

Setting up a Public Procurement Observatory in Rajasthan (ProOb)
Actual Implementation of Rajasthan Transparency in Public Procurement Act, 2012
(In Selected Departments of Government of Rajasthan)

Public Procurement

India is emerging as the third largest economy in the world. Government Procurement in the country represents a significant portion of its expenditure (estimated to be about 25 to 30 percent of Gross Domestic Product) and is a key determinant of budget execution outruns. Therefore, Public Procurement as an area of intervention has a great deal of importance attached to it. Public Procurement by definition is the process of purchase of goods, works/construction and services by governments or public entities to fulfill needs of the public authorities to carry out their responsibilities towards its citizenries. Since the Public Procurement Bill 2012, which was tabled in Parliament in May 2014, has lapsed with the dissolution of the 14th Parliament, the lack of an overarching law governing Public Procurement in India has led to the subject being administered through a morass of rules set by different authorities, having no force of law.

At the moment, as far as the legal framework of Public Procurement in India is concerned, it has been governed by General Financial Rules (GFR), 2005, Delegation of Financial Power Rules (DFPR), 1978 and relevant guidelines of Chief Vigilance Commissioner (CVC) of India, High Court rulings and such diverse authorities have brought out directives on Public Procurement. So the matter is very chaotic and different organisations remain free to follow their own interpretation of various guidelines, leading to distortion of competition, lack of transparency and probity, which have in the past given rise to major incidents of diversion of public funds. Moreover, some of the recent procurement deals and controversies have brought in open the major failures transparency, accountability, efficiency, competition and professionalism. It is therefore of utmost importance that the procurement process overcomes the impediments of collusion, bid rigging, fraud and corruption.

The legal framework of Rajasthan is very strong, since it has Rajasthan Transparency in Public Procurement Act, 2012, RTPP Rules, 2013, Public Private Partnership Guidelines, 2008 and recently enacted Swish Challenge System has also come in to force. Therefore, Rajasthan is the one of top most states, which has all these provisions in place. As far as implementation of these Acts, rules, guidelines and system is concerned it is going in the right direction and things are improving with the time.

Key Performance Indicators in Brief

A. All the planned KPIs

S. No.	Name of Indicator	Name of Sub Indicator
1.	Transparency Standards	1 Disclosure of contract award information with quality and rates (Sec. 19.6)

		<ul style="list-style-type: none"> 2 Disclosure of grievance redressal results 3 Disclosure of the increase in the quantity of the procuring material (Rule 70) 4 Disclosure of contract status for oversight of users/civil society (Sec. 17)
2.	Quality of Contract Management	<ul style="list-style-type: none"> 1 Contract award on time 2 Contract completed on time 3 Contract completed within original cost framework
3.	Registration of Vendors (Sec 07 and 19)	<ul style="list-style-type: none"> 1. System of periodic revision (inclusion, exclusion and blacklisting of vendors) 2. Online Registration Process 3. List of registered, deregistered and debarred vendors 4. Tracking mechanism of blacklisted, debarred and deregistered firms/individuals getting business (Sec. 46) 5. System of promotion/demotion of contractors 6. Final check on bidder 7. Comparison of registration process with the 'Rajasthan Transparency in Public Procurement Act, 2012 (RTPP)' Sections 07, 09 and 46 etc.
4.	Designing the Bid Document	<ul style="list-style-type: none"> 1 System of identifying the need of procurement (Sec. 05) 2 System of forming bid document (Sec. 06 to 16) 3 System of setting up Objectives and standards for bidding (Sec. 06 to 16)
5.	Bid Validity Period	<ul style="list-style-type: none"> 1 Basis of deciding the Bid Validity period (BVP) 2 Time for responding to bids as per Request for Proposal (RFP) 3 Time taken in technical and financial evaluations (Sec. 09) 4 Time taken in awarding the final contract 5 Increase in bid validity period 6 Following the Bid validity period as per Request for Proposal (RFP)
6.	Rajasthan Government Preferential policy	<ul style="list-style-type: none"> 1 List of preferred items 2 Reservation of small scale industries/companies in RFPs 3 International Competitive Bidding (ICB)
7.	Grievance Redressal Mechanism	<ul style="list-style-type: none"> 1 System of grievance redressal by Administrative authorities 2 Lodging the complaints at the level of procuring agency 3 System of complaint redressal by board 4 Role of First and Second Appellate Authorities 5 Complaint registration through other constitutional and administrative channels
8.	Procurement Register	<ul style="list-style-type: none"> 1. Maintenance of the Procurement Register
9.	Performance of the Nodal Department for Public and State Public	<ul style="list-style-type: none"> 1 Concept of Nodal officer 2 Rules and Circulars 3 Training on Procurement Process 4 Overall Functioning of the State Procurement Facilitation Cell (henceforward SPFC) as per sections 17 and 50 of the

