Implementation of RGoB Procurement Rules and Regulations (2009): The Challenges of RUB Colleges

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Abstract

This study presents the challenges of Tender Committees of the colleges of the Royal University of Bhutan (RUB) in implementing the Royal Government of Bhutan's Public Procurement Rules and Regulations (RGoB PRR 2009), hereafter referred to as the manual. The challenges of the manual have been extensively deliberated in the parliament, Royal Audit Authority, Anti- Corruption Commission and media in the country. However, there is lack of consideration to address the matters due to rapidly growing challenges among the procuring agencies in the country with no exception to colleges of RUB. The key variables examined in the study are the level of knowledge, the procedure compliance and enforcement of the manual. A total of 36 committee members participated in the study through survey questionnaires and personal interviews. The descriptive statistics was used to analyse and present the findings. The findings showed the need for all colleges to address the challenges and ensure uniformity in the implementation of the manual in the process of procurement. The capacity building programme for the tender committees is one of the key recommendations.

Key Words: Public Procurement, Tender Committee Members, Procurement Manual, Procurement Process, RUB College

Introduction

Literature espouses that the maximum government budget is used for procurement of work, goods and services. In Bhutan, an annual budget of Nu.18.2 billion is used for procurement (Dorji, 2015). In 2018, Bhutan spent approximately 17% of GDP on procurement (Royal Monetary Authority of Bhutan, 2018) and a significant portion of procurement pertains to major infrastructure development projects such as the construction of bridges and roads, hospitals, educational institutions, and hydropower plants. Amongst numerous agencies, colleges under the Royal University of Bhutan

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(RUB) face challenges in procurement of goods and services. Although procurement is governed by the Procurement Manual, the practical challenges persist amongst the constituent colleges resulting in major irregularities (Royal Audit Authority Report, 2016 -2017).

The study was conducted under the Annual University Research Grant (AURG) for a period of one year (2017-2018). This study is limited to challenges faced by college procurement committees in implementation of the manual. It examines the level of procurement knowledge of the tender committee members, modalities and procedural compliance, and effective implementation of the manual in colleges.

Statement of the Problem

Despite adhering to the international procurement norms and standards in Bhutan, there is a need in the improvement of effective compliance with the procurement rules and regulations. Procedural lapses and irregularities were the highlights of the Annual Audit Report (2016). In 2018, the Public Accounts Committee (PAC) of RGoB reported the irregularities and issues with the procurement of works and goods amongst the government ministries and agencies. In particular, amongst autonomous agencies, the RUB has the highest irregularities with Nu.55.228 million, out of which around 80% are related to procurements in the colleges. It is an indication of problems with the tendering processes of the RUB colleges.

Although the National Council of Bhutan reviewed the Procurement Manual in 2016 and reported some of the findings to the parliament, it failed to capture the need for advocacy of the manual and the competency level of the tender committees of agencies leading to some fundamental questions such as the common challenges faced by tender committees in implementing the modalities, the procedures and enforcement outlined in the revised manual, and the percentage of the committee members' knowledge regarding the revised manual. Thus, this research examines the issues in procurement process to avoid overwhelming irregularities related to procurement in the colleges of RUB. Further, the study explores the common challenges faced in implementing the manual considering the committee's level of knowledge, procedure compliance and implementation of the manual.

Objectives

The main objectives of this study are:

- To explore the challenges and issues faced by tender committees of colleges in implementing the procurement manual
- To examine the level of knowledge of the tender committee on the manual and tendering processes
- To study the level of effective implementation of the manual by the tender committees.

Literature Review

Many prior studies have indicated that no public procurement acts, rules and regulations are fully enforced or effectively implemented in agencies, despite the directives and guidelines issued by governments.

Public Procurement Overview

Globally, public procurement is considered as a key function in supply chain management because of the integration of numerous key components related to the organisations. Procurement is the business management function that ensures identification, sourcing, access and management of the external resources that an organisation needs or may need to fulfil its strategic objectives (CIPS, 2005). The Ministry of Finance, RGoB defines the public procurement as the process by which procuring agencies acquire goods, works and services involving the processes such as planning, identification of needs, an invitation of offers, selection of suppliers/contractors, contracts awarding, executing and managing the contracts as well as final accounting and auditing. The definitions focus on the importance of managing the procurement processes with the involvement of various stakeholders to achieve the organisational goals, and the public procurement processes in Bhutan also follow the international standard processes and involve stakeholders.

