

UNWRITTEN GROUND RULES (UGRS) IN PUBLIC PROCUREMENT IN DEVELOPING COUNTRIES

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ABSTRACT. This paper presents the outcome of research related to application of formal rules and standard procedures in EAs' procurement of goods and services for foreign aid-funded projects. Executing agencies are entrusted to implement foreign aid-funded projects on behalf of respective governments and they are required to satisfy a combination of rules of their multiple principals, mainly donor organizations and respective government ministries. The theoretical framework of this study is guided by agency theory. The findings indicate that the processing of procurement related information and awarding contracts by the executing agencies in the context of Bangladesh is heavily dependent on the informal working systems or "unwritten ground rules". These are driven by downward hierarchical verbal and non-verbal instructions. The study has adopted a qualitative method following a grounded theory approach.

INTRODUCTION

Foreign aid is a significant source of public sector revenue (McGillivray & Morrissey, 2001) and supports a range of development programs in the poorest developing countries (Antonelli & Sperry, 2001). Expenditure on aid projects is broadly directed by donor countries and agencies to organize financial transfers (Martens, 2005), and managed by recipient countries through statutory entities

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named Executing agencies (EA). These agencies are government departments or state-owned organizations entrusted to manage procurement of goods and services, mostly through international competitive bidding (World Bank, 2011).

The procurement decision-making task of an EA is primarily for projects funded by foreign aid. An EA's procurement decision unit is therefore somewhat similar to a "buying centre," a long established concept in industrial marketing (Robinson, Faris & Wind, 1967; Webster & Wind, 1972). Supplier selection in organizational buying is generally considered as a "complex partner ecosystem and the decision-making process is a complicated issue as organizations become more and more dependent on their suppliers" (Kirytopoulos & Voulgaridou, 2008 p.495). As EAs work for multiple principals their supplier selection process is more complex. This paper addresses issues related to the existence and impact of "unwritten ground rules" on the implementation of the formal procurement and procedural rules in procurement decision process of EAs.

Agency theory (Jensen & Meckling, 1976, p. 308) addresses the issues involved in establishing and administering "a contract under which one or more persons (the principal(s)) engage another person (the agent) to perform some service on their behalf which involves delegating some decision making authority to the agent." Although the purpose of delegating tasks to an agent is to achieve maximum welfare of the principals, McCue and Prier (2008, p. 3) argued that "principal-agent relationship is often forged" and the agent's action can be "either negative or positive for each of the actors." They further argued that public purchasing officials, as the agents, are "boundedly rational, self-interested utility maximizers" (p. 4). These agents, therefore, may take advantage of information asymmetries in an opportunistic manner in an attempt to minimize efforts to fulfill tasks. Rules and guidelines in this case act as control mechanisms (Dixit, 1996; Pearson & Entrekin, 1998; Williamson, 1998) to minimize negative impact on principal's welfare. However, existence of a set of rules alone is not sufficient to ensure proper compliance, particularly to adherence to the spirit of the law (Edwards & Wolfe, 2005). Organizational members sometimes violate rules both at the expense of and on behalf of the organizations in a culturally-accepted manner (MacLean, 2001). Schnitzer (2010, p. 330) in the context of complexity of European Communities' (EC) agreements on the scope

of public procurement and the uncertainty of their direct applicability, argued that the execution of these agreements is virtually impossible, therefore, “factually frustrate their effectiveness”. Juha and Pentti (2008, p. 253), argued that, in an organizational purchasing context “higher uncertainty levels tend to lead to a lower degree of formalization in buying processes and a higher degree of participation of lower hierarchical levels in the buying process.” Milliken (1987) argued that there are three kinds of environmental uncertainties that the administrators face. These are state uncertainty, effect uncertainty and response uncertainty. State uncertainty refers to unpredictability about future behavior of a key competitor, government regulation or actions of external forces such as union or civil society that may have impact on organization. Effect uncertainty refers to the uncertainty about the implications of a given state of events in terms of its likely impact on the organization’s ability to function in that future state. Response uncertainty, on the other hand, refers to lack of knowledge of response options and/or an inability to predict the likely response.

The EAs’ environment in the context of procurement decisions for foreign aid-funded projects is expected to be highly uncertain (state, effect and response) due to its high dependence on a series of external stakeholders. Among these, respective government and donor agencies are capable of introducing adverse regulatory actions; highly unionized employees may take actions related to the implementation of procurement activities. Other actors may also initiate campaigns against any project undertaken. The full length of impact of any of these events is most likely unknown to EAs. In addition, it is most likely that EA’s lack of expertise or preparedness would lead to inappropriate responses to any such change of events.

The relationship between principals and EAs in procurement decisions in foreign aid-funded projects is also expected to be complex, therefore difficult to predict the outcome (Holtzhausen & Roberts, 2009). This difficulty may lead to a high degree of uncertainty in the decision-making process. Furthermore, the executive agencies’ procurement-decision process is more complex compared to its for-profit counterpart. The factors responsible for this complexity includes an institutional approach to public buying (Hoekman, 1998), barriers to government procurement (Evans & Schultz, 1996; Templin & Heberling, 1994), hurdle screens in

marketing to less developed countries' government markets (Luqmani, Habib & Kassem, 1988), issues related to transaction costs (Williamson, 1981; Milgrom & Roberts, 1992) and concerns related to ethical decision making (Ntayi, Ahiauzu, & Eya, 2011).

In view of the above, this research aims to identify the nature of interpretation and application of established rules and guidelines and their impact on procurement decisions for award of contracts in foreign aid-funded projects. This is achieved by addressing the following two research objectives:

1. The role the established rules and standard procedures play in a procurement decision by EAs.
2. The role the instructions in handling procurement decision-related problems play in procurement by EAs.

Studies in the field of organizational buying are mostly concerned with the for-profit sector (Juha & Pentti, 2008) of developed countries. Differences in managerial practices are well-recognized country to country (Dixit, 1996, p. 107; Elenkov, 1998, p. 138), region to region (Wong & Chan, 1999) or between countries at different stages of economic development (Deardorff, 2001). Buying behavior in the context of public purchasing in developing countries has received limited attention (Johnston & Lewin, 1996; Reid & Plank, 2000; Thai & Grimm, 2000). "Most of the studies have been conducted at a generic overview level" (Templin & Heberling, 1994, p. 43) and dealt with issues such as supplier performance evaluation (Ancarani, 2009), supplier's perceived value (Purchase, Goh & Dooley, 2009), public private partnership (Parker & Hartley, 2003), the involvement of small and medium sized organizations (SME) in public procurement (Karjalainen & Kemppainen, 2008) or the bidding process Albano, Spagnolo, & Zanza, 2009). Some studies are predominantly conceptual (Luqmani et al., 1988) or perceptual (Karande, Shankarmahesh & Rao, 1999; Islam, 2007), but these are primarily based on an overview of how the selection criteria have been viewed or processed (Karande, Shankarmahesh & Rao, 1999; Khan, 2003).