Procurement Portal (Hence forward SPPP) Procurement	‘Rajasthan Transparency in Public Procurement (RTPP Act), 2012 and RTPP Rules, 2013.
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B. KPIs as a Basis of Analysis

Transparency Standards	<ul style="list-style-type: none"> • Disclosure of NIBs or NITs on SPPP, Departmental portal and local media. Disclosure of contract status for oversight of users/civil society (Sec 17) • Disclosure of contract award information with quality and rates (Sec 19.6). Disclosure of the increase in the quantity of the procuring material (Rule 70) • Disclosure of grievance redressal results
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Objective of the Analysis

Below mentioned analysis aims to bring out the current status of the implementation of the RTPP Act and creating a set of primary data on the same for the selected two departments and SPFC, Department of Finance. Other primary aims is to make Procurement Process of the selected departments more transparent, accountable, and promoting fair competition among suppliers and contractors on the other, so that it could enhance economy and efficiency in the whole procurement system.

Key Highlights of the Analysis

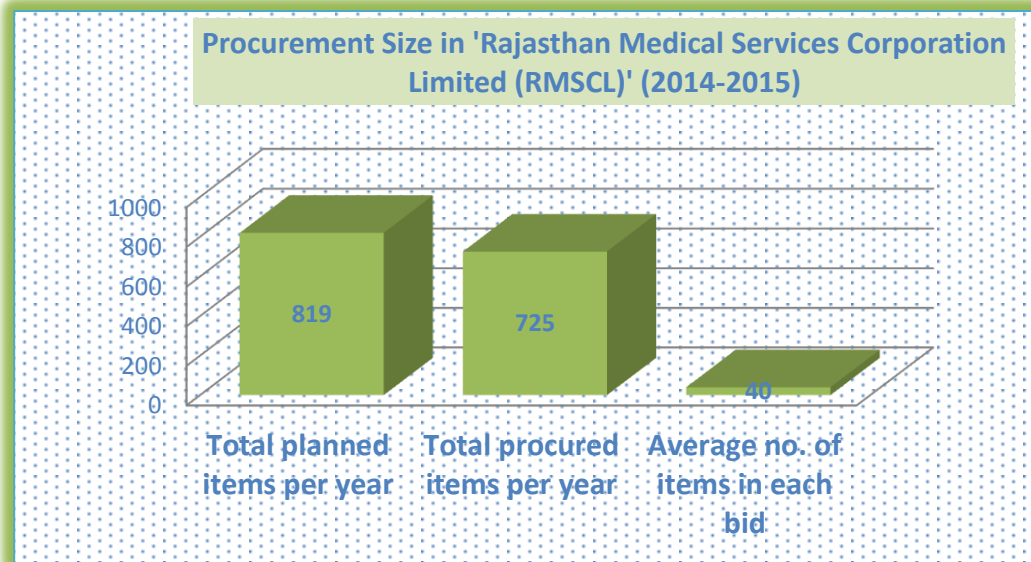
About Rajasthan Medical Services Corporation (RMSC)

Rajasthan Medical Service Corporation is a Public undertaking of Govt. of Rajasthan which will act as nodal agency for procurement of drugs, medicines, surgical and Sutures to various Government Institutions in the State. It should procure the items in generic names as per prescribed standard by finalising the rates and supplies through open tender process as per rules. The drugs, medicines, surgicals and sutures should be procured, based on the need and consumption pattern of the items by the medical institutions. Procurement orders are proposed to be places to meet out four months need and two months pipeline stock likely to be in transit and under quarantine. Though the procurement would be centralised but the suppliers will be required to supply the items directly to the District Drug Warehouses (DDW).

Key Findings

Annual Plan of Procurement

RMSC is the agency, which has its annual procurement plan covering all required drugs, medicines, surgical & Sutures for the entire state. As per this Annual Procurement Plan 2014-