Snider (2006) states that procurement is a tactic and every procurement process starts with the process of identifying the needs and then focuses on making a critical decision at the end. For all agencies, procurement must follow the rules and procedural diligence to ensure greater accountability, transparency and cost effectiveness. However, public procurement in many developing countries failed to admit that procurement has a strategic impact on public resource management (Hunja, 2003). The public procurement is often treated as process-oriented and managed by incompetent personnel without procurement knowledge and experiences. Literature draws attention on incompetency and irrelevant qualification of the procurement personnel as key factors resulting in irregularities in procurement.

Falvey (2012) asserts that despite a significant share of public spending on procurement, there is a limited formal competition policy in many developing countries, resulting in poor formalities, lack of transparency and more challenges. The need of formal procurement policies and reforms to maintain accountability, efficiency, value for money, and transparency in developing countries have become indispensable (Falvey, 2012). Specifically, there is a need of proper modalities in tendering processes, like awarding and monitoring the contract to ensure work efficiency in procurement. Numerous challenges arise due to the improper management of tendering processes and pampering the principle of procurement at the end (United Nations, 2012).

In terms of accountability and transparency, McDonald (2008) asserts that accountability and transparency is necessary in government purchasing and contracting rules to promote relationship and accountability between government and citizens, and in achieving the socio-economic goals. The emphasis was on the government consumption management to achieve socio-economic goals through procurement reforms, minimizing cost and reducing poverty. The development of sound procurement policies and adoption of procedures would create a greater impact on the economy. For contract management staff, a cultural shift is imperative besides monitoring supplier compliance through adequate training in the procurement system and maintaining the standard approach across the system (Review of Procurement and Skills Policy, 2010). This perspective emphasises on the knowledge of the tender committee for effective implementation the procurement rules, minimise the issues and challenges.

If the public procurement regulation is not implemented strictly, people would collude and involve in corrupt practices. It would deteriorate the integrity of public procurement (Preventing Corruption in Public Procurement, n.d.). The Public Procurement Oversight Authority (2014) states that if procuring agencies fall between 3-5 out of 10 (on a rating scale), it is interpreted ineffective implementation of public regulations. Although this rating is used as a performance measurement in procurement, the reliability and validity of measurement remains questionable. It limits a specific parameter to establish correlation between challenges and implementation of the procurement policy. Uromi (2014) states that globally, the limited skilled personnel is the key challenge in the implementation of procurement regulations. Such a challenge is believed to be no different to the RUB colleges.

Methodology Research Design

This study adopted a mix-method approach. Survey questionnaires and personal interviews were used for the primary data collection. Unstructured interview facilitated in the collection of information and views for qualitative data while quantitative data were collected using the questionnaires. The secondary data were collected from prior studies, reports and procurement manuals of different countries.

Targeted Population

The target population included all tender committee members of constituent colleges of RUB for the study as they deal with the procurement process and programmes in the respective colleges. The participants consisted the President, Deans, Finance Officer, Administrative and Procurement Officer, Store In-charge and Estate Manager. Considering the total number of active Tender Committee members of the constituent colleges of the RUB, there were 48 members.

Sampling and Sampling Size

The convenience sampling method was adopted which facilitated the collection of data from members who were accessible at the point of data collection. The sample size was determined at 30% of the target population which was a fairly good representation of the target population (Mugenda & Mugenda, 2003). The sample size was approximately 15. However, 36 members participated in the survey and the response rate was 75%.

Data Collection

The chairpersons of the procurement committee/focal persons for the study of the colleges were communicated over telephones and via emails. The survey questionnaires were sent through emails to the members and telephonic personal interviews were conducted. For the members within the vicinity of the researchers, face-to-face personal interviews were conducted. The questions were designed to solicit the desired information related to the challenges faced by procurement committees in the implementation of the manual amongst the members. The responses were sought using a three-point rating scale (refer Appendix).

Results and Discussion Demographic Profile

The members were categorised into three categories based on qualification, designation and work experience. Out of 36 members, 19 were males and 17 were females (refer Table 1) which indicates the presence of more male members than female in the committees. 2 members have PhD (6%), 12 have Master's Degree (33%), 13 possess Bachelor's Degree (36%), 7 with Diploma (19%), and 2 with other (6%) qualifications.

