was the method of procurement? Open/ Limited/ Direct/ Limited enquiry/ framework contracting?	Sr. PO
4. Who was responsible for preparing the bidding documents, monitoring and evaluating the procurement of goods?	Sr. PO

Bidding Process

5. What mode of announcement used to announce the invitation of bids?	ADM/ Sr. PO
6. Was the bidding documents prepared in line with the Standard Bidding Documents for works?	Sr. PO
7. What is the technical specification for this procurement? And who prepares the specification?	Sr. PO
8. Who prepared the Bidding Data Sheet (BDS) and Special Conditions of Contract (SCC) for the procurement of this work?	
9. Are criteria for technical and financial proposal clearly set in the invitation of tender documents?	
10. Who was responsible for preparing bidding documents for this work?	
11. Are bidders allowed to submit more than one bid for this work?	
12. Are bidders allowed to visit and examine the site of work and its surroundings to obtain information for this work?	
13. Was clarification on bidding documents allowed and what are the procedures followed for in this work?	
14. How are addendum notified to the bidders, if any?	
15. What was the currency mode for this procurement?	
16. How are committees formed and who is responsible for formation of the committee?	
17. What were the roles and responsibilities of committee members?	
18. Did you require bid security for the procurement this work? How much?	
19. Are there a criteria's set for evaluation of bids? How?	
20. How was the bid being submitted for this procurement?	
21. What documents were included in the bidding documents? <ol style="list-style-type: none"> 1. Bid form 2. Bid Security 3. Priced bill of quantities 4. Qualification information form and documents 5. Integrity Pact Statement 6. Alternative offers were invited 	
22. Did you have to issue addendum for the works and How are the addendum issued?	
23. Did you require higher approval prior to the award of this work?	
24. Did you receive any late bids, withdrawal, substitution and or modification of bids after the deadline for submission of the bids?	

25. Did bidders/ representative participate in the opening of the bids?	
26. How did you maintain the confidentiality for this procurement with regard to examination, clarification, evaluation, and comparison of bids and storage recommendation for the award of a contract?	
27. Did you have to seek any clarification to the bidders especially related to breakdown of unit rates and how this clarification is being sought?	
28. Are there international bidders for this procurement and how the preference for domestic bidders was considered?	
29. Who got the award for this procurement?	
30. Did you have to reject any bids for this procurement? Are the bidders notified for the rejection and how?	
31. How did you notify the award for this procurement?	
32. Are other bidders notified about the results of the biddings and is the results published in your website? Was remedial measure for recommendation in place for unsuccessful bidders?	
33. Did you receive performance security from the successful bidder?	
34. How are advance payment request received and made to the successful bidders?	
35. Who is the adjudicator for the procurement and is it based on the employer or bidder or joint decision?	

Contract Management and Evaluation

36. Who is the project manager for this work and who is responsible for appointing the project manager?	
37. Did the project manager receive detailed information on general methods, arrangements orders and timing for all the activities for this works?	
38. How did you monitor the achievement of the activities?	
39. Did the project manager or the site engineers have to levy penalty for the default of works? If yes how?	
40. Did you have to extend the intended completion date? How this is being done?	
41. Did you have to accelerate the procurement before the intended completion date?	
42. Did you invite the contractors for the management meetings, why?	
43. Did the contractor warned about the likely future event or circumstance that may affect the future work plans or any additional payment in connection with the contract?	
44. Do you check the quality of works and kept a record on Performance Score on Quality (out of 70%)	
45. Did you find any defects in the construction and how these defects have been corrected?	
46. Is there change in bill of quantities and how this has been adjusted?	
47. Is there variation in the contract of the works? And how the payments for the variation have been made?	
48. Do the contractors need to submit monthly statements of the value of the work executed?	
49. Do you issue a certificate of completion to the contractor after completion of the works?	
50. Is there a defect liability period for the works?	

