
Public Procurement in the Informal Economy's Structure

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Abstract: The issue of a large part of informal economy in the public procurement sphere should be investigated comprehensively. There is a number of problems, which evolve from the informal economy, that is why there is a need for certain reforms. An effective contract system is to be created with the help of a systematic approach to the implementation of such reforms. A set of efficient measures aimed at improving the pricing methodology and contract execution quality will allow reducing the volume of informal economy in public procurement what will promote the national economic security.

Keywords: public procurement, informal economy, public procurement informal sector, public procurement corruption, initial price of a public contract, public procurement economic security

RESEARCH HYPOTHESIS

The public procurement informal sector is caused by various economic and social reasons and it adversely influences not only the government bodies' functioning, but the national economy in general. A considerable share of the informal sector causes the risks of corruption spreading, which negatively affects both government bodies' functioning and the economic environment. A large informal sector hinders fair competition between the business entities.

METHODOLOGICAL BASE

The research is based on such dialectic methods as system analysis, special juridical and comparative-law methods.

RESULTS

The comparative-law analysis revealed that there is a need for a secure mechanism, which will regulate informal processes in the public procurement sphere, taking into account that the improved pricing method.

Research validity is provided by general research and information collection and analysis special methods, as well as by the theoretical information and regulatory-legal acts analysis.

The only tool for assessing the effective use of budget finance in public procurement is the indicator of financial discipline when placing a state order and fulfilling contracts. This indicator is identified during the Accounts Chamber of the Russian Federation's scheduled and unscheduled audits of state customers and procurement participants.

Formal recognition of the fact that some workers and economic units in Informal economics can bring huge potential talent and power in the field Entrepreneurship and the capacity for creativity, dynamism, productivity, Their skill and innovation can facilitate the transition to a formal economy to flourish fully, and With official recognition of the issue that is required of all members of the organization with Immediate and appropriate measures, transition of workers and economic units from the economy Make informal to formal possible, and With the official recognition of the issue that employers 'and workers' organizations

It plays an important and active role in facilitating the transition from the informal to the formal economy

Do, and by deciding to approve certain proposals with regard to The topic of the transition from the informal to the formal economy as the fifth issue Agenda of the meeting, and By specifying that the above proposals are in the form of letters of recommendation will provide, On the day June of the year two thousand and fifteen, the following letter of recommendation to it Recommendation letter of transition from informal to formal economy approved in 2015 It can be approved.

As the world population increases and economies rely progressively more on outside resources to meet their demand for energy, water and food among others, communities are under enormous pressure to find these resources and accommodate waste and emissions. Within the current linear production and consumption economic model, only a small share of waste produced is reused, recycled or traded as secondary materials. The vast majority, including valuable and scarce materials, goes to landfill or is incinerated¹. In light of finite resource flows, economies will no longer be able to rely on these linear production and consumption models. A circular economy is an alternative to this model. It aims to keep products and materials in the value chain for a longer period and to recover raw materials after the lifetime of products for their next use.

The process of purchasing goods and services (procurement) has historically been seen as a bit of a challenge for municipalities and other institutions within our cities, especially when it comes to linking it to the achievement of wider local economic, social and environmental benefits. The process of procurement can and has been seen as bureaucratic, legally complex, isolated from other functions in municipalities, difficult to engage with for Small to Medium Sized Enterprises (SMEs), and extremely competitive.

The procurement of vital goods and services provides an essential building block for many United Nations activities, whether it is responding to natural disasters, peacekeeping or encouraging development. These operations rely heavily on our efficient and transparent ability to purchase the required food, labour, medicines and other items needed to fulfil United Nations (UN) goals. But procurement can and should be more than this. It should be a crucial tool in the development process itself. It should stimulate local markets and drive innovation. By providing business opportunities to a wider range of companies in all countries, procurement can help build strong economies and well-functioning communities. Buying goods and services directly from the countries we are trying to support can also ensure local ownership of UN projects, boosting their effectiveness. Many organizations in the United Nations family are well aware of this and already use our considerable buying power to get the best deal for everyone involved in the process – both beneficiaries and suppliers. It is time we all learnt from their best practice. As part of an ongoing internal effort to reform its procurement activities, the UN is seeking to be as inclusive as possible and extend procurement opportunities to previously overlooked vendors. This not only increases fairness and efficiency, but creates the opportunity for the entrepreneurial spirit and industry in the developing world to contribute to the achievement of the Millennium Development Goals. Already I have seen part of this picture take shape with strengthened local economies and the burgeoning of opportunities. I've seen companies get the support they need to become capable of growing their business beyond their borders, for the benefit of their families and their communities. However, much work still has to be done.