Moreover, literature suggests that organizational members apply unwritten ground rules (UGR) (Simpson & Cacioppe, 2001) in decision making mostly when rules are not sufficient to fully specify (Mattoo, 1996; Williamson, 1988). This leads to the implementation of

imperfect transactional instruments (Parker & Hartley, 2003). However, studies addressing this issue, particularly in a public procurement decision-making context are rare. Furthermore, public procurement research has failed to address procurement managers' decision behavior as agents of politicians (Murray, 2009). Limited attention that has been paid to the use of rules in outsourcing by EAs (Khan & Schroder, 2009) also was in a generic way.

This study, therefore, in the context of agency theory, examines the roles of rules and instructions in the procurement decision behavior of EAs using foreign aid where foreign aid donors are considered as principal and EAs as agent. A qualitative research method (Yin, 1994; Kates, 1998) following a grounded theory approach (Strauss & Corbin, 1998; Tingey, Millington & Schultz, 2009) is considered appropriate in this study with a view to glean "an in-depth and holistic" (Gummesson, 2000, p. 86) picture and deeper understanding (Malhotra, 1993, p. 159) of the issues outlined above.

The structure of the remainder of this paper is as follows. First a brief review of the literature is presented focusing on the importance of rules and existence of rules versus application of rules in government procurement decisions. Thereafter a short description of the research design is outlined. Subsequently, in line with research objectives the results and discussion are presented. Finally, theoretical and practical implications of this research are discussed followed by conclusions and suggestions for future research.

LITERATURE REVIEW

Importance of Rules in Government Procurement Decisions

Executing agencies are government purchasing institutions in developing countries entrusted to undertake procurement-related activities in developmental projects using foreign aid. Thai and Grimm (2000, pp. 231-232) argued that "the government purchase volume and the complexity of government procurement have made government procurement more important than ever before."

Therefore, the procurement decision tasks in EAs are guided by the rules and regulations of respective governments and follow a formal decision process. Presumably, written rules would have the benefit of standardizing procurement decision processes, and making purchases made using foreign aid funds more transparent. According

to Hoekman (1998, p. 266) “government procurement is a key interface between the public and private sectors. Not only is public purchasing of fundamental importance in ensuring that government gets the best value for its money, but procurement practices figure prominently in the way potential investors and civil society at large view a country”. Raymond (2008) argued that the public procurement systems should be designed with the key principles such as value for money, ethics, competition, transparency and accountability. Jackman (2004) argued regulation provides a rather crude cost-benefit analysis of the perceived risks set against the supposed burdens of rule making.

Kardasis and Loucopoulos (2005, pp. 322-4) stated procurement decision rules are intentional rules that “concern purchasing of materials or sub-contracting of business services”. Relevant activities, subject to rules, are supplier/service provider selection, supplier relationships management, material procurement, service procurement and payables management. According to Kardasis and Loucopoulos (2005, p. 322) intentional rules “are expressions of business rules seen from a business context perspective. They express laws, external regulations, principles and good practices, which constrain the way an organization conducts business. Laws are imposed by the legal system of the environment in which the organization operates (e.g. the state enforces laws on taxation). Regulations are not legally binding but are imposed by other organizations as a prerequisite for interacting with them (e.g. an organization may have regulations about the content, structure and appearance of service offerings submitted by other companies to them).”

Organizations, particularly public organizations, also develop procedural rules “to relegate monitoring responsibility to the parties that have an interest in a specific agency decision” (Greenstein, 1993, p. 159). Ng and Dastmalchian (2001) found that managers of public organizations generally have to deal with more stakeholder groups, such as civil servants and clients and political leaders, than do privately owned organizations. Therefore, public managers need to develop control rules (Parker & Hartley, 2003) to insulate and protect themselves against the possible conflicting demands of various stakeholders (Ancarani, 2009; Purchase et. al., 2009),

Findings of some studies suggest negative impacts of rules and regulations such as less efficient processes on organizational productivity (Majumdar & Marcus, 2001), ineffective application of regulatory policy, particularly in government procurement decisions (Penska & Thai, 2000) or in some cases limiting decision makers' range of choices (Karjalainen & Kempainen, 2008). In a situation where rules result in a limitation of choices, the decision makers may behave as "*satisficers*-people who aim to make choice that is 'good enough' as opposed to *maximizers*-people who always aim to make best possible choice" (Polman, 2010, p. 179). Ng and Dastmalchian (2001, p. 18) argued organizations develop control rules "to coordinate the activities of its members for efficiency purposes and to provide supervisors with a means to exert their authority. These rules also ensure that the activities and tasks expected of subordinates are well-defined".

Existence of Rules versus Application of Rules in Government Procurement Decisions

Edwards and Wolfe (2005, p. 48) argued "compliance in general terms is the adherence by the regulated to rules and regulations laid down by those in authority. Not only does compliance mean adherence to the letter of the law, it also is just as concerned with adherence to the spirit of the law". Therefore, the existence of set rules or regulations is not a sufficient condition to have the work done in a manner that the spirit of the law would require. Bicchieri and Chavez (2010) argued that individuals' compliance of rules is seen as pro-social behavior, dependant on a (social) norm that is grounded upon individuals' preferences and expectations (Bicchieri, 2006). Bicchieri and Chavez (2010, p. 173) further argued that "the presence of the appropriate expectations is crucial for attaining conformity to the norm."

MacLean (2001, p. 168) argued that, "organizational members violate organizational rules (and often the law) both on behalf of and at the expense of the organization". In some instances, breaking written rules may even be UGR acceptable from an organizational cultural point of view. There is evidence of organizational members' applying UGR that may operate in an organization (Simpson & Cacioppe, 2001) or interpret rules, regulations or laws in a manner biased to favor the implementing agency (Nichols, 2002). However, no matter whether statutory policy dictates the rules or evolves from

organizational tradition or a combination of UGRs, regulations or traditions, decision rules do exist (Webster, 1965; Dulmin & Mininno, 2003).

According to Kardasis and Loucopoulos (2005) principles/good practices are recommended ways of working which lead to the acceptance of an organization by its environment (e.g. a company may adopt the principle of equal opportunities for employing personnel). According to Greenstein (1993), complex decisions are costly for the principal to monitor. This is a situation where delegated monitoring through procedural rules becomes appropriate. Greenstein (1993) further argued that enforceable procedural rules may not be ideal as these typically will prohibit the use of subjective information and instead rely on quantitative data. They, therefore, cannot be fine-tuned to account for all contingencies. Verifiable information, as Greenstein (1993) further argued, may not include all the factors that truly influence complex decisions. Mattoo (1996, p. 717) argued that “in a world where imperfectly informed procurers purchase from imperfectly competitive firms on behalf of imperfectly informed tax payers, it is not easy to devise rules which would be optimal in all situations. Consequently, they employed verifiable information that is appropriate in some cases but too rigid on others”.