PART III: SERVICES

Institutional Arrangements

1. What is the priority for procurement of the specific service? (Why this particular works is purchased)?	Sr. PO/ FO
2. What is the source of funding? RGOB/ Donor/ Grants	Sr. PO/ FO
3. What was the method of procurement? Open/ Limited/ Direct/ Limited enquiry/ framework contracting?	Sr. PO
4. Who was responsible for preparing the bidding documents, monitoring and evaluating the procurement of goods?	Sr. PO

Bidding Process

5. Did you sent letter of Invitation? What mode of announcement was used?	ADM/ Sr. PO
6. What was the selection criteria on the LOI	ADM/ Sr. PO
7. Did you conduct a pre-proposal conference?	ADM/ Sr. PO
8. Who prepared the Letter of Invitation Data Sheet?	ADM/ Sr. PO
9. Are criteria for technical and financial proposal clearly set in the invitation of tender documents?	ADM/ Sr. PO
10. How was the proposal evaluation carried out?	ADM/ Sr. PO
11. How the selection committee was formed? And how many members were involved	ADM/ Sr. PO
12. What is the composition of Opening Committee? Name and designation During the opening of tender, who were absent	ADM/ Sr. PO
13. What is the composition of Evaluation Committee? Name and designation During the evaluation of tender, who were absent	ADM/ Sr. PO
14. What is the composition of Technical Committee? Name and designation During the technical evaluation of tender, who were absent	ADM/ Sr. PO
15. Did the committee members sign the 'no conflict of interest packed' before the sitting?	ADM/ Sr. PO
16. What is the composition of Award Committee? Name and designation During the award of the tender, who were absent	ADM/ Sr. PO
17. Are minutes of the meeting kept during, evaluation, opening, and award? Who is responsible	ADM/ Sr. PO

Annexure 2

Field Survey Questionnaires

Introduction:

This survey is being conducted by the Royal Society for Protection of Nature (RSPN) as part of the EU-funded Green Public Procurement in Bhutan (GPP Bhutan) Project. The aim of this survey is to collect information from various organizations (Ministries, Departments, Dzongkhags, and Corporations etc.) to understand the nature of procurement practice and performance. The findings will allow the mapping of the institutional procurement process and procedure, and conduct gap analysis between theory and practical use of the available procurement rules and regulations and/ or guidelines.

The information collected is not intended to be used for any other purpose than research and confidentiality shall be maintained. Kindly respond objectively and to the point. This questionnaire will not take more than 45 minutes. Your full cooperation will be highly appreciated.

Interviewer's Name _____ **Date** _____

Reference Code _____

SECTION I: GENERAL INFORMATION

1. Name of the Organization: _____

2. Type of Organization:

- Corporation Government Autonomous Agency
 Others (please specify) _____

3. Name of the Respondent (Optional): _____

4. Age: _____

5. Gender of the respondent: Male Female

6. Contact Number (Optional) _____

7. Email address (Optional) _____

8. Designation/ _____

9. Are you Sr. PO I/ Sr. PO II/ Sr. PO Others (please specify) _____

10. Qualification:

- High School (up to 10th Grade) Higher Secondary school (up to 12th grade)
 Diploma Bachelors Degree
 Postgraduate Diploma Masters Degree

11. Number of years in the service (in procurement) _____

SECTION II: TRANSPARENCY

1. Are requirements for advertisement of contracting opportunities adequate?

- Very adequate Adequate Moderately adequate Not adequate

2. What are the modes of announcement?

- Print Media Broadcast TV Radio
 Social Media Official website others (Please Specify)

3. Are advertisements available to the general public?
 - Easily Available
 - Moderately available
 - Not available
4. Are negotiations after bid opening or award selection allowed?
 - Yes
 - No
5. Please specify what kind of negotiation is allowed?

