# A STUDY ON LIMITATIONS IN MATERIAL PROCUREMENT PRACTICE FOR CONSTRUCTION IN PUBLIC SECTOR

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#### **ABSTRACT**

Due to the high accountability of public construction projects, several rules and regulations are being adopted in material procurement practice in public sector. These rules and regulations are practiced as per the framework provided by Procurement Guideline 2006 - Goods and Works and the Manual. Procurement Guideline 2006 is published by National Procurement Agency, Democratic Socialist Republic of Sri Lanka. This procurement guideline is applicable for any Procurement Action financed in whole or in part by Government of Sri Lanka or a Foreign Funding Agency. While these guidelines are being implemented, there are several limitations found by the practitioners.

Hence this research was aimed to study the practical issues in implementing procedures stated in the Procurement Guideline 2006 - Goods and Works and the Manual.

This study was done by collecting data from semi structured interviews with the industrial professionals who involve in public sector construction material procurement such as Architects, Contract Administrators, Procurement Officers, Project Managers, Quantity Surveyors, Contractors and Site Engineers.

Findings of this study revealed that there are limitations existing in public sector construction procurement practice and that create cost and time overrun and quality issues.

Keywords: Material Procurement; Procurement Guideline 2006; Public Sector Construction.

# 1. Introduction

Since construction projects and/or their outcomes heavily affect our modern society, the importance of a well-functioning construction industry is beyond doubt Cheung *et al.* (2001 cited Eriksson and Westerberg, 2011). In many countries the construction industry has, however, attracted criticism for inefficiencies in outcomes such as time and cost overruns, low productivity, poor quality, and inadequate customer satisfaction (Egan, 1998; SOU, 2000; Yasamis *et al.*, 2002; Chan *et al.*, 2003 cited Eriksson and Westerberg, 2011). Practitioners, researchers, and society at large have, therefore, called for a change in attitudes, behaviour, and procedures in order to increase the chances for project success and improved end products. The client is proposed to act as a change agent in such a change.

Colombo Page (2013) stated that Sri Lankan government has spent 5.9 percent of country's GDP as public investment in 2012 to provide major services despite a shortfall in the revenues, the Finance and Planning Ministry stated in its 2012 report. The government spent Rs. 444 billion in 2012 in comparison to Rs. 422 billion in 2011 in keeping with the commitment of maintaining annual public investment at 6 percent of GDP. According to the annual report of the Ministry of Finance for the year 2012, the government has been able to maintain public investment at an average of 6.2 percent of GDP during the period from 2005 to 2012 in comparison to 4.7 percent during 2002-2004 period.

The Sri Lankan government's interest in construction can be seen when referring to the national output and expenditure during year 2009-2013 as per the Central Bank of Sri Lanka Annual Report 2012.

