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Problems in Organizing Public Procurement and Mechanisms for their Elimination

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Abstract. The article examines the specific aspects of public procurement, the theoretical and organizational basis of problems in its organization. On the basis of research, problems are systematized and scientific conclusions and practical suggestions are presented for practical application in our country aimed at solving them.

Key words: public procurement, electronic trade, budget funds, budget expenses.

Introduction

The effectiveness of the procurement mechanism for public needs depends to a large extent on the level of competence, professional training and honesty of public servants who make decisions for public procurement. In many countries, the training and development of public procurement personnel is a direct responsibility of the government.

The government of the Republic of Uzbekistan is paying great attention to the elimination of the problems in the above-mentioned areas, and with the participation of other entities involved in the implementation of public procurement, active work is being carried out to improve the mechanisms of the public procurement process and its legal basis. In particular, the demand for a systematic approach to the management of the public procurement system and strategies for the use of public procurement as a mechanism influencing certain sectors of the economy are being formed.

It can be said that the occurrence of positive and negative situations in the organization of public procurement is a natural economic reality. Economic-legal, administrative and technical factors are of special importance in the organization of public procurement.

In this regard, the decree No. PF-6019 of the President of the Republic of Uzbekistan dated July 6, 2020 "On additional measures to further develop the competitive environment and reduce state participation in the economy" has determined reforms aimed at eliminating existing problems in the state procurement system. In particular, within two days from the day of the official announcement of the winner of the tender and competitive bidding and the results of the selection of the best offers, or from the day of the decision on the results of direct negotiations, directly or indirectly by placing relevant information on the special information portal of public procurement, 25 percent or it is stipulated that they should disclose information about their ultimate stakeholders (beneficiaries) who have actual control over more shares (shares).

These aspects create the need to research the complexities of public procurement.

Literature review

Of course, bilateral relations are based on mutual agreements of the parties. The agreement is based on certain conditions reflecting the rights and obligations of the parties. This leads to the creation of contractual relations.

In this regard, the theory of contracts plays an important role. Bengt Holmström pays special attention to the principles of contract formation in his theory. In particular, the informational principle notes the harmonious relationship of mutual financial interest and other characteristics. For example, it takes into account the existence of incentive terms other than salary in the contract concluded with the employee. Also, Oliver Hart gave a new direction to contract theory with his idea of "unenforceable contracts". With the introduction of this theory into science, it allowed to distribute the rights of the parties to manage the contract. This has had a significant impact not only on many areas of the economy, but also on political science and law, while ensuring the priorities of business management.

There are countless contracts in the modern economy. New theoretical tools developed by Hart and Holmström (2016) are particularly important in understanding real contracts and institutions, as well as potential problems in contracting.

In this regard, Zibzeeva (2013), a Russian scientist, formulated her conclusions regarding the regulation of public procurement in her research. Promotes the use of financial levers to improve the efficiency and regulation of the public procurement market. Therefore, it is emphasized that when using financial levers, it is important to implement them bilaterally rather than unilaterally.

In the research conducted by Melnikov, Usmanov (2016), among the factors affecting public procurement, the following are mentioned, which include indicators such as: level of corruption, government debt to GDP, Gini coefficient, unemployment and doing business index (Doing Business).

According to Uzbek scientists Professor T.S. Malikov, N.H. Haydarov, the relationship between the state budget and the price has a two-sided nature. In the budget, the price mechanism is used for the allocation of financial resources and financial control. It is emphasized that the functioning of free market prices, which arise on the basis of real supply and demand, is a very important link of the market economy, and this link ensures mutual influence of product producers and consumers (Kasimova, 2019).

Analysis and results

Based on our research, we will analyze the main factors identified below.

1. The emergence of corruption in the organization of public procurement.

Corruption in the field of public procurement is one of the problems that has existed for a long time and does not know national borders. The presence of corruption in the public procurement system is not limited to financial losses.