However, that perception and culture is in a time of change – procurement is suddenly seen as one of the key levers cities have at their disposal to stimulate local economic development and address social and environmental issues

In 2019 the Russian Federation's Accounts Chamber estimated 804 billion rubles of financial violations. Around one third of such violations are procurement procedure violations. The aforementioned 804 billion rubles also includes law violations as well as corruption crimes (RosBiznesConsulting, 2020).

The violations, detected by the Russian Federation's Accounts Chamber during the public procurement monitoring in 2019, are distinguished as follows (Russian Federation's Accounts Chamber Official Website, 2020)

- non-placement or violation of timing for placing the schedules or deadlines for making changes; –
- tender procedure violation;
- contract conclusion procedure violation;
- order placement violation in case there is only one supplier, contractor or executor;
- contract conditions' violations including contract provisions unreasonable changing;
- non-application of contract liability.

The research has shown that the public procurement system is ineffective. So, it is necessary to find the reasons of ineffectiveness.

The analysis of the legislative framework, which regulates granting the public procurement preferences, revealed that it is not logically complete and thus it doesn't promote the formation of a unified legal and economic space in the state market sector. What is more some existing regulations are an obstacle for participating in procurement procedures, what causes the decrease of competition on the investment market.

An effective public procurement contract system needs a system approach to carrying out reforms, aimed at comprehensive solution to problems, which flow out of the informal sector. An effective public procurement contract system is an organization of budget expenditures, where goods, works and services are obtained at a market price.

The increasing volume of public procurement demands the contract system's better effectiveness and transparency. However, despite all measures taken in this field, there is a large share of the informal economic sector, what slows down the development.

Present international sanctions effect the public procurement negatively as well (Shor et al., 2019, p. 3793-3796).

The informal economic sector in the public procurement comprises all illegal economic relations, which occur when the government budget is spent is being spent on goods, works and services. The informal economic sector is the unregistered distribution of finance between all contract system's participants.

The subjects of this system which distribute the unregistered finance are customers, namely state officials, and business entities, which are interested in profit-making.

When the part of informal economy in the public procurement sphere is large the corruption risks arise, which adversely affect both the state bodies' work and the economic environment. The corruption's negative impact on the economy provokes unfair competition between the business entities. Organizations, involved in the so-called "informal schemes" apply illegal forms of making the money from the official economy, namely money cashing by fly-by-night companies. It is worth agreeing with V. Pushkarev that such negative phenomena become urgent nowadays in the period of digitalization (Pushkarev et al., 2019, p. 2563-2566).

The purchase of goods, works and services for the public and municipal needs is defined as the total of a customer's successive actions, starting with purchase planning and ending with fulfilling the obligations (including warranty obligations) (Pushkarev et al., 2019, p. 7950-7952).

The nature of the informal economy mechanism from the state's side implies either payment for the contract obligations, which never were fulfilled (the difference between the paid obligations and the price of those completed in fact), or payment for the goods, works and services at an overcharge (the difference in price between the paid goods, works and services and their market price). Such cost differences are the state's loss.

In the first case when contract obligations are not fulfilled, the regulatory bodies are able to assess the financial loss, caused by dishonest state officials, who sign fraudulent documents on goods, works and services' acceptance. The calculations of damage based can be used as evidential base in the framework of a criminal case, initiated under the "Exceeding of official authority" Article 286 of the Russian Federation's Criminal Code.

Special attention is paid to the investigation of cases dealing with damage compensation by D. Ivanov (Ivanov et al., 2020, p. 753-759; Ivanov & Kruglikov, 2020, p. 623-630), and M. Pushkarev, who suggests the adversarial model of criminal procedure (Pushkarev et al., 2020, p. 281-287).