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NATIONAL OUTPUT AND EXPENDITURE					TABLE 1
Gross National Product by Industria	al Origin at Co	urrent Prices	of Major Ed	conomic Acti	vities Rs. million
Sector	2009	2010	2011	2012 (a)	2013 (b)
AGRICULTURE	613,694	717,910	791,761	833,477	933,276
1. Agriculture, Livestock and Forestry	534,140	624,134	682,558	698,510	776,917
1.1 Tea	64,476	72,314	67,896	75,201	88,540
1.2 Rubber	19,278	44,096	62,616	46,577	28,819
1.3 Coconut	52,585	60,439	72,439	65,551	77,639
1.4 Minor Export Crops	13,086	17,888	18,088	19,849	23,683
1.5 Paddy	102,776	113,883	95,807	95,029	124,524
1.6 Livestock	52,412	54,526	57,484	62,341	60,049
1.7 Other Food Crops	163,276	191,408	233,292	250,949	278,533
1.8 Plantation Development	11,169	11,878	13,009	15,117	15,580
1.9 Firewood and Forestry	35,861	33,720	36,010	40,089	47,839
1.10 Other Agricultural Crops	19,222	23,982	25,916	27,808	31,710
2. Fishing	79,554	93,777	109,204	134,967	156,358
INDUSTRY	1,434,701	1,649,268	1,956,658	2,388,241	2,815,428
<ol> <li>Mining and Quarrying</li> </ol>	79,204	89,226	112,386	152,113	183,934
Manufacturing	875,562	1,009,003	1,191,579	1,354,897	1,536,090
4.1 Processing (Tea, Rubber and Coconut)	38,354	45,707	53,384	62,619	69,624
4.2 Factory Industry	795,032	916,407	1,084,256	1,233,234	1,402,353
4.3 Cottage Industry	42,176	46,888	53,939	59,044	64,113
<ol><li>Electricity, Gas and Water</li></ol>	113,687	127,625	141,474	168,959	200,722
5.1 Electricity	96,321	106,029	115,854	137,558	165,140
5.2 Gas	12,224	15,616	19,003	22,874	24,865
5.3 Water	5,142	5,980	6,616	8,527	10,717
6. Construction	366,248	423,414	511,220	712,272	894,683
SERVICES	2,786,897	3,236,926	3,794,893	4,356,837	4,925,166
7. Wholesale and Retail Trade	948,425	1,096,961	1,357,662	1,519,995	1,662,498
7.1 Import Trade	282,929	341,798	468,713	509,664	512,987
7.2 Export Trade	138,950	157,590	186,904	203,739	224,238
7.3 Domestic Trade 8. Hotels and Restaurants	526,546	597,573	702,046	806,592	925,273
	24,988 599,934	33,213	44,254	57,943	69,105
Transport and Communication     1 Transport	558,206	709,400	818,386 753,942	988,688 925,764	1,162,669
	21,488	25,667	28,149	32,727	32,132
9.2 Cargo Handling-Ports and Civil Aviation 9.3 Post and Telecommunication		,	36,295		
	499,304	27,263 597,540	709,316	30,197 841,369	32,149 946,044
Banking, Insurance and Real Estate etc.     Ownership of Dwellings	161,485	171,871	189,269	212,129	248,633
12. Government Services	445,543	500,547	532,455	570,976	651,395
13. Private Services	107,219	127,393	143,551	165,736	184,822
GROSS DOMESTIC PRODUCT	4,835,293	5,604,104	6,543,313	7,578,554	8,673,870
Net Factor Income from Abroad	-55,795	-69,776	-72,041	-154,925	-234,910
	-55,175				
GROSS NATIONAL PRODUCT	4,779,498	5,534,327	6,471,272	7,423,629	8,438,960

Figure 1: Gross National Product by Industrial Origin at Current Prices of Major Economic Activities Sourse: Department of Census and Statistics (2012)

According to Amarapathy (2013), tendering is probably the most critical and important and important activity in a construction project life cycle. Inefficient outcomes of a tender action will significantly affect the project success. However, very rarely a tender action is done without a rush. As a result, the decisions often become less than optimal.

The purpose of a procurement guideline is to inform the policies that govern in procurement of goods, works and services (other than consultant services) which is financed in whole or in part by the government or foreign agency for a project (Procurement Guidelines Goods and Works, 2006). The financial agreement governs the legal relationship between the parties involved in procurement and the guidelines are made applicable to procurement of goods and works for the project are governed by the biding documents and by the contracts signed.

It is very important that the public procurement function is discharged honestly, fairly and in a manner that secures best value for public money. Procurement Entity must be cost effective and efficient in the use of resources while upholding the highest standards of decency and reliability. Management in government departments and officers should ensure that there is an appropriate focus on good practice in purchasing and where there is a significant procurement division that procedures are in place to ensure compliance with all relevant guidelines.

Essential principles to be observed in conducting the procurement function include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment.

Sri Lanka for its public sector procurements has formulated a set of procedures in year 2006, named as Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006), published by the National Procurement Agency (NPA). Time to time there have been several supplements published to update the Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) to compete with the changing economy, technology and project types.

This study is based on the current procurement practices in the government sector when using the procedures laid down in the Procurement Guidelines - Goods and Works (2006) and by following above procedures what are the difficulties which the practitioners' face and suggestions based on the practical experiences.

To achieve the above aim, it was found necessary to achieve the following objectives:

- To study the Procurement Guidelines Goods and Works (2006) and Procurement Manual (2006) the supplements published by amending clauses in the Procurement Guidelines Goods and Works (2006).
- To analyse the use of Procurement Guidelines Goods and Works (2006) and Procurement Manual (2006) and its issues in practical use.
- To provide suggestion based on practical scenarios of the procurement practitioners.

This paper has been structured under following topics respectively; Research gap, Limitations of the study, Detailed study on Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006), Research findings and analysis, Conclusion and Recommendations.

# 2. RESEARCH GAP EXPLORATION

Continuously changing world construction industry change with economy, technology, procedures, rules and responsibility is very important to have set of rules and regulations in order to maintain sustainable procurement action especially in Government sector.