As the main reasons that prompted the governments of the Western countries to start practical work on improving the legal framework for public procurement, the governments of these countries strive to fulfill their obligations to their people, the high level of implementation of public and communal expenses by the governments, and the frequent occurrence of unpleasant cases of corruption. can be shown as such.

In the process of placing public procurement, the damage to the state and society from existing

corruption can be studied into the following four types:

- a) Financial loss - conclusion of contracts in unfavorable financial conditions for the state and society. This can be seen in the purchase of the purchased goods at prices higher than the current market price, the inclusion of conditions for making payments in advance rather than on time in state contracts, and other forms;
- b) Quantitative loss - quantity of delivered goods and services is more or less than expected; purchase of goods and services not for public needs, but for personal purposes of responsible officials, etc;
- c) Loss of quality - conclusion of contracts in violation of necessary technical requirements, such as delivery of low-quality goods and performance of services. Warranty period and conditions of fulfillment of the last terms before the warranty period; lack of sufficient control to check the quality of work and services, etc;
- d) Political loss - deterioration of the investment environment in the country, loss of trust in the state and state structures by citizens, derailment of the country's economic and financial system, violation of the principles of free competition, etc.

In international practice, there are four approaches that have proven their effectiveness in solving this problem. Including psychological methods, technical methods, regulatory processes and punitive measures.

Psychological methods include: Checking the application information of the candidate for the position, his biography and a description from the previous place of work. This method is a simple technique that is widely used to prevent people who have been dismissed from their previous jobs for corrupt activities or crimes, and who have been convicted of corruption, from being assigned to positions with potential for corruption.

Technical methods increase the risk of the participants of the transaction losing the opportunity to meet each other or being caught by a corrupt person, prevent collusion between the purchasing departments and sellers, and significantly reduce this possibility. Among such methods: equipping the negotiating rooms of the procurement officer with a control system and video surveillance equipment. An analogue of this system is the anti-corruption system used in the US traffic police.

Applying regulatory practices means conducting procurement by following all formal internal rules and procedures aimed at reducing the risk of corruption. In this case, a complex of anti-corruption measures will be implemented. Establishing an effective system of rules governing the potentially corrupt processes of public procurement.

The purpose of the application of punitive measures is to create an environment that makes the corrupt activities of the persons responsible for placing the state order "unprofitable".

It should be noted that the practical application of the above methods is limited based on the characteristics of each method and requires the allocation of additional financial resources by the state.

In our opinion, it should be one of the permanent issues to deal with the emergence of corrupt situations in the process of organizing public procurement. Taking into account the above-mentioned circumstances, it is appropriate to organize sales. This, in turn, reflects the fact that ensuring transparency and competition in public procurement is the most important priority.

2. The emergence of complications related to legislation in the organization of public procurement.

The effectiveness of procurement by state and local bodies directly depends on the factors of the current legislation, the effectiveness of the bodies regulating public procurement, as well as the level of professionalism of the employees who carry out the procurement.

Among the economic and legal factors, it can be expressed by the shortcomings of the current legislation and the incomplete economic justification of the established criteria. In this regard, IHRT (The Organization for Economic Co-operation and Development (OECD)) gave conclusions on a number of issues on the example of the practice of public procurement in Uzbekistan. This organization has noted the achievements and the factors that create complications as a result of existing factors in our country. In particular, they are the following:

In particular, the IHRT organization proposed to take into account a number of aspects regarding the improvement of the legal framework that primarily affects the organization of public procurement, in particular:

- to expand the understanding of the conflict of interests between the affiliates who are potential participants in the procurement in the preparation of procurement projects (but not limited to the customer, a special information portal or a member of the procurement commission);
- including the consideration of the agreement or declaration of integrity along with the bids of the bidders;
- focusing on the design direction of the development of the procurement system, taking into account the issues of contract administration and its management;
- restricting the participation of the leaders of the participants in the procurement processes (affiliates or managers) in the sales processes.