As discussed above, due to the multi-stake-holding situation of EAs' procurement decision process, a configuration of the rules (Sinclair, 2000) is expected and is likely to be influenced by the following:

- Rules or guideline of donor agencies;
- EAs' own rules of handling procurement as they are large-scale government entities;
- Rules of parent ministries as well as other controlling ministries.

The inability to fully specify rules (Mattoo, 1996; Williamson, 1988, 1998; Evans & Schultz, 1996; Ostrom, 1999) leads to the implementation of imperfect transactional instruments (Parker & Hartley, 2003) such as purchase rules and regulations, contracts and so on. Jackman (2004, p. 109) argued that “regulation gives, apparently, straight answers. In a given situation a practitioner looks at the Handbook to see if there is a rule that covers the question or not. If there is a rule then, hey presto, they find the answer. The trouble is that many situations will not be covered by rules. In

addition, the rules may not be clear enough, and hence the practitioner needs some legal compliance interpretation. Finally, the answer may not be sufficiently clear and leaves the practitioner making a decision on their own in any case.”

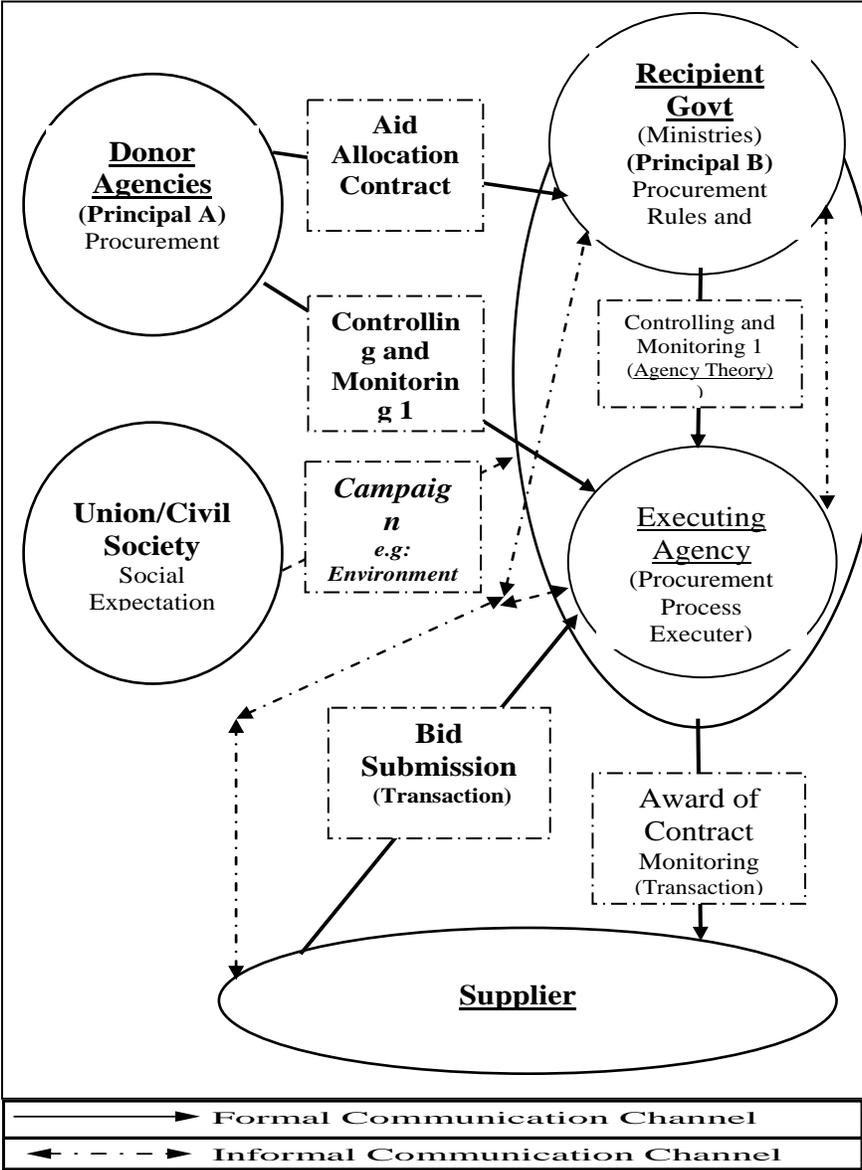
Furthermore, as discussed above the involvement of organizations external to an EA is important for its decision process. In addition to supplier’s organizations (Johnston & Lewin, 1996), an EAs’ buying centre may also require interaction with multiple monitoring or regulatory bodies. Regulatory bodies are particularly important in the case of buyers in the public sector (Ostrom, 1999; Rasmussen, 2000). The multi-stake-holding situation may also have contributed to excessive management where decision behavior tends towards compliance for compliance sake and passivity (Ramsden, 1998, p.108). In other words, decision makers tend to adopt the precautionary maxim “better safe than sorry” (DeKay, Patiño-Echeverri & Fischbeck, 2009) approach in making procurement decisions. For the same reason (multi-stake-holding situation) a public procurement decision unit may require work within a complex formal and informal communication environment. In this context, the communication process of EAs in Bangladesh, as observed during this study, is graphically presented in Figure 1.

As shown in Figure 1, the procurement decision process against foreign aid in EAs is expected to be dependent on both formal and informal information flows. The formal flow is indicated by unbroken arrows and is expected to be top-down where EAs are guided by both the concerned government ministries as well as donor agencies. It is also expected that a strong two way informal flows (indicated by broken two- way arrows) of information exists. These informal communication flows are between the suppliers and the EAs and the suppliers and the relevant government ministries. It is also expected that informal flow of information also exists within an EA and between EAs and relevant ministries.

In addition, the procurement decision process is also subject to criticism or pressure from unions and/or members of civil society, as indicated by the one- way broken arrow.

Therefore, this unique multi-stakeholding scenario warrants an investigation into how the EAs apply procurement-related rules in their procurement decision process. A question may arise as to what happens when existing rules or guidelines are not able to fully specify

FIGURE 1
Communication Process in Executing Agencies' Procurement Process



or address situations related to the purchasing of goods and services in foreign aid-funded projects. The existence of informal communication channels (shown by broken lines in Figure 1), creates the ground for interpretation of rules to the decision makers' advantage which may vary from EA to EA. This offers opportunity to apply UGRs as discussed earlier. In most cases the UGRs are hidden beneath the formal and visible rules, what Simpson and Cacioppe (2001, p. 398) described as "organizational iceberg."