The work experience amongst the members between 10-20 years (47%, n=17) has the highest number of members as compared to 31% members between 20-30 years' work experience. Only 8 members (22%) had work experience between 0-10 years out of 36. This explains that RUB colleges have a fairly good representation of tender committee members in terms of seniority and experience; however, the more experienced the members, the more effective in the implementation of procurement programmes.

Demographic Information and Discussion

Table 1. Summary of members

Variable	Category	Frequency	Percentage
	Male	19	53
	Female	17	47
Gender	Total	36	100
	PhD	2	6
	Master	12	33
Qualifications	Bachelor	13	36
	Diploma	7	19
	Others	2	6
	Total	36	100
Designation/Position	President	2	6
	Dean	3	8
	HR/Adm	6	17
	Finance	5	14
	Lecturer	8	22
	Estate	4	11
	IT Officer	2	6
	Procurement	4	11
	Research Officer	1	3
	Record Officer	1	3
Work Experience	Total	36	100
	0-10 Years	11	31
	10-20 Years	17	47
	20-30 years	8	22
	Total	36	100

Source: Field Data, 2018

Level of Knowledge

The Level of Knowledge assessed the members' level of understanding and application of the rules outlined in the manual. It further explains the competency level of committee members in the implementation of the manual. All 36 members expressed the requirement of at least three members for a quorum and the approval of procurement plan by the employer. The majority of the members reported about the awareness and having to comply with the procurement rules and regulations outlined in the manual.

Pertaining to the authority of the tender committee to constitute other committees, 72.2 % members stated that the committee has the authority. Similarly, around 66.7% of the members agreed that Standard Bidding Document (SBD) is used in conjunction with the manual and the tender evaluation committee is responsible for checking all tenders.

On matters pertaining to forgoing the due tendering process for emergency procurement of goods and services; application of SBD for open and limited bidding and the requirement of compliance by the RUB colleges with the Procurement Manual, 40% to 50% of the committee members either felt non-compliance or not certain about the compliance with the clauses as outlined in the manual.

Nearly 40% of the members were of the view that the tender committee members did not supervise the whole procurement procedure while 33% claimed that they were unaware. More than 61% of the committee members stated that they had insufficient knowledge on the whole tendering and procurement procedures; and they were not certain whether to be governed by the RUB Financial Manual (2017) or RGoB PRR (2009). The study also confirmed that 88% of the committee members did not attend any formal training on the implementation of the manual and 75% stated that they have no adequate skills to handle the tendering process. The lack of adequate level of knowledge, skills and experiences were the major setbacks in the effective implementation procurement programmes.

Challenges of Complying with the Manual

The tender committees' common challenges in the implementation of the manual were based on the procedure compliance and implementation of the manual (refer Annexure). The first section of the questionnaire focussed on registration processes of bidder/contractors along with the pre-qualification criteria. The second section pertains to responsibilities, procurement thresholds, methods and bidding processes of the manual, the third section pertains to award of contract, elements of contract and conclusion of the contract, and the fourth section focused on the scope, measure, variations, termination, and dispute resolution stated in the manual. Similarly, the procurement of consultant services and Standard Bidding Documents (SBD) are also included in the survey questions.

Challenges with Registration and Qualification of Bidders

With regard to the user friendliness of the registration system in Chapter II, Clause 2.1 of the manual, 61.1% of the committee members were not certain. It explained that the members neither have a complete knowledge nor fully follow the registration system. Nearly 64% of the members felt that the registration system with the Construction Development Board (CDB) does not guarantee overall suitability of a bidder and 53% view that pre-qualification discourages competition. All the members (100%) were of the view that the existing manual does not ensure fair and competent selection of

bidders. With regard to the advertisement, 33% of the members were of the view that colleges do not advertise tender in the media which informs that some colleges avoid due to cost implications.

Challenges with Responsibilities, Methods and Bidding Processes

Based on the personal interview pertaining to responsibilities, methods and bidding; the bureaucratic processes involved in the procurement processes was a major challenge. Additional roles and commitment required by the members apart from the roles stated in the manual featured to be another challenge. Due to limited expert personnel in some colleges, both opening and evaluation responsibilities were conducted by the same committee members, which the manual forbids. In a situation of contract awarding disputes, some members were not certain which manual to be referred- the RUB Financial Manual 2017 or the RGoB PRR 2009.