For example, the improvement of the legal framework that regulates the procurement of states in the EU includes the following directions (Khramkin, 2008):

- ✓ exclusion of certain sectors of the economy (water supply, energy, transport and postal services), which are usually considered natural monopolies, from the general legislation on public procurement;
- ✓ new forms of business conduct and accounting: concession and other forms of cooperation between the private and public sectors;
- ✓ organization of electronic procurement.

Table 1. TRENDS IN PUBLIC PROCUREMENT IN STRATEGIC ORGANIZATIONS

Харид шакли	Миқдори	Қиймати, млн.сўм	Улуши, фоизда
2020	466	99 587	0
2021	4 200	365 132	2
Электрон дўкон			
2020	2	60	0
2021	270	1532	0
Танлов			
2020	377	17 474	0
2021	266	591 343	3
Тендер			
2020	922	14 961 509	39
2021	1 014	1 029 743	6

Тўғридан-тўғри харидлар			
2020	8 227	2 799 401	7
2021	9 098	5 346 007	31
Энг яхши таклиф танлови			
2020	6 471	20 364 718	53
2021	7 899	9 776 801	57

Explanation: There are 22 strategic organizations approved by the decision of the President of the Republic of Uzbekistan dated January 22, 2018 "On measures to support the activities of economic societies and enterprises of strategic importance" No. PQ-3487.

The world experience also shows that the formation of the legal basis and criteria has been separately introduced, separating purchases made from budget funds from other types of purchases.

In our opinion, taking into account the conflict of interests between the participants of public procurement makes its proper contribution to the effective implementation of procurement. For example, the significant distance between the buyer and the supplier, as well as the provision of unbalanced benefits to the parties, lead to mutual destabilization of interests. At the same time, limiting the trading activities of authorized bodies and other participants is important in preventing conflicts of interest.

Also, the high share of certain trade activities in public procurement can create complexities in the sector. For example, in state procurements carried out by strategic organizations, electronic stores and auctions are practically not organized, and it can be noted that the share of tenders in 2021 decreased by 33 percentage points compared to the previous year. This is explained by the increase in the share of direct purchases. In particular, the fact that 31 percent of trade contracts were concluded using this form of procurement in 2021 creates the need to develop a competitive environment (see Table 1).

In our opinion, the emergence of this situation means that the characteristics of the legal framework for public procurement are not fully taken into account. Therefore, it is important to systematically improve the regulations related to public procurement, taking into account the characteristics of the sectors. In this regard, it is appropriate to pay attention to the following when conducting public procurement:

- ✓ Electronic implementation of all public procurement forms;
 - ✓ Creating equal opportunities for residents and non-residents;
 - ✓ strengthening objective conditions aimed at ensuring transparency.
3. At the same time, due to a lack of mutual understanding of legal and regulatory documents, purchases may not be carried out on time.

It does not allow effective use of budget funds. For example, in the decision PQ-4075 of the President of the Republic of Uzbekistan dated December 24, 2018 "On additional measures to increase the effectiveness of public safety" taking measures to purchase electronic system tablets" is defined. Nevertheless, purchases were not made on time and the period of using budget funds was delayed. However, due to the possibility that the price of goods (work, services) will increase over time, the effectiveness of using budget funds will not be fully ensured. The emergence of this situation is explained by the emergence of "bureaucracy and

bureaucratism" in the decision of the Cabinet of Ministers of the Republic of Uzbekistan dated July 3, 2019 No. 556 "On additional measures to provide employees of internal affairs bodies with mobile video surveillance devices".

In our opinion, failure to carry out public procurement on time will lead to insufficient provision of the net present value of budget funds. As a result, it may be necessary to direct additional budget expenditures. Of course, taking into account the characteristics and conditions of the purchase of legal documents does not allow problems to arise in this regard. In our opinion, attention to the following is important:

- organization of long-term educational and explanatory trainings in institutions that carry out purchases at the expense of the state budget funds;
 - in the event of a lack of funds as a result of an untimely purchase, determining that this deficit will be covered by extra-budgetary funds of the institution.
4. Occurrence of administrative interference in state procurement by local authorities and non-compliance with the provisions set forth in regulatory and legal documents.