6. Do the rules on negotiated procurement, if any, provide the basis for a fair and transparent process?
 - Yes
 - No
7. Do requirements for bid examination and evaluation provide the basis for a rational and fair process?
 - Very fair
 - Fair
 - Fair enough
 - Not fair
8. Are summaries of information about public procurement published (e.g. number of bids received, number of contracts awarded, and names of successful bidders)?
 - Yes (please specify) _____
 - No
9. Does your organization hold regular meetings with the business community to discuss public procurement issues?
 - Regularly
 - Often
 - Once in a while
 - Not at all
10. Is there a policy to control conflict of interest?
 - Yes
 - No
11. Does your organization have the following types of committees;
 - Tender committee: Yes No
 - Evaluation committee Yes No
 - Award committee Yes No
 - Any other (please specify) _____ Yes No
12. Is procurement management decentralized in your organization?
 - Fully decentralized
 - Decentralized
 - Decentralized to certain extent
 - Centralized

SECTION III: BASIS OF ACCOUNTABILITY

1. Is the procurement officer expected to follow a published code of ethics?
 - Yes
 - No
2. Does the procurement officer have defined terms of references?
 - Yes
 - No
3. What are the other duties handled by the person who also handles procurement in your organization (multiple options allowed)?
 - Procurement only
 - Administration
 - Finance
 - Human Resources
 - Others, please specify _____

4. Who prepares the procurement contracts? (tick all that applies)

- Legal HR ADM
 Finance Others (please specify) _____

SECTION IV: GENERAL RISK ASSESSMENT

1. Do professionals working in public sector procurement have attractive pay package compared to your peers?

- Highly attractive Attractive Moderately attractive Not attractive

2. In your opinion how vulnerable to corruption is working in the procurement sector?

- Highly vulnerable Vulnerable Moderately vulnerable Not vulnerable

3. Are procurement decisions overridden by higher governmental agencies/ authorities?

- Yes No

4. Are violations/ complaints investigated and procurement/other responsible officials held accountable?

- Yes No

SECTION V: ORGANIZATION

1. Is appropriate information on procurement adequately disseminated (i.e. procurement staff are aware of updated rules and thresholds, and other issues relevant to their assigned responsibilities)?

- Very often Often Rarely Never

2. Are the thresholds regularly reviewed and updated?

- Yes No

3. Do procuring entities have internal quality and control mechanisms?

- Yes No

4. Are the above mechanisms regularly audited?

- Very often Often Rarely Never

5. Are procurement staffs experienced in international procurement?

- Yes No

6. Do adequate formal and on-the-job training programs exist for entry- and higher-level staffs that are in the procurement section?

- Yes No

7. Is procurement administration computerized?

- System (for SOEs please specify) Spreadsheet Manual

SECTION VI: PROCUREMENT PLANNING

1. Are project implementation units adequately staffed with trained procurement, planning, scheduling, expenditure and cost estimating personnel?
 - Yes
 - No
2. Is overall planning for goods, works and other contracts done in sufficient detail to produce realistic project definition, achievable completion schedules, and accurate cost estimates?
 - Adequately planned
 - Planned
 - Weekly planned
 - Not planned
3. Is Whole Life Cycle cost (WLC) taken into account while planning procurement?
 - Adequately considered
 - Considered
 - Not considered
4. Is Value for Money (VFM) taken into account while planning procurement?
 - Adequately considered
 - Considered
 - Not considered
5. Do procurement units regularly conduct market surveys to update their knowledge of prevailing prices for goods, services and works?
 - Very often
 - Often
 - Rarely
 - Never

SECTION VII: DOCUMENT PREPARATION

1. Do Standard Bidding Documents (SBDs) exist for the following procurements?

Goods	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Services	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Works	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other (please specify _____)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are these documents, if any, readily adaptable to specific contract situations?
 - Yes
 - No
3. Are bidders required to provide bid security in an appropriate amount as a condition of responsiveness of their bid?
 - Yes
 - No

SECTION VIII: PREQUALIFICATION

1. Is prequalification carried out when appropriate?
 - Yes
 - No
2. Is the prequalification process fair and transparent?
 - Yes
 - No
3. Are standard prequalification documents used?
 - Yes
 - No
4. Does your organization verify prior to contract award if a successful bidder continues to meet prequalification requirements?
 - Yes
 - No

5. Do you maintain a list of pre qualified bidders?

- Yes No

6. If yes, what are the criteria/ process for pre qualification? _____

SECTION IX: COMMUNICATIONS

1. Does your organization maintain accurate records of all communications with the bidders (before and after the deadline for submission)?