For Sri Lankan government sector procurement, and Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) have been published in year 2006 to implement a good and honest procurement practice. This guideline is the main ruler in the government sector when it comes to procurement. Though there are supplements to the guideline and the manual is already published it is very important to do more studies on this. Only government sector is practicing these procedures especially when it comes to Government of Sri Lanka (GOSL) financed projects and some foreign funding agency projects which they agree to follow above guideline. Studies on the issues of practicing procurement using Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) are limited. Therefore this paper aims to identify the issues in using Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) to do government sector procurement.

#### 3. LIMITATIONS OF THE STUDY

This study was narrowed down to the procedures in Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006). The research findings are unique to Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006). Also, the interview survey was done with the Contract Administrators, Chief Quantity Surveyors, Project Managers and Site Engineers has experience on the engineering projects material and service procurement.

# 4. PROCUREMENT GUIDELINES (GOODS & WORKS) 2006 AND MANUAL

#### 4.1. BACKGROUND

According to the Guidelines on Government Tender Procedure-Revised Edition-1997, the "Guidelines on Government Tender Procedure -1996 was prepared based on the Public Finance Circular No.350 dated 22.11.1996, based on various comments and suggestions General Treasury has revised the guidelines and published as "Guidelines on Government Tender Procedure-Revised Edition-1997". Improvements to the revised guidelines were;

- 1. Inclusion of separate detailed chapters on matters such as evaluation of tenders, selection of consultants, donor funded projects, various methods for selection of tenderers etc,
- 2. Re-formatting the book combining all connected matters together for easy reference,
- 3. More details and explanations on procedures such as pre-qualification, bid opening, bid documents etc.
- 4. Improved formats, check list and flow charts.

According to the World Bank Country Procurement Assessment Report in June 2003 referred by Gunarathne (2008), issues were found in government procurement practiced during that time which was based on "Guidelines on the Government Tender Procedure-Revised Edition-1997". The issues were such as time consuming, permitted corrupt practices and also resulted in exceptionally delayed implementations.

The investigation and analysis of the data for World Bank Report was carried out with the full cooperation and participation of GOSL, the Asian Development Bank and the Japan Bank for International Cooperation and the National Construction Contractors Association of Sri Lanka. The senior government officials who participated with the World Bank in this report include officials from the Procurement Support Bureau under the Ministry of Finance and Planning, the Ceylon Electricity Board, State Pharmaceuticals Corporation, Ministry of Port Development and Shipping, National Water Supply and Drainage Board as well as the Deputy Auditor General and the Director General of the Bribery Commission amongst others.

In the short term, recommendations were made to strengthen the Procurement Support Bureau, simplifying the Review and Approval Process, revision of guidelines, development of standard tender and contract documents and the standardization of goods specifications. In the medium term, some of the recommendations were to create a Procurement Regulatory Agency, establish a Procurement Accreditation System and strengthen the Bribery Commission and the Auditor General's Department and to introduce a Code of Conduct. Recommendations on long term actions included enacting a Public Procurement Law if necessary and reviewing, revising and implementing a Procurement Training Master Plan.

Based on the above the NPA was formulated by a Cabinet Memorandum dated May 6th, 2004 by the former President Chandrika Kumaratunga, to eliminate these problems through proper monitoring of the tender process.

According to the Memorandum, the tasks and main objectives of the NPA are the following:

- To unify the government procurement system and bring standard application to all government institutions,
- To confirm better transparency and good governance in relation to government procurement awards,
- To confirm that the equal opportunity is given for all the eligible as well as interested parties in participating in public bidding,
- To confirm that best value for money in terms of price, quality and timely delivery will be achieved during government procurement,
- To confirm that the government procurement system is made efficient and simplified in order to promote development needs of the country,
- To put in place a monitoring system relating to selection of successful bidders and award of government tenders.

A Presidential Directive dated July 8, 2004 based on the May 2004 Cabinet Memorandum, specified that the government is interested in implementing the above changes in the government procurement.

Additionally, as per the Directive, the Board of Management of the NPA comprised of Chief Executive Officer/Chairman Daya Liyanage, Chandra Wickremasinge, Ananda Gunasekera, Dayanath Jayasuriya and Dayani De Silva.

The functions of the Board are to develop, apply and appraise policies and practices on procurement of goods and services and the disposal of goods and services, to develop a set of practical and more efficient guidelines for the procurement of goods and services and the disposal of goods and services, complying with the government policy, to identify and prioritize procurements and directly be in charge of such procurements and to develop a procedure pertaining to procurements and disposals and ensure that such procedure is obtained.