This is explained by the fact that situations arise as a result of direct contracts being assigned to financial bodies or budgetary institutions as a result of informal assignments. As an example, the following information was cited in the statement issued by the Ministry of Health of the Republic of Uzbekistan on July 1, 2019: "According to the decision of the minutes of the meeting held on January 3, 2019 in the Andijan regional hokimiyati, the regional finance department collected funds from medical institutions and transferred them to the account of the regional health department, and in accordance with the agreements concluded directly with these funds, purchased syringes, infusion systems and medical gloves submitted. However, according to the Law of the Republic of Uzbekistan "On State Procurement", it is prohibited to purchase these medical products by concluding a direct contract. On the basis of the above assignment, syringes and systems without a certificate of conformity totaling 6.3 billion soums were purchased on the basis of direct contracts concluded with "Makro Farm Andijan" LLC located in the city of Andijan, contrary to the requirements of the above law. According to the same order, a total of 20.1 billion was illegally obtained from "Gold Grown Pharma" LLC in Andijan. purchased medical glove products without a certificate of conformity".

In our opinion, although it is envisaged to purchase through a certain type of public procurement (e-shop or auction, etc.) based on competition, determining the implementation of direct procurement may prevent the timely and effective use of budget funds. For this reason, it is important to strictly ensure mechanisms that fully support competition in the implementation of purchases from budget funds. As a result of research, we make the following recommendations:

- electronic regulation to prevent centralized implementation of public procurements carried out at the scale of local budgets;
- introduction of a mechanism for voting by the council of people's deputies on the instructions for the implementation of direct purchase from the local budget funds by the officials of the local government bodies.

Conclusions and suggestions

Based on the conducted research, we were able to form the following conclusions:

The following problems may arise in connection with the organization of public procurement:

- ✓ occurrence of corruption in the organization of public procurement;

- ✓ the emergence of complications related to legislation in the organization of public procurement;
- ✓ failure to make purchases on time as a result of mutual misunderstanding of legal and regulatory documents;
- ✓ occurrence of administrative interference in state procurement by local authorities and non-compliance with the rules established by regulatory and legal documents;
- ✓ the problem with the fact that the choice of the supplier in the implementation of public procurement remains mainly dependent on the price factor;
- ✓ Another factor affecting public procurement is information technology failure.

It is important to focus on the following in order to avoid and solve problems identified by research:

1. In the process of organizing public procurement, it should remain one of the permanent issues to deal with the emergence of corrupt situations in an uncompromising manner.
2. Taking into account the conflict of interests between the participants of public procurement makes its due contribution to the effective implementation of procurement.
3. It is important to systematically improve the regulations related to public procurement, taking into account the characteristics of the sectors. In this regard, it is appropriate to pay attention to the following when conducting public procurement:
 - ✓ Electronic implementation of all public procurement forms;
 - ✓ creating equal opportunities for residents and non-residents;
 - ✓ strengthening objective conditions aimed at ensuring transparency.
4. Organization of long-term educational and explanatory trainings in institutions that carry out purchases at the expense of the state budget;
5. In the event of a shortage of funds as a result of an untimely purchase, determining that this deficit will be covered by extra-budgetary funds of the institution.
6. Electronic regulation of the prevention of centralized implementation of public procurements carried out at the scale of local budgets;
7. Implementation of the mechanism of voting by the officials of local government bodies on the implementation of direct purchase from local budget funds in the Council of People's Deputies.
8. It is important to introduce a systematized set of criteria that reflect quality indicators along with the price factor in the implementation of e-government procurement. At the same time, giving priority to local producers is another important aspect, when prices and quality indicators are equal.

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