So, in order to prevent such customers' violations in future, it is worth forming such working conditions for them, when it impossible to commit a crime, while contract fulfillment results will be fixed not only in the primary accounting documents but by the modern technical control means as well. The contract fulfillment results topic becomes urgent when it comes to controlling the supplies of short-term storage goods and consumables, the volume and quality of services and hidden works provided.

In the second case, the payment for goods, works and services at an overcharge becomes possible mainly because of the pricing methodology imperfection, which sometimes does not allow complying the prices with their market level. Besides, legislative acts on public procurement do not define what a market price is.

The existing drawback in public procurement in terms of pricing serves as a hindrance for the regulatory bodies to assess the damage the budget's ineffective use caused by state officials.

According to Article 34 of Russian Federation's Budgetary Code, budget process's participants, including state and municipal customers, are obliged to pursue their goals by using minimal finance (save the finance) and (or) by achieving the best possible result, using a strictly limited amount of finance, i.e. the customers have to use the budget effectively. What is more, the customers' actions should provide equal competition conditions in order to finally find the best terms for signing a public contract.

The fact that state officials do not obey the aforementioned measures is a sign saying that there is a certain share of informal sector in the public procurement sphere.

The customers have to obey corresponding legal acts, regulating the pricing when calculating the initial maximum contract prices in compliance with the normative, tariff, project-estimated and costs methods. The non-observance of corresponding legal acts should be regarded as law violation. Besides, such legal acts state certain limits to prices which cannot be exceeded.

Moreover, there are no fixed requirements, which should be used as a source of pricing information, when calculating the initial maximum contract prices by means of a comparable price method (market analysis).

According to the Russian Federation's Federal Law №44 Article 22 Part 2, a comparable price method (market analysis) means calculating the initial (maximum) price of a contract, signed with only one contractor, executor (further – initial maximum contract prices), basing on the information on market prices of identical goods, works and services. So, according to Article 22 Part 2 of the Russian Federation's Federal Law the substantiation of initial maximum contract prices needs the data on the prices of identical goods, works and services from two information sources, to which "other information sources" can be referred (according to the Federal Law №44 Article 22 Part 18 Clause 8). It is interesting that the "other information sources" notion has no specified meaning.

On the 2nd June 2013 The Russian Federation's Ministry of Economic Development approved the Order №567 "Recommendations on determining the methods on defining the initial maximum contract prices". Despite the fact that this document describes the formation of initial maximum contract prices by means of the comparable price method (market analysis), general provisions imply that such recommendations are to help customers. The liability for the inobservance of the aforementioned methodic recommendations is not specified. As a result, the customer is free to choose whether to obey them or not.

At present market participants' commercial offers, which are not regarded as offers, according to Article 435 of the Russian Federation's Civil Code, are the most popular sources of information on pricing. It is used by state customers while forming the initial maximum contract prices.

Thus, prices, noted in commercial offers do not impose financial obligations on business entities.

So taking the above-mentioned into consideration, if there are informal connections between a customer and a business entity, which proposes commercial offers, and if these subjects formally obey legal requirements, the final initial maximum contract price can be many times higher than the market price. In addition to it, commercial offers are not required to have the substantiation of the prices suggested and they do not have to correspond to market prices.

Achieving these economic benefits requires consideration of government perspectives on the extent and causes of the issues raised by industry, taking into account the variations in procurement policy and practice across jurisdictions and departments. The core objective of procurement policies across the Australian public sector is to achieve value for money. However, as shown in Figure i, the process of determining the optimal value for money solution through procurement is a careful balancing act. Rather than simply pursuing the lowest cost offering, government agencies must consider a range of factors in order to select the industry offering that best meets end user requirements. Managing this complex decision process efficiently requires a significant level of expertise.

Known by other terms such as: efficiency, value for money, commercially reasonable price, etc., this principle places emphasis on the need to manage public funds responsibly such that prices paid for goods and services are reasonable and represent good value (in terms of quality) for the amount of public funds expended on them. Everyone involved in the public procurement process or directly responsible for facilitating the acquisition of goods and services with public funds, should avoid fraud, waste and abuse of public resources, whether it be through inflated specifications, paying unreasonably high prices for substandard goods, collusion with bidders, or other irregular and unethical practices.