RESEARCH DESIGN

The discussion presented above indicates a need to map the ways rules are applied or interpreted by EA for procurement in foreign aid-funded projects. As mentioned earlier, in view of the complexity of measuring the practice of compliance of rules (Edwards & Wolfe, 2005, Trevino, Weaver, Gibson & Toffler, 1999) in the procurement practices of EAs, this research adopted the qualitative research method (Yin, 1994) following a grounded theory approach (Strauss & Corbin, 1998; Tingey, Millington & Schultz, 2009). Qualitative data allows "an in-depth and holistic" (Gummesson, 2000, p. 86) study in order to gain a deeper understanding in this context (Malhotra, 1993). Grounded theory has been defined as "theory that was derived from data, systematically gathered and analyzed through the research process. In this method, data collection, analysis, and eventual theory stand in close relationship with another" (Strauss & Corbin, 1998, p.12).

Data for this research were collected from three main sources: in-depth interviews with multiple categories of respondents, documentary evidence and researcher's observation. Data from multiple sources served as a means to gain perceptual triangulation and provided a fuller picture of the business units under study (Bonoma, 1985). Denzin (1970) argued that the use of a variety of data sources in a study can be seen as data triangulation, one of the four basic types of triangulation.

Most research of this type has used purchasing executives as key informants, and in the majority of cases only central officials responsible for purchases were the key informants or respondents (Karande, Shankarmahesh & Rao, 1999). Kiser, Rao and Rao (1975, p. 47) argued that "the members of the 'buying centre', other than

purchasing executives, play significant decision-making roles in industrial buying.

Bruggen, Lilien and Kacker (2002, p. 471) argued that “in research contexts such as organizational research, obtaining reports from multiple informants is preferable to a single informant report”. Thus, using one kind of respondent, such as purchasing executives, in a complex environment of buying centres in EAs’ procurement decision processes involves the risk of obtaining only one side of the story instead of the whole. This research, therefore, uses multiple categories of respondents from three kinds of organizations: EAs, donor agencies, and supplying organizations. This allowed the study to look at EAs’ procurement from a buyer perspective, a supplier perspective and a third party perspective.

A total of 43 conveniently selected respondents from 18 organizations involved in the procurement process using finance from foreign aid in Bangladesh have participated in the study. Bangladesh offered a good prospect for this research due to the country’s continuous dependence on external aid-supported projects (Haider, 2008). The country’s total outstanding official external debt (mainly foreign aid) as in 2012 stood at 22,775 million in USD (19.7 per cent of GDP in 2012) (Bangladesh Bank, 2013).

Five EAs from Bangladesh, three major donor agencies operating in Bangladesh and nine supplying organizations (or their Bangladesh representatives) actively involved in supplying goods and services in foreign aid-funded projects in Bangladesh have participated in the study.

The five EAs that participated in the study were the major recipients of foreign aid in Bangladesh. They executed procurement of a wide range of goods and services in projects involving electricity generation and distribution, small and large-scale infrastructure such as roads, bridges, dams, water extraction, purification and distribution, and rural community development-related activities.

The three major donors wholly or partially funded and supervised various development projects related to the sectors mentioned above. Supplying organizations, on the other hand, were involved, in the past two years, in supplying goods or services to at least one foreign aid-funded project involving at least one of the EAs participating in the study. Such organizations supplied goods or

services either on their own and/or on behalf of an overseas supplier. The goods and services supplied by these organizations to the foreign aid-funded projects included electrical meters, plant, and consultancy, workshop equipment, computers and computer accessories, wooden poles, cables, instruments, fittings, spare parts, telecommunications and the overhauling services of power plants.

A brief profile of the respondents in each category is shown in Table 1. In order to maintain the anonymity of respondents, the profile of the organizations as well as respondents who participated in this research is discussed in terms of categories of organizations and respondents.

TABLE 1
Number of Organizations, Categories and Number of Respondents

Organizations		Respondents		
Types	No	Category	Abbreviation	No
Executing Agencies	5	Central Purchasing Person	CPP	7
		Chair Person of Standing Committees	CHR	5
		Other Members of the Standing Committees	OCM	12
Donor Agencies	3	Executives responsible to oversee the implementation EA's foreign aid-funded procurement projects	DAE	10
Supplying Organizations	10	Executives responsible to manage the supplies to EA's foreign aid-funded procurement projects	SUP	9
Total	18			43

a. Executing Agency

- i. Central Purchasing Persons (CPP): These are mid level officials of EAs. They play the central coordinating role both in terms of administering the procurement decision process as well as providing secretarial services to the respective committees assigned for the respective foreign aid-funded project. Usually they are located within the unit of the EAs that procures goods or services.
- ii. Chairperson of Standing Committees (CHR): These are relatively high-ranking officials, usually the heads of divisional

units of EAs and direct supervisors of CPPs. This category of respondent chairs procurement decision-related standing committees and is responsible for formal acceptance of procurement-related decisions.

- iii. Other Members of the Standing Committees (OCM): A range of mid-to-low level officials drawn from across the respective EA with no specific responsibilities. However, they possess voting power and have the right to examine all procurement decisions related to proposals.
- b. Donor Agency Executives (DAE): These are mid-to-low level officials of participating donor agencies. These officials are directly responsible for examination and coordination of the respective donor's approval of the procurement decisions proposed by the EAs participating in this study.
- c. Supplying Organization Executives (SUP): These are senior executives of supplying organizations responsible for managing at least one existing supply contract to any of the participating EAs' foreign aid-funded projects.

The data collection instrument included five open-ended questions, as shown in Table 2. The instrument was pre-tested in terms of structure, comprehensiveness and timing (Leonidou, 1999) by interviewing two Bangladesh government officials with long experience in the procurement process against foreign aid-funded projects. However, the questions were unaltered.

TABLE 2
Questions Included in the Study

Role of Rules	1. How often are the tasks performed in the purchasing process by formal rules and written documents?
	2. How often do individuals have to follow standard operating procedures when making decisions related to the purchases?
	3. How often are the standard procedures available to follow when handling problems related to the purchases?
Role of Instructions	4. How often are there written instructions to follow when handling problems related to purchases?
	5. How often are there verbal instructions to follow when handling problems related to purchases?

Although allowing tape recording of interviews in Asia is not common (Perry, 1998), 83% (36 out of 43) of interviews were recorded. For the seven interviews where the use of a tape recorder was not permitted, the interviewer noted the responses and transcribed them fully immediately after the interviews. In most cases multiple sittings, some over several days, were required to complete an interview.

To avoid inaccuracies due to poor recall (Johnston, Leach & Liu, 1999, p. 208), one of the disadvantages of the interview method, the researcher made the questionnaire available to the respondent about a week before the interview. This helped the interviewees to prepare for the interview.

Data generated via semi-structured or open-ended items of discussion were first transcribed both from the interview notes and taped responses. The interview transcripts were given to the respondents for examination of correctness of their answers. The transcribed data “was read several times and sifted for emergent themes” (Kates, 1998, p. 27). The notes with respect to each of the interviews also included the researcher’s interpretation of the respondent’s comments in light of the observations made during the visits to each of the respondents and organizations. This was supplemented by the researcher’s own work experience in a similar system for more than 12 years, a method also suggested by Kates (1998). Following Kates the data were then broken into categories according to themes, for similarities and differences of the participants. Finally, the data were reported in a meaningful manner by the method of constant comparison (Tingey, Millington & Schultz, 2009).