There is also a frequent change in the membership of the committee which affects the procurement process as expressed by 61.1% of the members and confidentiality of the evaluation proceedings were often felt difficult to be maintained. All members felt that the evaluation process was time consuming and difficult; and the evaluation of technical proposals consume more time than the financial proposals. Some members felt that the enforcement of responsibility and accountability in the procurement processes has to be strengthened.

Challenges with Awards, Elements of Contract and Conclusion

The study shows that 63% of the members are in favour with holding some time before the award of the contract. It informs that the committee delays in award of contract due to circumstances. Many members (63%) felt that delay in the payment of bills is found to be one of the major setbacks in the timely completion of the works. There were also challenges regarding the quality monitoring responsibility after contracts were awarded to the bidders. Majority of the members (61%) were of the view that awarding the contract to lowest bidder, as per the rules, compromised quality because the lowest bidders do not always have required capacities and recourses. Around 72% of the members expressed that they handle the bidder with a fair and timely manner in reference to the dispute resolution clauses 6.3.8 of the manual.

Challenges with Procurement of Consultant's Service

With regard to the existing tendering system and its design, 63% of the members reported that the system is more burdensome than improving control mechanism in the college, because the methods of selections of consultants are lengthy and difficult to materialise as reported by all the members (100%). For instance, the clause 7.3.1.2 outlined 11 steps to select the competent/consulting firm. As a result, the committees faced difficulties in procuring the competent firms with relevant qualifications and

expressing the interest. The members also opined that skills and knowledge is of utmost importance to evaluate the contracts.

Other Challenges

In an interview with some tender committee members (Procurement and Administrative Officers) across the colleges, it was found that bidders most often submit documents that were tempered, opened, and not appropriately arranged in the envelops. Other common challenges include bidders not complying with the prescribed bid form, price schedule and bill of quantities as per the Standard Bidding Document (SBD) as well as incomplete submission of brochures, catalogue, literature and drawings with the arithmetic errors in price schedule and bill of quantities. These are the common challenge observed by most committee members across the colleges. The bidders often fail to abide by the SBD in the delivery of equipment or materials as per specifications as informed by 52.8% of the members. The interpretation of SBD and Instruction to Bidders were also the stated to be difficult by the members.

Conclusion and Recommendations

Effective implementation of procurement rules and regulations in Bhutan is necessary to achieve the national goals because it involves significant amounts of government budget. Only a highly regulated procurement environment and proper implementation of the guidelines and rules could be appropriate to minimise corruption, discretion in circumstances and risk involved in public procurement programmes. The RUB being autonomous agency should uphold a highly prescriptive approach in every college to uphold procurement principles like transparency and accountability.

This study concludes that the level of knowledge, procedure compliance and enforcement of the manual are crucial to address the growing issues in procurement process. The tender committees across the colleges lack adequate skills to execute the procurement works. The key challenges confronted with the committees are related to a weak monitoring system, and a partial implementation of the manual. The common challenges are- consultancy selection steps are lengthy and difficult to materialise, registration with CDB does not necessarily guarantee the suitability of a bidder, and evaluation process for both technical and financial are time consuming.

The key challenges mainly pertained to the procedural compliance and enforcement of the clauses in the manual. There was also a need to train and develop the committee members and the initiatives could be taken up jointly by the Office of the Vice Chancellor, RUB and the respective colleges. Sharing good practices of procurement and challenges amongst the colleges could also be an alternative strategy in the capacity development of the committees.

The colleges should encourage, support and make mandatory to obtain professional certificates through online courses on procurement management, e-tendering, contract management and electronic green procurement (e-GP) to explore the best practices of procurement strategies and skills. The Office of the Vice Chancellor needs to ensure effective monitoring and compliance with the manual by the colleges. The colleges must be monitored on a quarterly basis to avoid procedural lapses and compliance with the manual. To ensure effective enforcement of procurement regulations in colleges, the HR committee should recruit experienced staff with relevant background and qualifications (such as Materials and Procurement Diploma). Finally, the RUB colleges need to implement a modern procurement platform [Electronic Government Portal System (eGP system)] like other government agencies in Bhutan as it is cost-effective compared to normal paper work-based system.