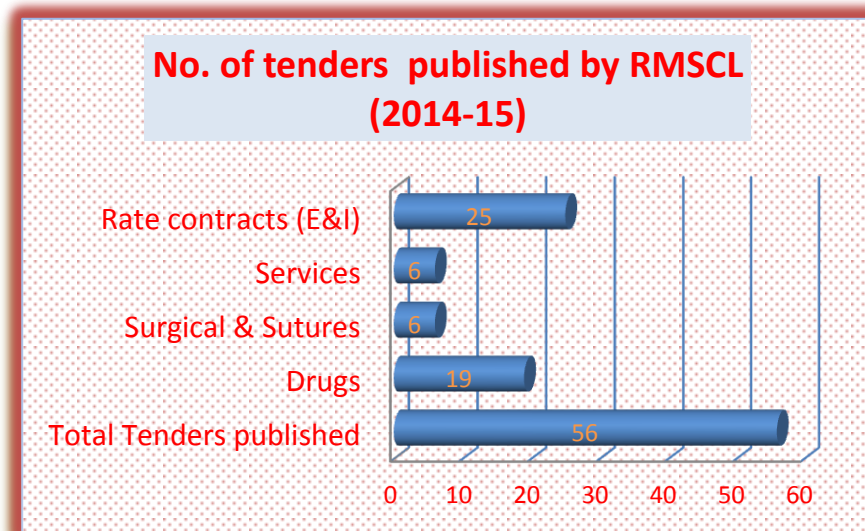


2015, it needs to procure 819 types of drugs, medicines, surgical and Sutures but was able to procure only 724 types of drugs, medicines, surgical and Sutures as

per actual need. It is important to mention that required quantity of the required types of drugs, medicines, surgical and Sutures it also mentioned in this annual procurement plan and it is available on the RMSC web portal. This is also worthwhile to mention that as per the fundamental principles of the RTPP Act it is mandatory to have such plan for the department which needs to be available in public domain.

Frequency of Publication of Tenders

Tendering process of the RMSC is quite active and goes on year round. On an average 56 tenders



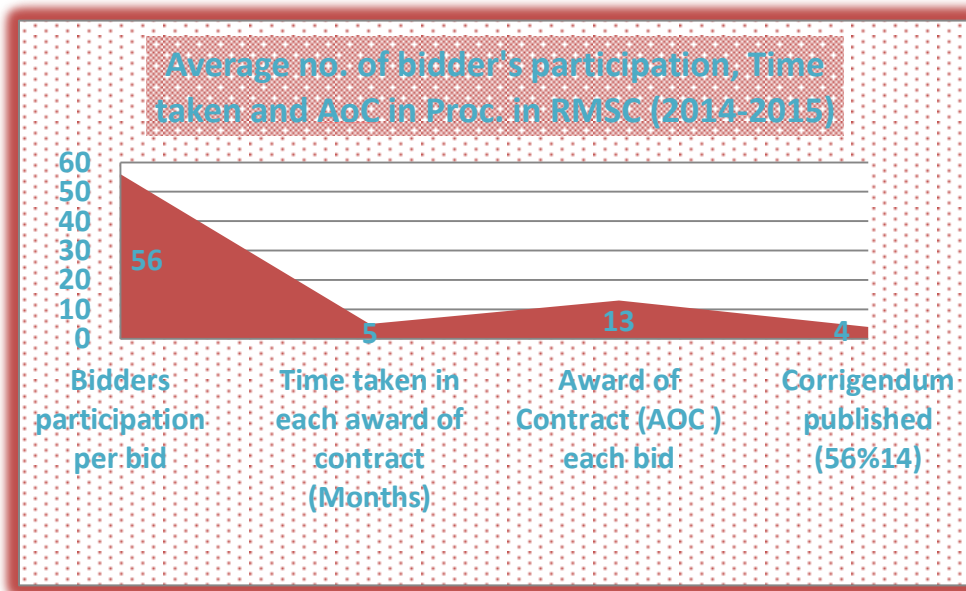
were invited in the year 2014-2015 by the RMSC in a year for all types of Drugs, medicines, surgicals and sutures. In this process procurement is done with the bidders who already have some rate contract with the RMSC in most of the cases and in 25 tenders out of total, procurement was done with them only. Total drug related tenders were 19 and

these were done through open tenders. Rest of the tenders was related to surgicals and sutures (6 tenders) and services related (6 tenders).

Usually, RMSC does tendering for so many types of drugs, medicines, surgical and Sutures therefore it has to club more than one type of drugs, medicines, surgical and Sutures in any Notice for Inviting Tender (NIT) or Notice for Inviting Bids (NIB), which is some time also called as pooled tendering. In RMSC on an average 40 types of drugs, medicines, surgical and Sutures are called for bid. This is important to underline the fact that this type of information is also available on the RMSC portal.

Findings Related to Bidders Participation, Time Taken and Award of Contract information

In any tendering process having fair competition is one of the major component and prerequisite which is mandated in the RTPP Act, 2012 as well. Secondly, the time factor is very crucial,



which especially in the drugs and medicines related cases. In the given analysis the time taken in any procurement cycle of any particular procurement was analysed along with the transparency factor in putting information

related to the final award of the contract and incidents in which any corrigendum was published with the increased or decreased quality to be procured any change in the original bid document etc.

