GEEM 445

Engineering Ethics and Professional Practices

PPA 2006 & PPR 2008

What we are going to learn today:

- PPA & PPR
- Procurement /public procurement
- Important definitions.
- Public procurement committees

PROCUREMENT REGULATIONS AND LAW
&
TENDER PROCEDURE WITH THE LIGHT OF PPR

Ministry of Planning

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IMED

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CPTU



PPR 2008 AND RELATED DISCUSSION

Procurement/Public procurement

‘**Procurement**’ means

- **purchasing or hiring of goods**, or **acquisition of goods** through **purchasing and hiring**, and

- **Execution of works** and **performance of services** by any **contractual means.**

Public Procurement

- Purchase of goods, services and works by **public authorities** or **civil service organizations** using **public funds**.

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ

আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়

পাবলিক প্রকিউরমেন্ট আইন, ২০০৬

ও

পাবলিক প্রকিউরমেন্ট বিধিমালা, ২০০৮

মুদ্রণ ও প্রকাশনা শাখা

(এই আইন ও বিধিমালা নভেম্বর, ২০১৮ সন পর্যন্ত সংশোধিত)

উপ-পরিচালক (যুগ্ম-সচিব), গভর্নমেন্ট প্রিন্টিং প্রেস, তেজগাঁও, ঢাকা কর্তৃক মুদ্রিত।

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PPA 2006 & PPR 2008

PPA 2006

Primary legislation focuses on main public procurement issues.

PPR 2008

- **Secondary legislation addresses those** which are important for a **proper and effective public procurement procedure** to be **carried out,** and **better spelled out.**

- **Provide contracting authorities** with **more specific indications** of how public procurement procedures are carried out.

Scope & Application

PPR shall be apply to:

- Procurement by **PE** **using** **public fund**
- Procurement **by any government, semi-government or any *statutory* body** established under any law.
- Procurement **using public funds *by a company* registered** under the companies act 1994.
- Procurement **under a loan, credit or grant *agreement*** with a *development partner* or *with a foreign state* or *any organization*.

PPR 2008

CHAPTER ONE - Definitions & Scopes

CHAPTER TWO - **Preparation of Tender**

CHAPTER THREE - **Principles of Procurement**

CHAPTER FOUR - **Methods of Procurement**

CHAPTER FIVE - **Processing of Procurement**

CHAPTER SIX - **Procurement of Intellectual and Professional Services**

CHAPTER SEVEN - **Professional Misconduct, Offences, etc.**

CHAPTER EIGHT - **E-Government Procurement**

CHAPTER NINE - Miscellaneous : Responsibilities of the Government Regarding Monitoring, etc.

Total 13 Schedules including Standard tender document(STD)

Important Definitions:

Head of the Procuring Entity (HOPE):

May be **Secretary** of a Ministry or a Division, **Head** of a Government Department or Directorate; or the **Chief Executive** by whatever designation called.

Project Manager (PM) :

- **Person named in the Contract** or
- **Any other competent person** appointed by the Procuring Entity and
- **Notified** to the Contractor,
- Who is **responsible for** supervising the execution of the Works and administering the Contract.

Contractor :

Person under contract with a Procuring Entity for the execution of any Works.

Subcontractor:

Person or corporate body who has a Contract with the Contractor to carry out a **part of the work** in the Contract, which includes work on the Site.

Tender or Proposal :

An offer or **invitation** submitted by a Tenderer or a Consultant **for delivery of Goods, Works or Services to a Procuring Entity** in response to an IFT or a RFP; and for the purposes of the Act, Tender also includes quotation.

Tenderer : A Person who submits a Tender.

Public Fund :

- Any **funds allocated to a PE under Government budget, or loan, grants and credits or**

- **Any fund placed at the disposal** of a PE **through the Government** by the development partners or foreign states or organizations.

Public Procurement : Procurement using public funds.

Quotation:

- **Priced offer in writing, received from Tenderers** for the procurement of **readily available standardized Goods**, **Works** or **Physical Services** subject to the **threshold value** as prescribed by the Rules

Tender Document or Request for Proposal Document:

- **Document provided by a PE to a Tenderer or a Consultant** as **a basis for preparation** of its Tender or Proposal

Force Majeure:

- **An event or situation beyond the control of the Contractor, a Supplier or Consultant,**
- **Not foreseeable**, and unavoidable event or situation and
- Its **origins not due to negligence** or **lack of care** on the part of the Contractor.

Such events may include, but not be limited to,

- **acts of the Government** in its sovereign capacity,
- **wars** or **revolutions**,
- **fires**, **floods**, **epidemics**,
- **quarantine restrictions**, and **freight embargoes etc.**

Conflict of Interest:

- **Any situation** where **personal or business interests** of any person in a public procurement transaction would **adversely affect the interest of a PE** in **achieving economy**, **efficiency**, **transparency**, **fairness** and **equal treatment** of Tenders or Proposals.