RESULTS AND DISCUSSIONS

The Role of Rules and Standard Procedures in Procurement Decisions by Executing Agencies

Most respondents from EAs, i.e., CPPs, CHRs and OCMs, (See Table 1) referred to the “tender document” when asked about the basis of the tasks performed. The other documents mentioned by the respondents were government orders and manuals, EA’ own directives or manuals, donor agency manuals or procurement decision guidelines and procurement decision guidelines from

professional organizations. The tender documents were initially prepared by the respective EAs' procurement decision officials according to the rules, manuals and donor's guidelines applicable to the respective procurement decision and vetted by the respective donor agency. Thereafter, tender documents were the base for the evaluation and awarding contracts. Of the categories of respondents, CPPs were more conversant with the rules and guidelines, CHRs ranked second and OCMs ranked third. In all the interviews with CPPs printed copies of respective donor organization's procurement decision guidelines, relevant government rules and other policies were readily available. In answering interview questions CPPs frequently referred to the respective documents. The following comments from a CPP echoed the other similar respondents:

You see each and every aspects of rules related to my project is not only available with me; I have to know it thoroughly. I am not only responsible to see that the rules are adequately applied, in all the meetings have to explain to all other members about the rules. You know in most cases members are drawn from departments that are not directly involved with procurement decision therefore have limited knowledge on applicable rules.

Donor officials were aware of their own guidelines and suppliers were aware of donor's guidelines if they had tendered for a project involving the donors. It was found that different groups of respondents interpreted the donor's guidelines differently. For example, respondents from EAs considered it a "must comply" in terms of keeping the documentation right. For donors, guidelines were used to evaluate the appropriateness of recommended decisions. Suppliers claimed that EAs interpreted and applied the guidelines in literal terms. The following comment from one of the respondents from a supplying organization echoed the feelings of others:

You see, all donors have guidelines. But what they give as guidelines, our EAs will take it as Bible and will not exercise their judgment and adapt it to particular situation.

However, other suppliers thought differently. As one of the respondents from the supplier category commented:

They will not deviate from any rule if they believe it is to their advantage. However, if something is not in their favor, they can do and undo anything. You know, usually they are not careful in writing terms of tenders but once written they try not to deviate from written terms.

It was found that multiple extensions of time (owing to major faults or contradictions in technical and commercial specifications within tender document) were almost regular events. One respondent in this respect commented as follows:

You possibly know that the specifications are written at a very low level and higher officials hardly look at it. Once the tender is bogged down due to tender specifications, the top levels are not able to make a decision. Many times there were contradictory specifications. Usually after the tender is submitted, every bidder tries to find fault with others' bid and starts lodging complaints that the so 'n' so party did not comply to so 'n' so term of the tender but we did, etc.

So, ultimately the executing agency gets cornered. If the tender has some flaws, even if these are minor, executing agency can not say that these are minor as the concerned parties/bidders consider these as a major flaw. Consequently, the process needs to start again, that is to say re-tendering.

You understand that a re-tender means waste of all the resources deployed for the initial tendering processes and in many cases it would need a fresh approval from donors as well as our government. If you calculate the total cost it would be enormous but who cares!

It also seemed that the process was very rule-dependent in terms of keeping the paper work right. As one of the supplier-respondents observed:

Actually they want to show that everything is right so far as rules are concerned. They do it to keep the paper right. They do not bother about the substance. They actually do not really care what happens to the borrowings or the outcome of the project, they will show you that each of their steps was as per rule.

In terms of application of government rules, they take efforts to keep the documents OK, not in terms of the goods procured. For example, if approval is given one month late, say in July, but it is necessary to show that the money was given in June, they will ask you to sign back dated.

The above results support application of agency theory (Jensen & Meckling, 1976) as EAs perform a task of procurement on behalf of aid donors. It also suggests that public purchasing officials, as the agent, are boundedly rational, self-interested utility maximizers and may take advantage of information asymmetries in an opportunistic manner in an attempt to minimize efforts to fulfill tasks which may even detrimental to the principals (McCue & Prier, 2008, p. 3). This *satisficing* decision behavior is expected to influence picking the worst alternative (Polman, 2010) instead of making an optimum decision. Donor procurement guidelines were used as control mechanisms (Dixit, 1996; Pearson & Entekin, 1998; Williamson, 1998) to eliminate or minimize negative impact on principal's welfare. However, as asserted by Edwards and Wolfe (2005), existence of a these rules was not sufficient to ensure proper compliance, particularly adherence to the spirit of the law. It was also found that EA officials in many cases violated rules both at the expense of and on behalf of the organizations in a culturally-accepted manner (MacLean, 2001). EA officials also were found to have developed control rules (Parker & Hartley, 2003) to insulate and protect themselves against the possible conflicting demands of various stakeholders (Ancarani, 2009; Purchase et al., 2009), which may have resulted in negative impacts of rules and regulations such as less efficient processes on organizational productivity (Majumdar & Marcus, 2001), and ineffective application of regulatory policy (Penska & Thai, 2000).

Due to the involvement of multiple principals (ministries and donor agencies), the procurement decision process had to satisfy the rules of different authorities which have similarities with Sinclair's (2000) study. However, the donor procurement guidelines dominated the decision process. As all contracts are by definition incomplete (Krapfel (Jr), 1985; Dixit, 1996; Williamson, 1998; Sinclair, 2000), the individuals involved in the decision making process may have interpreted rules to their advantage. The working process at EAs demonstrated a tendency to formalize each stage of the decision task

in a discrete manner. The members of procurement decision committees were more concerned about ensuring compliance to the rules for individual tasks than of making a comprehensive procurement decision. Therefore, the use of UGR (Simpson & Cacioppe, 2001) that favored their perspective was found to be quite common in their decision-making process.

Role of Instructions in Handling Purchase-Related Problems Procurement by Executing Agencies

It was found that EAs faced two kinds of problems in administering a procurement decision process. The first category of problems is political in nature and originates usually from outside a buying centre. For example, CPPs or CHRs receive requests from powerful groups for preferential treatment to particular bidders. This group includes, but is not limited to, political leaders, trade union representatives and high level government executives. These groups may influence the procurement decision process for a variety of reasons. For example, a political leader may want to expedite the award of a contract where an insufficient number of substantially responsive bids (usually at least three) were submitted for a particular project. A substantially responsive bid is one that contains no material deviations from or reservations to the terms, conditions, and specifications (World Bank, 2011). The powerful group may also exert pressure for an early commencement of a project to protect a certain establishment or community from seasonal flood or other natural disaster.