- Always Often Rarely Never

2. Are bid openings conducted publicly?

- Yes No

3. Are minutes kept during opening and closing of the bids?

- Yes No

4. Do bid opening procedures differ for goods, services, works or other types of contracts?

- Yes No (Skip question 6)

5. How does the bid opening procedure differ? _____

6. How frequent does the different committees communicate? (Opening, evaluation and award)

- Always When required Rarely Never

7. Are bid evaluations carried out thoroughly and on the basis of the criteria specified in the documents?

- Yes No

8. Are evaluations normally completed within the original bid validity period?

- Yes No

9. Are higher authority approvals/ consent required before contracts can be made effective?

- Yes No

10. Are there appropriate procedures to monitor delivery of goods and services to verify quantity, quality and timeliness?

- Quantity Yes No
- Quality Yes No
- Timeliness Yes No

11. Are supplier and contractor claims handled fairly based on a clear recognition of both parties' obligations under the contract?

- Yes No

12. For contracts to be awarded on the basis of competitive bidding, does your organization maintain a complete record of the process?

- Yes, we maintain complete records
 Yes, only major and important records
 No

SECTION X: EVALUATION AND RECORDS

1. Do the Terms of Reference describe the requirements of the assignment clearly and completely, including background, scope and objectives, deliverables, time frame, anticipated staff-time, and selection process and evaluation criteria?
 - Yes No
2. Do you have weights for financial and technical assessment?
 - Only technical
 - Only Financial
 - Both
3. Are consultants required to submit proposal, performance and/or advance payment securities?
 - Yes No
4. Are evaluations conducted by committees with appropriate expertise?
 - Yes No
5. Are general criteria broken down into appropriate detailed criteria agreed by the evaluating committee before conducting the evaluation?
 - Yes No
6. Are the individual score sheets kept as part of the procurement record?
 - Yes No
7. Are evaluations conducted individually by each member of the committee and the results averaged?
 - Yes No
8. Are evaluation reports prepared containing essential details of the process, results, and matters to be taken up during contract negotiations?
 - Yes No

SECTION XI: GENERAL EXPERIENCE

1. How much is your organization spending on Goods, Services and Works? Rank in order from 1 to 3 where, 1 is the highest spending and 3 is the lowest spending.

Type	Rank
Goods	
Services	
Works	

2. What can your organization do differently to improve the procurement procedure in your organization?

3. What major changes in rules (PRR, 2009 for government agencies and respective manuals for SOEs) do you foresee to ease the procurement process?

4. Rate the following factors which are considered to be problematic with the procurement in your organization from a scale of 1-5, where 1 is most problematic and 5 is the least problematic. Please circle:

Inappropriate or outdated rules and regulations (RR)	1	2	3	4	5
Poor compliance with and enforcement of existing RR	1	2	3	4	5
Poor information about procurement needs	1	2	3	4	5
Shortage of experienced professional staff	1	2	3	4	5
Poor training of procurement staff	1	2	3	4	5
Low pay for procurement staff	1	2	3	4	5
Poor procurement training	1	2	3	4	5
Weak procurement planning	1	2	3	4	5
Poor procurement methods and procedures	1	2	3	4	5
Lack of good standard procurement documents	1	2	3	4	5
Poor technical specifications	1	2	3	4	5
Cumbersome contract approval procedures	1	2	3	4	5
Lack of clear delegation of contracting authority	1	2	3	4	5
Interference by higher level officials	1	2	3	4	5
Inadequate appeals mechanism	1	2	3	4	5
Lack of anti-corruption measures and enforcement	1	2	3	4	5

5. Do you provide any advice to unsuccessful bidder?

Yes No

6. Do you have any mechanism to address queries/ clarification sought by unsuccessful bidders?

Yes _____

No

7. In which order would you rank the following when selecting a supplier? Rank in order from 1 to 8 where, 1 is the most important and 8 the least important. Please ensure that all variables are assigned different rankings.

Particulars	Rank
Location	
Price	
Reputation	
Quality	
Capacity	
Reliability	
Flexibility	
Consistency	

8. Have you ever experienced e-procurement system or portal?

Yes Yes, to some extent Not at all

9. Do you have any additional comments/ suggestions related to procurement in your organization that are not covered in the questionnaire?