Responsive:

Qualified for consideration on the basis of **evaluation criteria** so **declared and specified** in the Tender Document or in the RFP Document;

Approving Authority (AA):

- Authority which, in **accordance with the Delegation of Financial Powers**, **approves the award of contract** for the Procurement of Goods, Works or Services.

Delegation of Financial Powers:

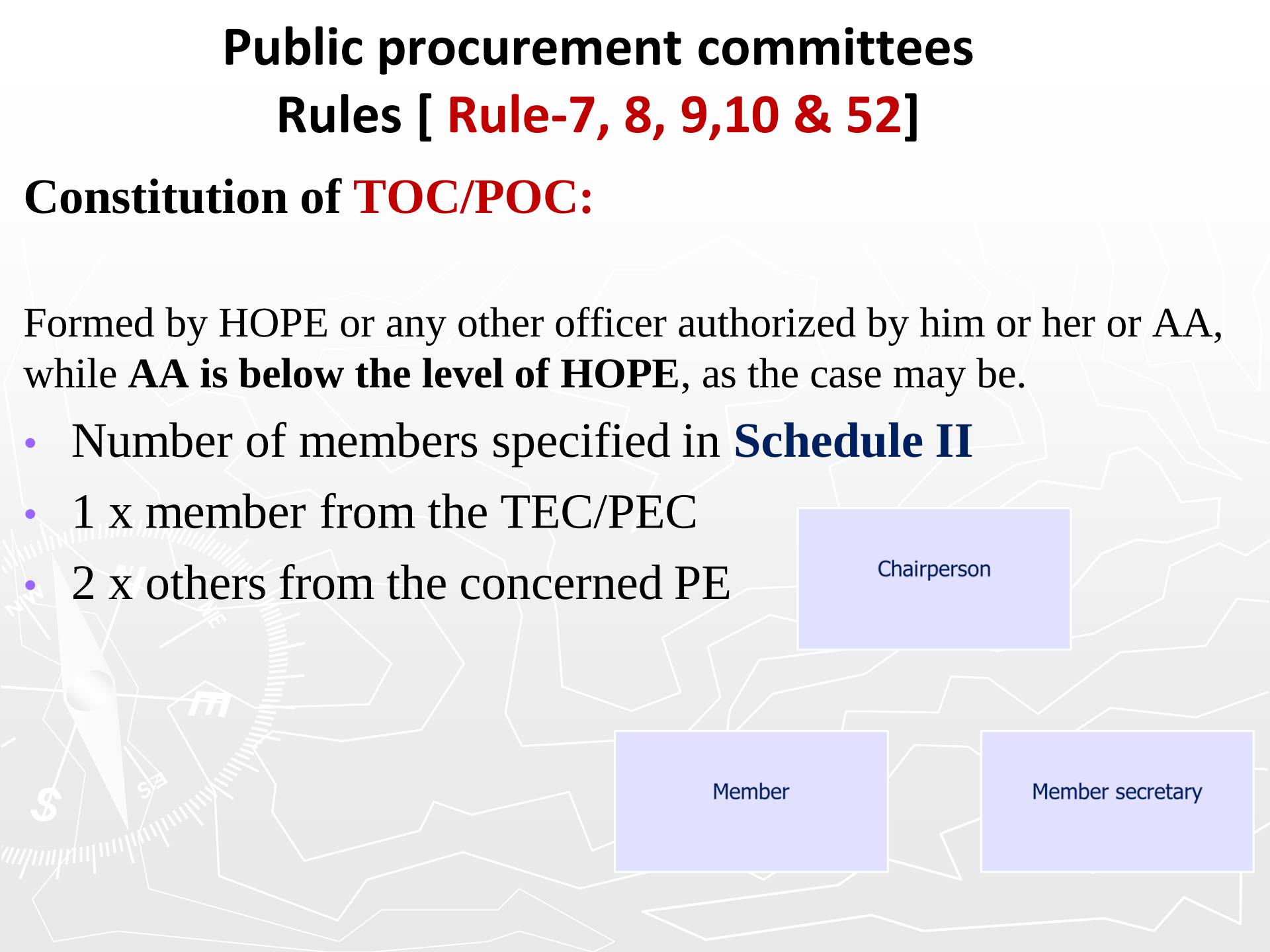
- **Instructions with regard to the delegation of financial authority**, issued by the from time to time, relating to the **conduct of public Procurement** or **sub-delegation** of financial powers.

Public procurement committees
Rules [Rule-7, 8, 9,10 & 52]

Constitution of TOC/POC:

Formed by HOPE or any other officer authorized by him or her or AA, while **AA is below the level of HOPE**, as the case may be.

- Number of members specified in **Schedule II**
- 1 x member from the TEC/PEC
- 2 x others from the concerned PE



Rule 7

7. Constitution of Tender or Proposal Opening Committee, Meetings, Etc. |—The Head of the Procuring Entity or an officer authorised by him or her or the Approving Authority, while the Approving Authority is below the level of HOPE, as the case may be, shall form a Tender or Proposal Opening Committee comprising of members as specified in Schedule II .