The second category of problem is administrative in nature. For example, being adversely affected by slow movement of files from desk to desk or irrational queries by members of the buying centre that created obstacles or delayed and frustrated the process. Other examples of this kind of problem include delayed performance or non-performance by the bidders/suppliers. The problems that the EAs faced during procurement process in foreign aid-funded projects are summarized in Table 3.

It was found that there were possibilities of favorable treatment to bidders or suppliers due to pressure from influential people at all stages of the procurement process. For example, in the pre-bid stage, a specification matching any particular supplier's product, or in the

TABLE 3
Problems Faced by Executing Agency in a Procurement Process for Foreign Aid-Funded Projects

Category	Description	Examples
Political	Preferential treatment by relaxing terms or conditions in already awarded contract or considering non-responsive bid.	Relaxing vital terms to waive penalty or include non-conforming bids from bidders that are alleged to have affiliation with political leaders/parties.
Administrative	Non-movement (or slow movement) of files.	Sluggishness in disposing of procurement-related files. Bidders need special strategy to expedite disposal from each anchorage points.
	Committee members conflicting initiatives.	In many cases committee members provide significantly different interpretation of rules. This differences (in interpretation) resulted in delaying or frustrating the tendering process. The extent of delay was found between 60 to 1100 days from the prescribed time of awarding contracts.
	Non-performance (delayed performance) of contractual obligations	The winning bidders in many cases delayed execution of contract.

post-bid stage, requiring favorable consideration especially in “fuzzy” (linguistic) criteria. One of the EA respondents commented:

It is not entirely depend on us to select suppliers purely based on their merit. On many occasions we have to satisfy requests from influential corners. Even if we may still have to observe the formalities, we may need to provide inside information to the party that is blessed with influential people. Sometimes we even need to look at the conditions for some bidders in a bit of a relaxed way.

It appears that there were several measures available for handling problems that are administrative in nature. These include maintaining informal social networks between key officials,

requesting concerned officials or bidders to act within a specified time frame or even a breaking the official decorum.

It was found that some CPPs applied self-crafted strategy to overcome some of these problems. For example, one CPP, with respect to expediting the processing of purchase-related files, said:

If my file goes to another member's desk, they will immediately process it. I tackle the problem of delay in two ways. First, I keep very close contact with all the members or related departmental heads and the person actually processing the file. I maintain a constant contact with all of them; call them periodically to attend social and religious activities. Since I maintain good relations, whenever my file goes to them they will immediately attend to it. They know that if they do not do it, they will receive a phone call from me, which will embarrass them. Secondly, say for file for payment to a supplier. You know, the file may require ten to twenty signatures before the payment is done. What do I do? I give the file to the concerned supplier to obtain all the required signatures and bring it back to us.

The above indicates and reinforces the theme that the officials use personal network and connections in getting the work done. This also reinforces that EA develops various contingency measures to "best meet the demands of their immediate environment" as argued by Lawrence and Lorsch (1967, p.1). Furthermore as predicted, the EAs' procurement process was found to have faced a high level of uncertainties (Juha & Pentti, 2008), which leads to a lower degree of formalization in the buying processes. Extra effort by an official would be exerted only if the official perceived the file or the issue under consideration was important. It also appeared that officials even overlooked so-called official privacy or secrecy issues in many instances. The following response from the same respondent echoed the others.

Although all files are official secret documents and not supposed to be disclosed to anyone outside the decision circle, I believe that the file is more important to the concerned supplier as they need payment of their already supplied products/services. Therefore, they, for their own interest, will protect the file from any distortion.

Further discussion on this issue revealed that written instructions were available to resolve most major problems which were administrative in nature, such as, problems caused by delays in processing. For example, one Minister's instructions in a file were as follows:

The matter has already been delayed beyond a reasonable limit. The following points are to be finalized on an urgent basis. The compliance with the above will be reported to me within 15 days from today.

This type of instruction usually comes from very high officials (say a Minister or CEO of an EA) and flows downward when any project faces unusual delay or non-compliance of any prior instruction from a higher official. The above instruction was related to the awarding of a contract and the minister concerned was asking the officials responsible for the procurement process not only to award the contract but also to report back to ensure that the contract was actually awarded.

On the issue of availability of verbal instruction, one respondent from a donor agency reported:

It is a real problem. It is very difficult to identify why a particular decision seems to be manipulated in someone's favor. Certainly the work environment of our executing agencies is such that officials there in many cases are not in a position to exercise their own judgment. Not only do they lack expertise, but also is the fact that every one has to look in the superior's eye and must be tuned to that. In many instances the bosses will simply verbally ask subordinates to do something or show a favorable intention to someone and the subordinate will have no power to ask in writing or refuse to do the instructed or intended act.

For lower-level officials, the system is almost a routine activity. The subordinate will ask the superior as to what way the file is to be processed. After all, everyone selected for any task in the purchasing process considers that as a favor. Superior official may assign a different (less attractive) job if the officials concerned do not perform as they wished.

The responses indicate that the lower-level officials who initially process the information in most cases use the guides nominated by

their respective superiors in a literalistic fashion, and they do not risk any deviation. One of the lower-ranking respondent's comments in this regard is worth mentioning:

I strictly follow what the guidelines. I do not take the risk of interpreting it. Everyone will try to find mistakes of lower level staff and if we follow the written thing we have less risk.

However, when asked, what happened in cases when the superior interpreted his application of rules in a different way; the respondent replied:

Oho! The boss is always right. If he says to apply it in a way that he wants, I will do that. In most cases he tells us to do things and present to him. He discusses with his boss and once it is OK then I process the file in the way it is discussed.

The above supports Jackman's (2004, pp. 109-110) view that "in a given situation, a practitioner looks at the Handbook to see if there is a rule that covers the question or not. If there is a rule then, hey presto, they find the answer". However, the exception in these cases is subordinates' heavy (full) dependence on the compliance interpretation by their superior officials regardless of the merit of the instruction. This decision behavior is in contrast to the findings of Luan and Itzkowitz (2004) where decision makers overweighed the source with the higher component of accuracy.

The controlling behavior of superior officials may be viewed as excessive management (Ramsden, 1998) or organizational bullying (Hodson, Roscigno & Lopez, 2006) or hierarchical abusive use of power (Vredenburgh & Brende, 1998). The possibility that this may occur in statutory organizations in Bangladesh is greater as government employees in Bangladesh have very low turnover intention. The employment in public sector of Bangladesh is considered a lifetime role and voluntary exit is rare. In this context, power distance score is expected to be higher than Hofstede's (2001, p. 502) national average of 80 for Bangladesh. Superior officials enjoy virtual monopoly of power in deciding (re)allocation of work or changing a subordinate's role to an undesirable area. In other words the use of power by superior officials in an inappropriate manner coupled with very low turnover intention to voluntarily exit from employment by the subordinate employees (Rahim, Magner, Antonioni & Rahman, 2001) compels subordinate employees to gain

confidence from concerned superior staff at any cost. In most cases this leads to the acceptance of a superior's instructions with little or no resistance, which in turn leads to some informal ways of dealing with procurement related activities by EAs.