It was found that on an average 56 bidders participate in any tendering process and average time taken in any bid was five months. At this juncture it is important to mention that in Rajasthan Medical Services Corporation (RMSC) in some of the procurement cases time taken was even one full year and these were the matters in which decision had to be taken at the board-level. It was noticed during the analysis that sometimes delay in having the meeting of board was the chief cause of delaying in whole of the procurement exercise. The very crucial information related to the final award of the each and every bid could be seen at the website of the RMSC,

which is very appreciable. As far as frequency of the publication of the corrigendum is concerned it is published in every fourth bid of the RMSC, which are also available in its website.

Overall, it could be concluded that RMSC is one of those agencies in the state which puts on all the necessary information on its web portal, which need to be replicated in the other procuring entities as well.

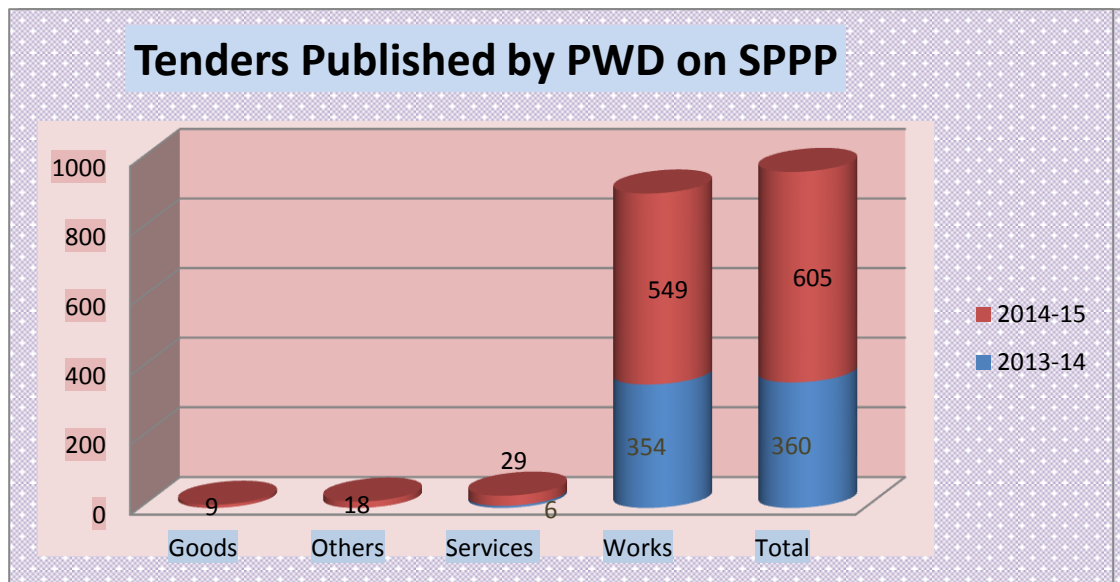
But there are certain other observations as well, which need to be taken care off by the RMSC so that the overall compliance of the RTPP Act, 2012 could be improved. It was noticed that As per act RMSC has to be enrolled with the SPPP for publication of all its information related to any procurement activity on SPPP as well as it is publicised on its own web site but this has not been done so far. Other important things are like information related to complaint redressal has to be put on its portal, so that complainants can know about its progress.

About Public Works Department (PWD)

The Public Works Department (PWD) has a glorious history in the development of the state since pre independence. The Department is mainly entrusted with construction and maintenance of Roads, Bridges and Government buildings etc.

Key Findings

One of the ways to bring transparency in any process is to put on the related information in the public domain and ensuring its access to the common people. Regarding putting on the