Limitations of the Study

The study is limited to the issues and challenges of implementing the manual in the RUB colleges. The views of the contractors and suppliers who participated in the procurement programmes of RUB colleges were not studied. Thus, the findings and discussion may not be exhaustive.

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Appendix

Level of knowledge regarding the manual

Statements	Disagre e (%)	Neutr al (%)	Agree (%)
The manual is applicable to all RUB colleges	22.2	22.2	55.6
It supersedes the RUB Financial Manual 2017 (Chapter 10)	0.0	61.1	38.9
All contracts are awarded by our tender committee	0.0	5.6	94.5
Contracts must pass through the procurement processes	0.0	5.6	94.5
Tender committee supervises whole procurement procedures	38.9	33.3	27.8
Goods and Services required for emergency do not follow tender	27.8	11.1	61.1
Tender Evaluation committee checks all tenders	11.2	22.2	66.7
Tender committee requires three members to form a quorum	0.0	0.0	100
Tender committee has a full authority to constitute other tender committees	0.0	16.7	72.2
SBD should be used in conjunction with the manual	0.0	33.3	66.7
SBD applies only for open and limited bidding methods	11.2	27.8	61.1
Procurement plan must be prepared and approved by			
employer Tender committee doesn't possess the required skills to	0.0	0.0	100
handle the tendering process			
Tender committee didn't attend a training on the	12.5	12.5	75.0
manual	0.0	0.0	88.0

Source: Field data, 2018

Challenges in the implementation of the manual by college tender committees

Chancinges in the implementation of the manual by cone	Chancinges in the implementation of the manual by conege tender committees				
Challenges in the implementation of the manual	Disagre e (%)	Neutra l (%)	Agre e (%)		
Registration system of the manual is not user-friendly	5.6	61.1	33.4		
Tender committee members don't possess required	5 (10.4	75.0		
skills	5.6	19.4	75.0		
Pre-qualification discourages competition for bidders	30.9	11.1	53.0		
Not able to maintain evaluation proceedings confident	33.0	13.9	53.1		
Awarding to lowest evaluated bidder affects the quality of works	30.3	15.6	61.0		
Frequent changes in membership affects the	30.3	13.0	01.0		
procurement	5.6	33.3	61.1		
Delay in bills payment affects timely completion of the					
projects	0.0	5.6	63.9		
Tender committee holds the decisions on award of the					
contract.	11.2	25	63.0		
In reality price adjustment can't be made as per the	27.7		5 0.0		
manual	27.7	11.1	50.0		
Interim payment always takes longer time	19.4	8.4	72.0		
To handle the bidder with a fair and timely manner is difficult	0.0	27.8	72.2		
The manual does not ensure fair and competent	0.0	27.0	12.2		
selection of bidders	0.0	0.0	100		
Registration with CDB will not guarantee overall	0.0	0.0	100		
suitability of a bidder	18.05	18.05	63.9		
Consultancy selection method are lengthy and difficult					
to materialize	0.0	0.0	100		
Procurement of Consultant's Services is more					
burdensome than improving control mechanism	5.6	25.0	63.9		
The committee faced difficulty in safeguarding the		• • •	- 00		
integrity of the tenders	19.4	30.6	50.0		
Evaluation process for both technical and financial are	0.0	0.0	400		
time consuming and difficult.	0.0	0.0	100		
The evaluation committee has no competent members	1.4	22.2	52.7		
to evaluate the tenders Records on evaluation, such as individual mark sheets	14	33.3	52.7		
until completion of the project and its audit is costly					
and difficult	0.0	0.0	100		
		3.0	- 0 0		
	16.7	13.9	69.4		
			316		

Quality monitoring responsibility after contracts are						
awarded to the bidders are difficult						
Technical proposal is more perplexing than financial						
proposal in terms of evaluation process		36.1	47.2			
Single media is used to invite the bids due to cost						
implication	33.0	19.8	47.2			
No clear delineation of responsibility and						
accountability is a challenge	44.4	27.8	27.8			
The application of dispute resolution clauses of the						
manual bears no legal teeth	11.2	47.2	41.6			
It is hard to interpret SBD and its Instruction to Bidders	5.6	36.1	41.7			
Ensuring equipment or materials delivered as per the						
standards and specifications specified in SBD is						
difficulty in reality	11.1	36.1	52.8			

Source: Field data, 2018