Hence, it is evident that EA official engaged in procurement of foreign aid-funded goods or services applied UGR (Simpson & Cacioppe, 2001) by interpreting rules, regulations or laws in a manner biased to favor the implementing agency (Nichols, 2002). The results also confirmed Dulmin and Mininno's (2003) findings that no matter whether statutory policy dictates the rules or evolves from organizational tradition or a combination of UGRs, regulations or traditions, decision rules do exist.

In some cases these UGRs may also have defeated the basic objectives of applicable rules and processes. Therefore, the decision environment of EAs, particularly with respect to procurement decisions in foreign aid-funded projects, can be considered an iceberg (Simpson and Cacioppe, where formal organizational rules and written procedures constitute the surface of the iceberg and the UGRs represent the much greater mass hidden beneath the surface (see Figure 2).

Brief descriptions of *Below the Surface UGRs* and their likely impact on decision behavior are listed in Boxes 1-6.

BOX 1

Below the Surface UGR: The Ways EAs Interpret Rules

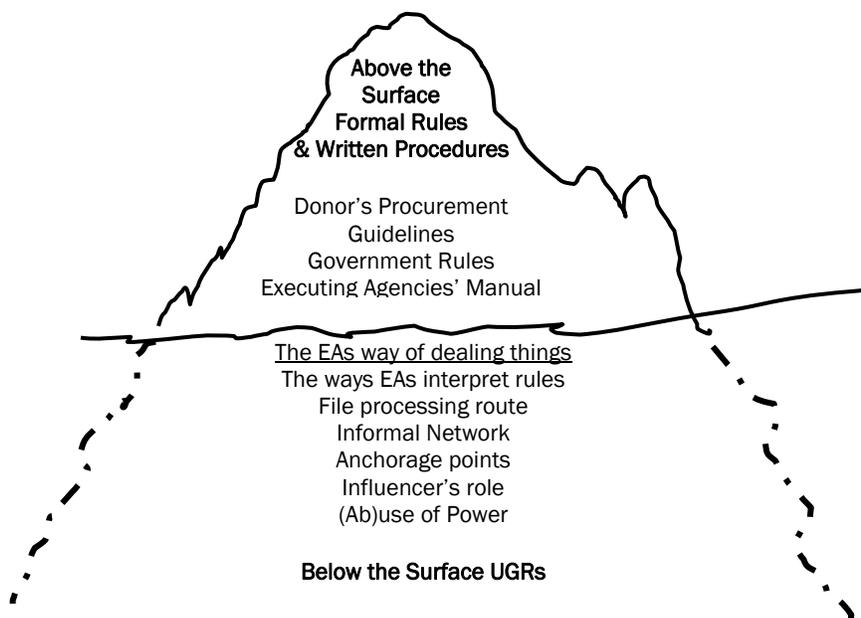
Description

Although EAs have almost similar administrative structures, the organizational cultures of EAs are found to be substantially different in the way they handled procurement related activities.

Likely Effect on Decision Process or Behavior

Decision outcome may significantly vary and objectives of aid may significantly be compromised in order to satisfy top decision makers' interpretation (with a flow on effect on rest of the decision chain).

FIGURE 2
Executing Agencies' Iceberg



Note: Modified following Simpson and Cacioppe (2001, p.398)

BOX 2
Below the Surface UGR: File Processing Route

Description

Each EA follows almost similar file processing routes for each procurement related task such as *file processor* → *forwarder* → *decision awarder*. However, EAs substantially differ in their nature of processing and the time they need to process a decision task.

Usually the file processors are officially responsible to place the file with necessary facts, figures, analyses and alternative courses of actions with respect to a given task. However, it was found that in most cases the file processor's selection of those (facts, figures, analyses and alternative courses of action) were dependent on informal instruction, not necessarily the staff's immediate superior. The nature of informal structure is different in different EAs.

Likely Effect on Decision Process or Behavior

Outside participants (bidders and donors) may fail to get a project cycle completed unless they precisely can identify “who writes (or acts) at whose instruction?” Time-bound projects may significantly suffer in cases where EAs follow a slower file movement strategy.

BOX 3**Below the Surface UGR: Informal Network****Description**

In each EA it was found that informal vertical (within department) and horizontal (cross department) networks exist although it is difficult to gauge the nature and extent. The networks even include lowest level staff with very higher level officials. In vertical network personal staffs (even the orderly-popularly known as peon) of key officials were found to have a gate keeper’s role. In the horizontal, usually the networks include similar level officials but may also include high-low-high levels. {See for example the comments of a respondent (*If my file goes to another member’s desk ... obtain all the required signatures and bring it back to us*).

Likely Effect on Decision Process or Behavior

Outside participants (bidders and donors) may fail to get a contract award process completed unless they can gauge this sort of invisible but powerful network.

BOX 4**Below the Surface UGR: Anchorage Points****Description**

Each file, when it arrives at a department for processing, it usually sits on a file processors’ table and then progress to higher levels for further processing and/or approval. The level of approving authority of a contract is largely dependent on its monetary value. Therefore, the locus or anchorage is shifted successively until it was anchored at the highest formal official in the decision-making hierarchy.

Likely Effect on Decision Process or Behavior

High dependence of shifting responsibility to others in the decision making process. The decision processing system involves of a long list of officials, some of them even possess no knowledge to understand the basics of either the purchase or the project. Therefore, the system faces an ongoing

battle of briefing the successive decision makers on the subject and shuttling files from and to the same channel even for a small and elementary gap in communication. For suppliers, extra monitoring cost is needed to load in the price to identify and maintain relationship with each anchorage points.

Box 5 Below the Surface UGR: Influencer's Role

Description

The procurement decision process is influenced by three factors: political, administrative and honesty. Political influence which tops the list for large projects is favoring a bidder or providing inside information at the request or informal instruction from one with affiliation with higher political leaders. The administrative influence, on the other hand, refers to favoring a bidder by a key official within a procurement committee with inside information or expediting movement of files related to a favored bidder. Influence of honesty refers to allowing preferential treatment to issues or files from a member of the purchase committee who has an image of honesty. These members are perceived by fellow members that they work strictly according to rules and difficult to influence. However, it was found that officials in this category used rules in literal sense, and others usually allow smooth passage of their files as "let the baby have his bottle."

Likely Effect on Decision Process or Behavior

Extra relationship maintenance cost is needed for suppliers to load in the price to identify and maintain relationships with each points of influence.

BOX 6 Below the Surface UGR: (Ab)use of Power

Description

Two kinds of abuse of power were found. The first one is disrespect for individual dignity and obstacle to job performance or rewards. Disrespect for individual dignity includes imposing demands for illegal cooperation, physical harassment, use of verbally abusive language-- often publicly, insisting on attitudinal conformity, gossiping harmfully, manipulating dependency, lying, exaggerating, or making insincere promises.

