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COMPETITION COMMITTEE**

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## **Global Forum on Competition**

### **COLLUSION AND CORRUPTION IN PUBLIC PROCUREMENT**

#### **Contribution from Bangladesh**

-- Session V --

*This contribution is submitted by Bangladesh under session V of the Global Forum on Competition to be held on 18 and 19 February 2010.*

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## COLLUSION AND CORRUPTION IN PUBLIC PROCUREMENT

-- Bangladesh --

### 1. Size and policy objectives

#### *1.1 What fraction of your economy does public procurement account for? What are the principle policy objectives of public procurement?*

1. Public procurement accounts for 20% of government expenditure worldwide and Bangladesh is no exception.

2. The set of laws, rules and regulations (including amendments) on public procurement in Bangladesh can be accessed at Central Procurement Technical Unit (CPTU) website ([www.cptu.gov.bd](http://www.cptu.gov.bd)). The website was launched on 9 February 2010. The parent law governing public procurement in Bangladesh is Public Procurement Act 2006 which was then amended in 2008. The subordinate legislation includes the Public Procurement Rules 2008 and associated amendments. In order to facilitate e-procurement, Governing Principles of e-Government Procurement were drafted on 6 August 2009.

### 2. Corruption

#### *2.1 What is the cost of corruption?*

3. There are no available estimates on the cost of corruption. General perception is that they are high.

#### *2.2 What factors facilitate corruption? Do some factors appear to be more important than others?*

4. Same factors that facilitate corruption in other countries. There are no available assessments of which factors are deemed more or less important.

#### *2.3 How do transparency programmes help fight corruption? What other policies help fight corruption? What methods and techniques seem particularly effective in your jurisdiction?*

5. One of the techniques the current Government of Bangladesh (GoB) has introduced a Central Procurement Technical Unit (CPTU) under the Ministry of Planning (website: [www.cptu.gov.bd](http://www.cptu.gov.bd)). Under the CPTU, e-Government Procurement system (e-GP) has been introduced to enhance the efficiency and transparency in public procurement through the implementation of a comprehensive e-GP solution to be used by all government organisations in the country. Initially, on pilot basis, this will apply to a few Procuring Entities (PEs) of four target agencies namely Bangladesh Water Development Board (BWDB), Rural Electrification Board (REB), Roads and Highways Department (RHD) and Local Government Engineering Department (LGED), in Bangladesh. The System, later on, will be rolled-out across all the procuring entities in a phased manner.

6. The Anti Corruption Commission (ACC) was created through the Anti-Corruption Commission Act 2004 promulgated on 23 February 2004 that went into force on 9 May 2004. Although initially, it could not make the desired impact, but immediately following its reconstitution in February 2007, the ACC began working with renewed vigour and impetus duly acceding to the United Nation's convention against corruption that was adopted by the General Assembly on 31 October 2003.

**2.4 *Are firms required to certify during the procurement process that they have not bribed an official?***

7. No. There are other laws and policies that forbid bribery.

**2.4.1 *What sanctions can be applied to firms and individuals who have engaged in corruption or bribery in your jurisdiction?***

8. There are criminal and civil law sanctions/penalties that can be determined through legal proceedings on a case by case basis.

**2.5 *Who are the competent authorities for prosecuting corruption cases? Does the competition authority have any power in this area?***

9. Actions can be instituted by various Government departments under the existing legal system.

10. Bangladesh does not have a Competition Law or Authority at present.

**3. Collusion**

**3.1 *What factors facilitate collusion in procurement? What industries seem especially vulnerable to bid rigging?***

11. Same as in other jurisdictions world-wide. There are no country specific factors in this regard

**3.2 *What sectors in your jurisdiction were affected by bid rigging conspiracies in public procurement? What experience has your agency had in helping design procurement systems in order to minimise the risks of bid rigging?***

12. There have been several *allegations* in sale of State-owned assets, purchase of staple products.

**3.3 *Does your country employ certificates of independent bid determination? When firms have engaged in collusion, should they be prohibited from bidding in public procurement auctions for a period of time?***

13. Bangladesh does not have a competition law or other provisions dealing specifically with collusion. There are some provisions in other laws that could be invoked in this regard.

**4. Fighting collusion and corruption**

**4.1 *What cases from your jurisdiction have involved both corruption and collusion in public procurement?***

14. As indicate above, there have been *allegations* of corruption and 'syndication' in some areas of provision of staple products but no cases have been prosecuted due to lack of sufficient evidence and lack of a competition law.

**4.2** *Have collusion and corruption cases or allegations occurred predominantly at the local government level, provincial government level, or national government level?*

**4.3** *What methods and techniques for fighting corruption would aid the fight against collusion?*

15. The Government of Bangladesh is considering enacting a Competition Law with specific provisions against collusive activity

**4.4** *When individuals or firms have engaged in bribery or corruption, are they able to receive leniency in your jurisdiction?*

16. No

## **5. Advocacy**

17. Current experience in this area is limited and does not permit answers to the questions that follow below. Some questions do not apply to the current situation in Bangladesh...for example those pertaining to competition agency/advocacy. Under the new CPTU and e-government policy measures there has been increased transparency in the public procurement process in order to minimise opportunities for bribery and corruption.