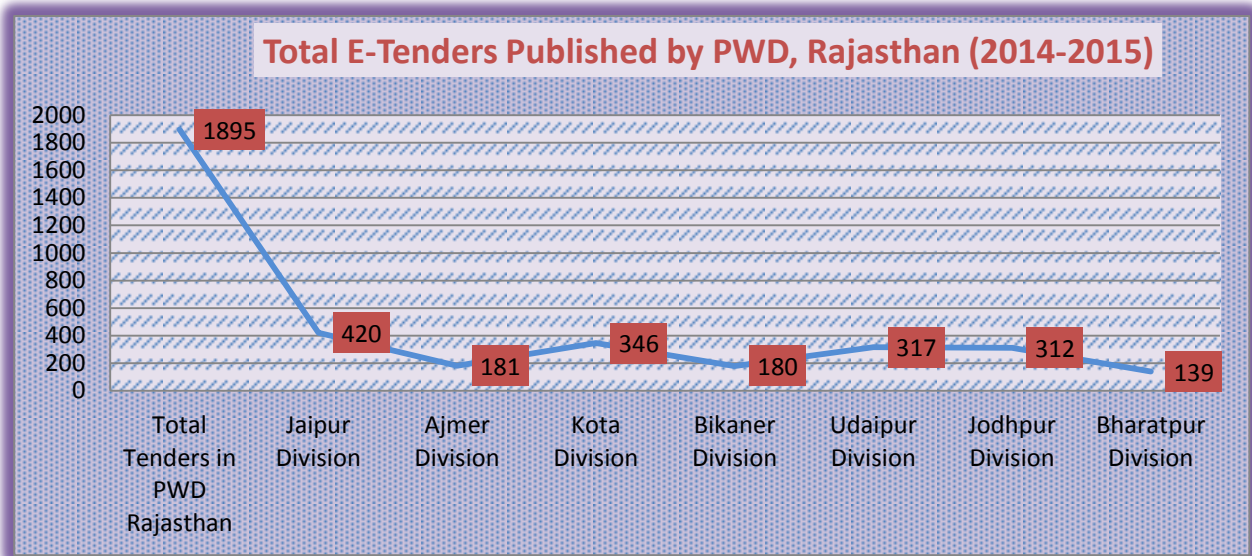


procurement related information by the PWD is it was noticed that it puts information related

to NIB/NIT and corrigendum of these NIT/NIBs if any on its official website and SPPP only. Any information other than these is not available in public domain which shows the opaqueness in the system. PWD does not any annual procurement plan for any given current financial year as it was noticed to have by RMSC, since no such plan is available on its official website.

The information displayed herein the given graph above was taken from the SPPP and it was noticed that tenders related to works, goods, services and others have been published on the portal and frequency of publication such tenders are increasing year after year, which shows that department is trying to put on maximum information on SPPP as well along with its own website.

PWD is the department, which does E-Procurement if the tender is of the worth of Rs25 lakh or above and it was notices that maximum tenders happen through E-Procurement only. In the year



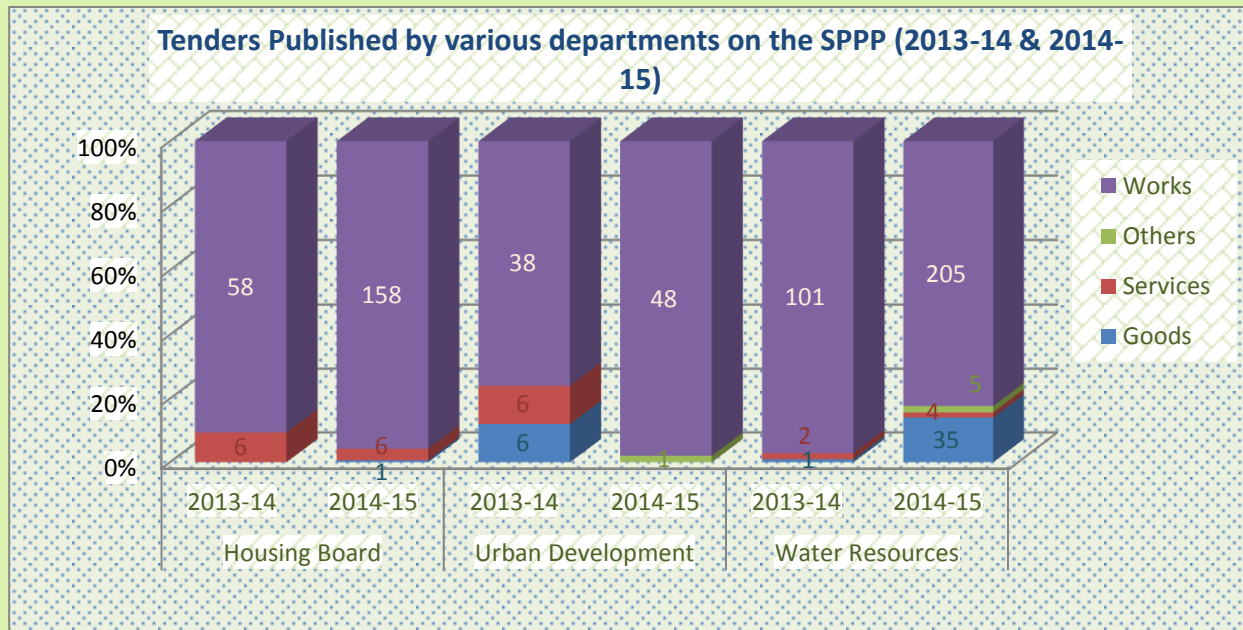
2014-2015, total 1895 tenders were done through E-Procurement and maximum 20 tenders were done by the Jaipur division which comprised five districts (*Alwar, Dausa, Jaipur, Jhunjhunu and Sikar*). It was realised that Bharatpur Division, which comprises four districts (*Bharatpur, Dhaulpur, Sawaimadhopur and Karauli*) does least number (139) of E-Procurement among all the divisions of the Rajasthan.