Constitution of TEC/PEC

Who appoints TEC/PEC?

- Approving Authority **(AA) shall form TEC/PEC.**

- However, **if** AA is **at the level** of Board of Directors or Division or **if** the CCGP is the recommending Authority, above the HOPE, the TEC/PEC shall be appointed with the **approval** of the ***chairperson of the board*** or *secretary of the* ***ministry*** or ***division, as the case may be.***

Members are specified in Schedule II

Rule 8 (3)

(3) The Approving Authority shall form the Evaluation Committee; but when the approving authority is at the level of a Board of Directors or a Ministry or if the CCGP is the recommending authority, the Evaluation Committee shall be appointed with the approval of the Chairperson of the Board or the Secretary of the Ministry or Division, as the case may be.

CCGP- Cabinet Committee on Government Purchase

TEC/PEC members are selected from:

- **Officers from line** ministry/division/agencies
- Officers or specialists **from other** Ministry/ division/ agencies or universities **as externals** by designations.

(ALL with knowledge and high integrity)

- **Minimum 5 & normally not exceeds 7**
- 2 of them from outside the ministry/division/agency
- **Minimum 5 including 1** externals to attend the evaluation & sign the evaluation report
- All participating members will mention their names with designations.

Various Schedules

SCHEDULE II

Rule #	Times, Values, etc
7	**Constitution of Tender or Proposal Opening Committee** 1(one) member from the TEC or PEC and 2(two) other members from the concerned Procuring Entity and other agencies as below - (a) Chairperson; (b) Member; (c) Member-Secretary.
	Tender or Proposal Evaluation Committee • Minimum five (5) and normally not exceed seven (7) members • Two (2) of whom at least shall be from outside the Ministry or Division or agencies under it, • At last five (5) members including 1 outside members shall attend the Evaluation and sign the Evaluation Report

Working Draft

Schedule II

8(1), (2) & (8)	**Tender or Proposal Evaluation Committee for low value Procurement** • Minimum three (3) members of whom one (1) member may be selected from another agency or another Procuring Entity • At last three (3) members shall attend the Evaluation and sign the Evaluation Report **Value of Contracts when number of the Evaluation Committee members may be reduced:** • Tk. 1.5 (one and a half) million or below for Procurement of Goods and related Services • Tk 3 (three)million or below for procurement of Works and Physical Services • Up to Tk. 500,000 (five hundred thousand) for intellectual and professional Services

Preliminary Draft

Chairperson of TEC/PEC

- AA shall **never chair.**
- **One immediate below AA**, where AA is at the level of PD, PM or AO as per the DoFP at the regional, sub-regional, district or upazila level
- **AA itself at the upazila or other levels**, where there may be no class-1 officer below the AA
- **One immediate below HOPE**, where AA is at the level of a HOPE or the CEO of a corporation, autonomous body or semi-autonomous body

AA may designate one member secretary

- **HOPE or CEO**: **where AA** is at the level of a Board of Directors or of a secretary of a Ministry or CCGP

- **One immediate below HOPE or CEO**, if for any reason they are unable to chair any meeting of EC

- **One immediate below secretary** in ministry's own procurement where secretary is the HOPE

Special circumstances

PE forms the Enlistment Committee of 3 members.

- **For procurement under LTM**
  - -1 x from PE
  - -1 x from technical unit of PE
  - -1 x from outside the PE

HOPE or AO approves the **list of the potential tenderers** and **PE updates on annual basis**.

Updates also need approval

Validity of EC meetings:

TEC/PEC meetings considered valid only **when minimum number of members present**

Minimum members is specified schedule II

Functions of TEC/PEC

TEC/PEC members themselves on their own:

- Examine & evaluate
- Prepares the ER with recommendations
- Submit the ER directly to the AA in the prescribed manner
- Never delegate

Removal of TEC members

TEC/PEC members removed only by AA on grounds include:

- **Does not disclose links/connection** with applicant or tenderer
- **Remains absent** in 2 consecutive meetings
- **In direct breach** of section 64 of the ACT
- **Transfer, death or absence** from the country

Declaration of Impartialities:

Each TEC/PEC member signs the declaration of impartiality in a manner as specified in Rule-8(13)

"I (name of the Evaluation Committee member & designation) do hereby declare and confirm that I have no business or other links to any of the competing Tenderers or Applicant"; and

(b) sign collectively in the Tender or Proposal Evaluation Report, by certifying that -

"The Evaluation Committee certifies that the examination and evaluation has followed the requirements of the Act, the Rules made there under and the terms and conditions of the prescribed Application, Tender or Proposal Document and that all facts and information have been correctly reflected in the Evaluation Report and, that no substantial or important information has been omitted".

Technical sub committee (TSC):

AA may appoint a TSC with maximum 3 members or include other experts in the EC subject to the member limitation in TEC/PEC, if a particular tender or proposal requires such technical assistance

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Thank You