The NPA in 2006 published the Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) as solution and a governing procedure for the public procurement in Sri Lanka. The scope of the Guideline was to enhance the transparency of Government procurement process to minimize delays and to obtain financially the most advantageous and qualitatively the best services and supplies for the nation Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006). The intension of the Manual issuance is to provide assistance, advice, directions and procedures to be followed in carrying out procurement activities by the public sector Procurement Entities. The manual explains in more detail how specific aspects of procurement should be handled in consistent with the Guidelines-2006 (Procurement Manual, 2006).

#### 4.2. PERIODICAL REVIEW

Periodical review has been done in regular intervals and revised supplements are issued (Refer Table 1) in order to achieve the present economical, contractual, designs and construction procedures.

Changes to the Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) come due to major changes may be required in response to changes in State laws, changers in economic policies, changers and developments in the industries and changes in organisation and management. Finally, those individuals who regularly use the guideline and the manual can provide valuable assistance in identifying needed updates and improvements (State of Delaware, 2002).

Table 1: Periodical Review Supplements Published by Finance Ministry

Supplement No	Date of Issue	Section Superseded	
01	2006-09-08	2.7.4, 2.7.5, 2.7.6	
02	2006-09-12	2.14.1	
03	2006-09-13	Supplement - 02	
04	2006-09-29	2.9.1	
05	2006-09-29	Supplement - 03	
06	2006-10-05	Supplement - 05	
07	2006-10-11	Supplement - 01	
08	2006-10-11	2.7.1	
09	2007-05-04	5.3.5	
10	2007-06-28	Supplement - 04	
11	2007-06-28	Supplement - 06	
12	2007-08-09	3.9.1	
13	2007-10-03	1.5	
14	2007-10-03	8.13.4	
15	2007-11-01	5.4.14	
16	2008-04-11	Supplement - 11	
17	2010-04-30	7.9.5	
18	2010-09-06	5.4.4, 5.4.6, 5.4.8	
19	2010-09-06	9.3	
20	2011-01-01	Supplement - 16	
21	2012-02-23	2.14.1	
22	2011-03-09	Supplement - 12	
23	2011-05-12	2.3.7	
Public Finance Circular 01/2012	2012-01-05	Supplement - 22	
24	2012-03-21	8.3 & 8.4	
25	2012-06-01	Supplement - 10	
26	2012-08-08	3.4.5	
27	2012-08-08	2.8.1	
28	2014-07-04	Supplement – 20& 21	

# 4.3. ADVANTAGES OF PROCUREMENT GUIDELINES (GOODS & WORKS) 2006 AND MANUAL

#### 4.3.1 ACCEPTED BY ALL USERS

Since Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) is a standard document for public procurement, all users accept the rules and regulations of the guide and manual and follow it. When disputes come, both the parties, buyers and suppliers refer to the guide and manual and adhere it.

#### 4.3.2. Prepared Referring to Industrial Professionals' Recommendations

The documents were prepared with the involvement of several professionals who are dealing with public procurement, therefore, their experiences have been included in the preparation of Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006).

#### 4.3.3. PERIODICAL REVIEW IS DONE AND DOCUMENTS ARE UPDATED

The documents are reviewed in regular intervals addressing the practical issues faced in industry, changes in law and economic policies while using the documents. This reduces the disputes in the process and increases the accuracy of the document.

#### 4.3.4. Users Become Conversant with the Documents

The users, who are following the documents regularly, become conversant with the rules and regulations. This reduces the misunderstandings within the parties, increases the efficiency and avoids unnecessary dispute arrivals.

#### 4.4. DISADVANTAGES OF PROCUREMENT GUIDELINES (GOODS & WORKS) 2006 AND MANUAL

#### 4.4.1. MAY NOT SUITABLE FOR ALL CIRCUMSTANCES

Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) might not be suitable for all circumstances. In some circumstances, it might create unnecessary delays and expenses while trying to practice the guidelines and manual strictly.

#### 4.4.2. PROCEDURES HAVE TO BE REGULARLY UPDATED WITH THE PERIODICAL REVIEW

The users have to be regularly updating themselves with the new supplementary as they are published. Also, while applying new supplements, there might be confusions until it comes to use and in some situations, the total system might have to be revised with the new review.

# 5. METHODOLOGY

This section explains how the research data has been collected and analysis is done in order to achieve the research aim and objectives.