It is worth mentioning that very often the initial maximum contract prices are formed, basing on commercial offers from affiliated business entities. In other words, they have the same founder or director, registered address and so on. Despite that business relations with affiliated business entities are not forbidden, there are certain risks of overcharging goods, works and services.

To provide further insight on the extent and underlying causes of the issues raised by industry, Deloitte Access Economics consulted with four government representatives holding different procurement-related positions within New South Wales, South Australia, Victoria and Western Australia. While government representatives consider that the procurement arrangements in Australia are broadly effective in achieving value for money outcomes, it is acknowledged that improvements can be made. Some of the drivers of unclear project objectives that were identified by government include difficulty of planning prior to cabinet approval, distinctions between end users and stakeholders for different infrastructure types and cultural differences between agencies in their approach to industry engagement. In relation to contracting, government has expressed a willingness to pay for the transfer of risk to the private sector. However, it was acknowledged that government is uninformed about the costs incurred, particularly as they are often hidden by the competitive market. Inclusion of contract clauses is driven by legal advice, rather than economic assessments, and it was considered that the practical benefits of a standard approach offset the benefits of flexibility. However, this may not appropriately take into account the implications of shifting risks to the private sector which they may not be best placed to manage

So, the Russian Federation's Federal Law №44 Article 22 Part 2, does not minimize the risks of fraudulent expenditures and purchasing goods, works and services at an overcharge.

At the same time, the methodology of forming initial maximum contract prices under Order №567 may not be applied as it is recommendatory and it does not provide any price limitations.

The initial maximum contract prices overcharge and further public contract fulfillment under such conditions (or with minimal price reduction) leads to budgetary losses and may indicate that there informal relations between the state customers and business entities, i.e. contractors.

Furthermore, the procurement of goods, works and services under a public contract, under which the initial maximum contract prices are overcharged, should be assessed taking into account the violations in the documentation or during the inspection of suppliers, contractors and executors who might have been given invalid preferences, which decrease competitive procurement's economic effect.

Such violations include:

1. The addition of requirements, limiting the number of potential procurement participants, the addition of impossible indicators, which are in the end excluded or ignored without any sanctions or fines.
2. Conclusion of contracts with procurement participants, who do not comply with the requirements, listed in the procurement documentation or groundless rejection of those participants, who correspond to all requirements.

Apart from the violations connected with the procurement procedure, there is the mismanagement of budget finance, which happens when the state officials do not submit the justification for acquiring goods, works and services. The consequences of such violations include the accumulation of unclaimed and illiquid stocks of goods, some of which have expired and thus cannot be used in future.

Summing up the abovementioned, the improvement of pricing methodology by means of the comparable price method (market analysis) is considered to be the top priority.

The research suggests following set of measures for meeting the aforementioned goals:

1. To set the state customers' obligation at the legislative level to use the pricing information available at a unified public procurement information system, where anyone can find the data on contracts fulfilled without forfeits or inappropriate execution of contracts over the last 3 years.
2. To include the "Pricing" as a subdivision of this information system, which will include general data on goods, works and services' prices acquired under public procurement contracts (distributed by Russian Federation districts, cities, municipalities and so on). Besides, it is necessary to oblige state customers to use this pricing information when forming their initial maximum contract prices.
3. To affirm the maximum level of overcharging the average prices of certain goods, works and services, published by territorial entities (Russian Federation districts, cities, municipalities and so on).
4. To set at the legislative level the methodology of applying the coefficients for recalculating the prices of goods, works and services, taking into account their differences, supply and financial conditions.

5. To set the ban on initial maximum contract prices of certain goods, in case there are many suppliers, basing on commercial offers received from affiliated entities and individuals.
6. To elaborate the criteria and indicators, which can help refer the fulfilled public procurement to ineffective and to define the state customers' activity assessment methodology.
7. To create a methodology of selecting the customers, which will be controlled by the regulating bodies in future.

The abovementioned measures on improving the pricing methodology in the public procurement system will help prevent the overcharging the initial maximum contract prices, bring the prices under such contracts closer to their market rates and allow decreasing the share of informal business in the public procurement sector. This will consequently result in the public procurement economic security level advance.

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