Obstacle to job performance or rewards includes making arbitrary personnel selection decisions, deceptively assuming credit for subordinates' work, depriving subordinates of resources necessary for tasks performance, discriminating regarding performance appraisal,

allocating rewards arbitrarily, attributing own poor performance to subordinates and requiring attendance at official social events.

Likely Effect on Decision Process or Behavior

Detrimental effect on staff morale and expectation. Two major groups, *Bosses circle* and *Outside Bosses Circle*, of staff dealing with procurement were found in the EAs. The former group was highly proud of what they were doing and highly resistant to change the existing arrangement and systems. The later group was found to be displeased in regard to everything that they were doing or associated with. A staff in this group was more likely to work against the system if a safe window of opportunity became available.

IMPLICATIONS

The outcome of the study has implications for EAs managing procurement in foreign aid-funded projects and their multiple stakeholders. The results and discussion presented here highlight two important aspects of EAs' working process in dealing with the above procurement. The study indicates that the procurement officials of EAs assign high importance to ensuring compliance of applicable rules or standard procedures. However, the actual way in which respective members of procurement decision chains interpret or implement those standard procedures and rules is dependent on UGR which are instrumental in facilitating "acquisition, importation, and processing of relevant purchasing related information" (Spekman & Stern, 1979, p. 56).

In view of the above considerations, the prospective suppliers of industrial products in foreign aid-funded projects in Bangladesh need to carefully examine the surface of the iceberg, (the formal rules, guidelines and/or procedures, often found in the public domain). At the same time, they are required to examine the elements of below the surface "UGRs, i.e. how the rules are interpreted and actual tasks are performed in the context of the respective decision chain. In some cases, depending on the interpreter's own way of dealing, the rules may also be broken or bypassed {see comments in the earlier page (*If my file goes to another member's desk ... obtain all the required signatures and bring it back to us*)}. The informal procedures or UGRs, could be so important that if a bidder fails to understand the

UGRs and fails to address them, its' bid may face exclusion, even though the bid is substantially responsive.

The outcome of this study suggests that donor agencies may also need to map the UGRs and design their procurement guidelines to be flexible enough to accommodate UGRs that facilitate the process of achieving the ultimate objectives of rules. Instead of just do's and don'ts in their guidelines, which are mostly open to interpretation, small sample scenarios or cases and the ways to address those may be incorporated in the respective areas of the guidelines. In addition, the guidelines may have the provision of periodic assessment of "what happened" against "which circumstances" to identify any pattern of dealings which would be helpful in updating the guidelines to become more effective.

CONCLUSION AND SUGGESTIONS FOR FUTURE RESEARCH

Established rules and standard procedures were found to have played a strong guiding role in EAs' procurement process. However, in terms of application of rules a wide variation was found and the reasons for these variations were heavily driven by hierarchical downward flow of verbal and non-verbal instructions. These instructions were found to be based on varying degrees of interpretation of respective rules and standard procedures; therefore, they vary from decision chain to decision chain or different sections of a decision chain.

Therefore, it is evident that procurement decision-making processes are heavily dependent on UGRs. More emphasis was found in the study on doing things to just comply to formal rules. In other words the decision makers behave like satisficers (Polman, 2010) rather than act in a manner that would lead to optimum outcomes. The UGRs are used for a variety of purposes such as insulating the respective decision chain or part thereof from a potential allegation of breaking rules, satisfying superiors or formal and informal influential stakeholders, and in some cases covering up any lapses on the part of the dealing official/section of the decision chain. While the variance in the nature of instructions in different EAs to solve purchase-related problems is substantial, varying levels of instructions were found to have been drawn upon by decision makers even in the same EA. The erratic nature of UGRs leaves the risk of defeating the spirit of the law (Edwards & Wolfe, 2005) as merely

“meeting the requirements of a standard and managing quality are not the same” (Dalgleish, 2007, p. 16).

The study supports the relevance of agency theory (Jensen & Meckling, 1976) as a framework for the research, as public purchasing officials perform procurement tasks in a self-interested utility maximizing manner – not necessarily achieving principals’ interest or objectives. Donor’s control mechanisms (Dixit, 1996; Pearson & Entekin, 1998; Williamson, 1998) mainly by way of procurement guidelines and monitoring seem to have little effect in this context. The imperfect contracts (Krapfel (Jr), 1985; Dixit, 1996; Williamson, 1998; Sinclair, 2000) and a high level of uncertainties (Milliken, 1987) allow the officials involved in the decision-making process to apply UGRs (Simpson and Cacioppe, 2001) to their advantage.

The study has a number of limitations. For example, this study includes a small cross section of EAs’ buying centers from a particular country. EAs are also only one kind of buyer among many other statutory buying organizations. Furthermore, owing to a decision by the sponsoring university’s research ethics committee, the study does not directly cover the likely influence of unethical means of influencing the procurement decision process. There are evidence for practice of rent-seeking or seeking lubrication payment in the public sector of Bangladesh (U.S. Embassy Dhaka, 2000; Transparency International, 2002, p. 42). An EA’s procurement-decision process is lengthy, involves numerous stages and a significant number of people from multiple organizations. Therefore, the possibility exists for practices to create force to initiate or speed-up movement of files by means of speed or facilitation or lubrication payments. These payments are to expedite a decision or process without alteration of the concerned decision. The possibility of distortive payment that changes a decision and contravenes laws, rules and regulations also exists. “In the former case the briber buys priority in obtaining a service, whereas in the later the briber secures a decision or a service to which he is not entitled” (Berkman, 1992, p. 1351). This type of allegation against public procurement is common in Bangladesh, particularly at the time of changing governments (see for example, Government of Bangladesh, 2002).

Additionally, the focus of this paper has been limited to the decision process for awarding procurement contracts. Penska and

Thai (2000, p. 463) argued that “getting a best bid and contract is only the first step in a sound government procurement process”. However, what happens in the post-decision stage such as (i) how decisions are seen through, (ii) how decisions, once made, are not undermined by competing alternatives, and (iii) the eventual enactment of instrumental actions to realize the goal (Dholakia & Bagozzi, 2002, p. 168) should also be investigated to determine the effectiveness of awarded decisions.

Therefore, in order to be more generalized (Wong & Chan, 1999) future studies may consider replication of the current study with modifications with a wider sampling frame of EAs as well as respondents from multiple developing countries. Future studies may also include government buying in developing as well as developed countries that uses supplier’s credit or own finance. Longitudinal studies to look at contract life cycle (award of contract through to implementation) may also be undertaken to measure the effectiveness of awarded contract. Future researchers may also look into the role of ethical issues in government procurement as a whole or in the context of foreign aid-funded procurement. The issues of UGR may also be studied in organizational buying in general in for-profit-privately owned organizations or in the context of multilateral organizations.

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