#### 5.1. DATA COLLECTION

The data is collected through qualitative thematic analysis process using the facts collected in the literature review. The limitations in public procurement are collected through semi-structured interview with the industrial professionals who involve in public sector construction material procurement. Sample group was consisting of 11 Senior and Junior Architects who are working in several government institutes in design office and project offices, 9 Contract Administrators, 20 Procurement Officers, 11 Project Managers, 8 Quantity Surveyors, 10 Contractors and 15 Site Engineers from government institutes and Sri Lanka Army.

#### 6. RESEARCH FINDINGS AND ANALYSIS

Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) is the base in public sector procurement. When there is a laid down rules and regulations it is very useful for the practitioners to do the procurement process efficiently and effectively.

The government of Sri Lanka in December 2007 officially informed to close down the NPA operations and its functions have reverted back to the Public Finance Division of the Treasury Department

(Gunarathne, 2008). Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) is still in practice for the procurement in government sector.

In the Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) the monitoring and controlling unit of all government procurement is stated as the NPA. Even in the supplements still the power is vested to NPA which is no more in practice.

# 6.1. CLAUSE 2.1. NATIONAL PROCUREMENT AGENCY (NPA), CLAUSE 5.3.4. ELIGIBILITY OF BIDDERS 5.3.12. AND OPTION I – BID DECLARATION

According to sub clause 2.1.1. the principal authority for formulating and effecting amendments to these Guidelines; issuance of manuals, SBDs, evaluation methodologies, standard contracts, and specifications and power to clarify any other issues was given to NPA.

According to sub clause 5.3.4. no contract shall be awarded to any contractor or supplier who is blacklisted by NPA and details are published in NPA website. According to sub clause 5.3.12. any complain must be reported immediately to the NPA.

Since NPA is no more functioning these clauses have to be amended, because the practitioners need a clear path to get information and guidance when they required in doing government sector procurement. Not only in the above clauses but also throughout the guideline it refers to NPA which is really important to amend.

#### 6.2. CLAUSE 5.3.13.(A) OPTION 2 - BID GUARANTEE/CASH DEPOSIT

According to the clause, procurement entity should take a 1% - 2% bid security for the contracts according to the bid value and in practice we can identify few contractors or suppliers will submit it with the quotation or the bidding document.

Mostly payment process is slow in the public sector and on the other hand according to the guideline it is being instructed to ask a bid bond.

#### 6.3. CLAUSE 9.8 E-PROCUREMENT

According to the clause electronic submission of bids were not allowed. Electronic procurement does not only automate and facilitate internal process, but it can also be extended across the entire supply chain, covering internal as well as enabling information sharing and integration (Schoenherr and Tummala, 2007).

#### 7. CONCLUSIONS

Government tender procedure is the guideline which we used for government procurement before forming the NPA; which formed by a cabinet memorandum dated May 6, 2004 by the former President Chandrika Kumarathunga. The main reason to form the NPA was the WB report in June 2003 which shows the corrupted government procurement system and procedures which become a Major road block to implement development programmes since it involves a time consuming process which permits corrupt practices and also result in exceptionally delayed implementations (Natasha, 2008).

The NPA with the involvement of expertise published Procurement Guidelines - Goods and Works (2006) and Procurement Manual (2006) which is in use for the government procurement with 28 supplements. Still the practitioners have identified several issues in following the guideline.

# 8. RECOMMENDATIONS

To minimise above issues the study suggests to formulate a unit which will monitor access and provide assistance to do proper government procurement without corruptions, efficiency and effectively. In selecting contractors or suppliers to call tenders PE can make them in to groups to avoid bidders' joint hand and bid for the tenders. Also the guideline must give provision to the PE to select and categorize the contractors and suppliers according to PE.

As e-Procurement includes new technologies and changes in traditional procurement approaches, the need to train staff in procurement practices and the use of e-Procurement tools are critical to the success of an e-Procurement initiative (WB, 2003). End-users can realize the immediate benefits of the e-Procurement system once they understand the operational functionalities (Consortium for Global Electronic Commerce [CGEC], 2002). This means that training should be given a high priority, alongside the need for public sector agencies to identify the skills required by all those engaged in procurement (ECOM, 2002). Finally it will save time and cost in the procurement process.

Public procurement is an important function of government (Thai, 2001). It has to satisfy requirements for goods, works, systems, and services in a timely manner. Furthermore, it has to meet the basic principles of good governance: transparency, accountability, and integrity (Wittig, 2003; Callender and Schapper, 2003). Another main principle of governments is to achieve value for money in procurement (Department of Finance [DOF], 2001).

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