It has been observed that to implement the RTPP Act 2012 and its rules in its true spirit, PWD need to put on all the required information related to whole of the procurement cycle on its official website as well as on SPPP.

State Public Procurement Portal (SPPP)

The Rajasthan State Public Procurement Portal of Government of Rajasthan has been set up in pursuance of provisions of Section 17 of Rajasthan Transparency in Public Procurement Act, 2012. It is accessible to general public so as to enable them to know about the activities of public procurement of goods, works and services by Department of State Government, State Public Sector Enterprises, anybody covered under the ambit of the Act. The portal has provisions for such bodies to publish their Bid Enquiries, Pre-qualification documents, Bidder registration documents, Bidding documents, Corrigendum, clarifications including those pursuant to pre-bid conference, and corrigenda thereto, list of pre-qualified and registered bidders, list of bidders excluded under Section 25, with reasons, decisions under section 38 and 39, Award of Contract

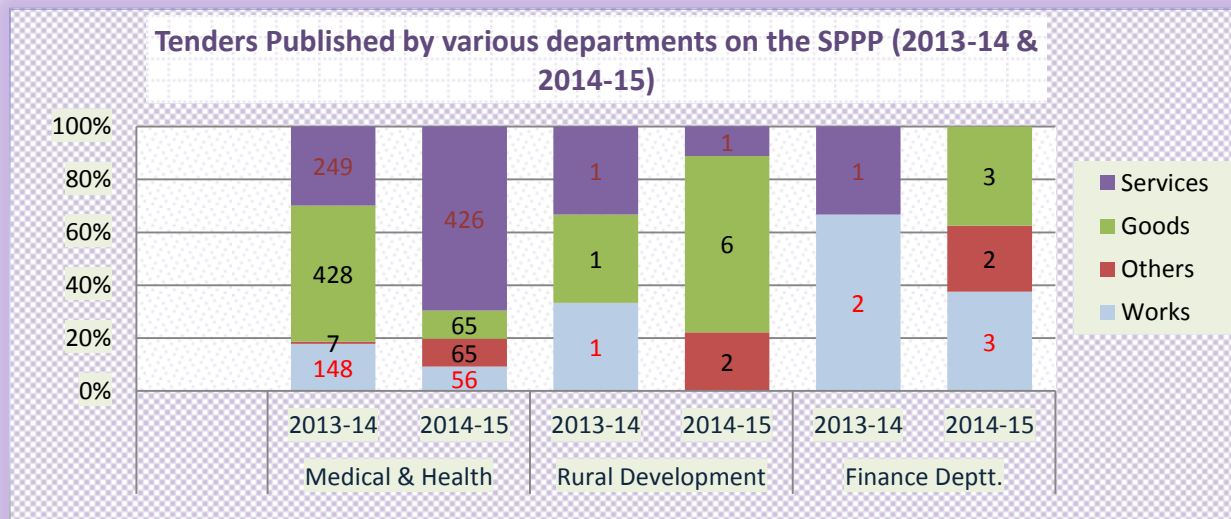
and details of successful bids, their prices and bidders, particulars of bidders who have been



debarred. The primary objective of this portal is to provide a single point to various State Government Departments/Organisations for posting matters relating to Public Procurement, so that they are accessible to the public.

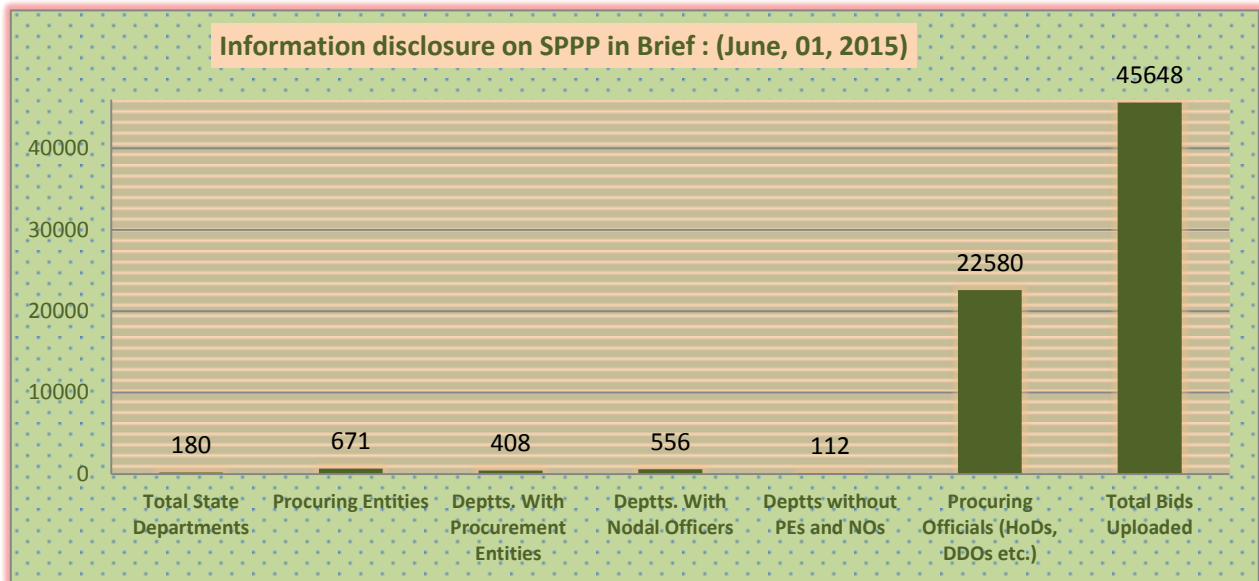
Comparison with Frequency of Tenders Published by Various Departments

As per the mandate of the RTPP Act and Rules it is mandatory for all the departments to publish all the tender related activities on this portal without fail. As the time is progressing more and

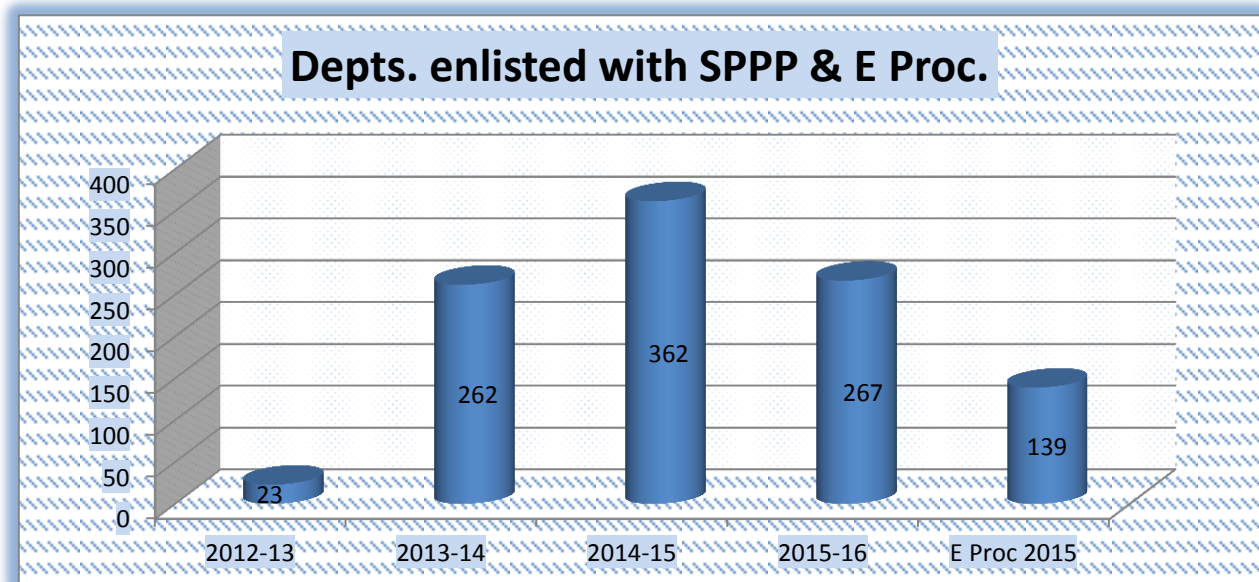


more departments are publishing more and more their NIT/NIBs on it. We can see a clear cut upward trend in the number of published tenders by Rajasthan Housing Board, Urban Development Department, Water Resources Department, Department of Medical and Health, Rural Development and the Finance Department itself, which is the nodal department for implementing the RTPP Act and RTPP rules and also running the SPFC at its office itself.

From the analysis of the information related to the enlisted departments, designating the procuring and nodal officials for the procurement and other such things on the SPPP it was found



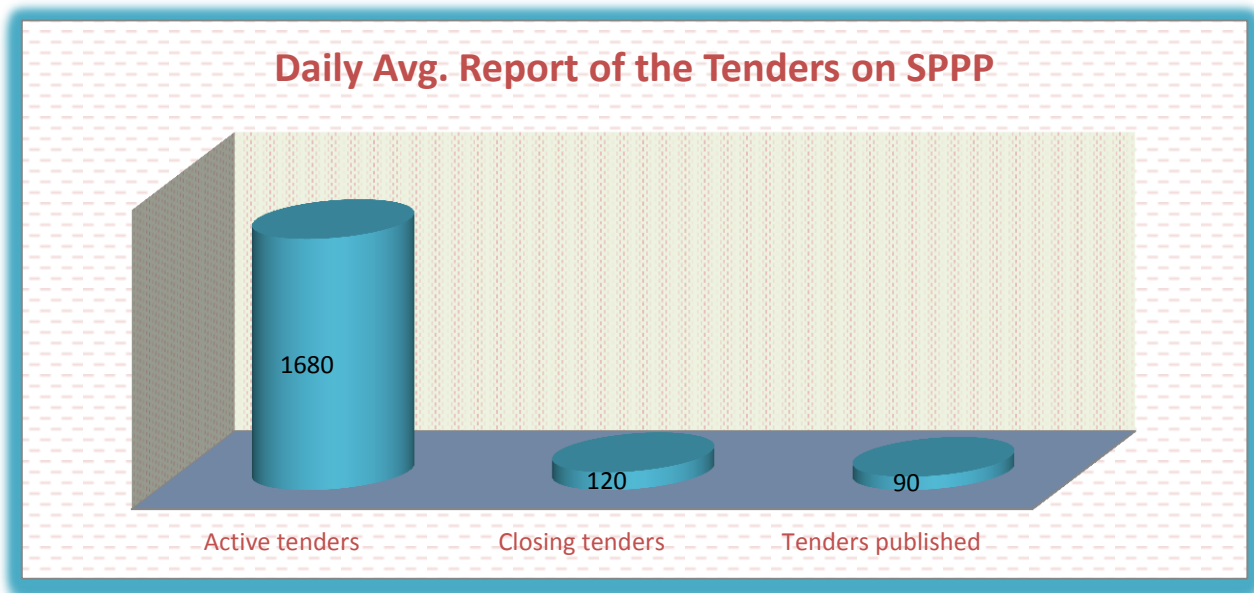
that so far 180 procuring entities are registered with the SPPP for publishing their procurement related information on it but still there are several unlisted procuring entities, which need to be enlisted with, so that they can also publicise their information on it and follow the Act and rules for the same. So far 671 procuring entities are registered and 408 procuring entities have designated their Procuring entities 556 have designated nodal officers for procurement work. But still there are several procuring entities that have designated neither any procurement entity nor



any nodal officer which means that these entities are not following up the act and rules made for the same and their compliance level of both act and rules are low. As per the SPPP there are total 22580 procuring officials who have identifies by the SPFC for their capacity building and further training on the procurement. These officials include head of the procuring entities, All the Draw and Disbursement Officers and Accounts officials etc.

An analysis of the number of departments or procuring entities show that it is going upward but varies year by year. It was also noticed that in some of the year the number of the enlisted procuring entities are more but suddenly the number goes down instead of remaining the same or rather going up in the very next year. In the very two months of the first year, 2012-2013 around 23 procuring entities were got registered, which reached up to 262 in 2013-14. While in the year of 2014-2015 around 362 procuring entities were registered with the SPPP came down to 267 in the next of 2015-16. As far as the enlisted procuring entities on the E-Procurement Site are concerned total 139 are registered with it for Public Procurement beginning. Here again the fact has to be reiterated that there are certain entities which are registered with the E-Proc. Site also has to be necessarily registered with the SPPP as well.

As per the analysis of the daily average report of the published, active and closing bids, it was found that around 1680 tenders are always active on the SPPP and all the potential bidders can



take part in these. On daily basis around 90 NIT/NIBs are published by various entities for participation of the bidders and around 120 NITs/NIBs are approaching their deadline and closing on daily basis, which shows that there are so many tenders are available on the portal but until and unless all the procuring entities are uploading their bids, bidders participation report, Award of the contract information, time taken in the procurement, MIS related to procurement and other necessary information on time to time till than the actual purpose of the portal is not served and compliance of the act is not ensured. The role of the SPFC was also briefly analysed

and found that SPFC need to increase its monitoring and supervisory role in all the departments at every state of the Procurement. SPFC also need to have required resources to carry out required capacity building programmes for all the nodal officials and procurement entities so that overall implementation of the RTPP Act and RTPP rules can be strengthened and ensured in its true spirit.

Usage of the Analysis Findings in an Advocacy Workshop

All such analysis is always done with a purpose and here in this case, the findings of this analysis was shared in a workshop organised in Jaipur on July 07, 2015 with the concerned department officials and other concerned officials who are directly responsible for effective implementation of the Act and rules made in this regard. The workshop was organised by the procurement observatory team at CUTS Centre for Consumer Action, Research and Training (CUTS CART). It is important to mention that all the findings were accepted by the State Procurement Facilitation Cell (SPFC), Department of Finance, Government of Rajasthan and assured for taking some positive action in this regard in time to come.