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CORRUPTION RISKS AND RELIABILITY OF THE PUBLIC PROCUREMENT LOGISTICS IN UKRAINE

The main causes of corruption risks in public procurement at different stages of procurement are considered. Certain factors that limit the reliability of the system of public procurement logistics are revealed.

Keywords: *government procurement, logistics, corruption, risks, reliability.*

Formulation of the problem. The critical situation of corruption in the country in general and in public procurement in particular, has recently become the subject of action by government institutions, NGOs and attracts the attention of the general public and some professionals. The above situation has evolved over time and the need for change in this area is declared for a long time at the level of individual government agencies, and international level. However, systemic solution to the problem at the time as the study did not receive.

Analysis of recent research and publications. The problem of corruption is the object of study, including scientists such as V.A. Mandybura, S.G. Batazhok [1] A. Voloshenko [2]. Also actively studied the problem of corruption in public procurement, in particular in the works V.V. Smyrychynskoho [3], A.P. Taranenko [4] and others. However, significant changes in public procurement legislation in connection with the transition of the Law of Ukraine "On state procurement" [5] to the Law of Ukraine "On public procurement" [6] and the introduction of electronic public procurement system "Prozorro", necessitated

analysis of existing and the emergence of new risks to ensure the reliability of the public procurement system.

So **the aim** of this work is to identify specific causes of corruption risks and to analyze the main factors limiting the reliability of the system of procurement logistics in Ukraine in terms of introduction of electronic public procurement system "Prozorro".

The main material. The task of building a reliable system using reduced reliability elements that form it, is not new in the field of research. One of the basic approaches to its solution has been proposed by J. Von Neumann [7]. In a somewhat simplified form philosophy of this approach can be presented as guidance to build a system based on the architecture close to the neural networks. It compensate low reliability of individual elements by branching network connections between them. This approach is a counterbalance to focus on building a highly expensive and complex elements that operate in a system with a single linear links.

In this regard, we can express the opinion that the implementation in practice of the public procurement in Ukraine the "Prozorro" system, which introduces an element of network technologies in relation suppliers, customers and the general public, is conceptually correct decision. However, since this system is partly inherited procedures and mechanisms that were formed in previous times, it is important to critically analyze the experience of public procurement in previous years to prevent recurrence of errors and the discreditation of the new system.

So, consider the main types of corruption risks that may arise at different stages of public procurement.

The first step is to develop procurement requirements and subject of purchase. Already at this stage, a number of risks are aroused. The first one is to create an order for public procurement of goods, works or services that have questionable relevance to the viability of the customer organization, but rather focused on the personal needs of its officials. With this kind of abuse of the new system "Prozorro" quite effectively fights, because in a short time of its existence were detected and blocked announced bids for the purchase on behalf of state, for example, luxury alcohol and tobacco. However, more complex cases can be

detected only by involvement in monitoring procurement the general public and insiders of state enterprises and organizations.

The second kind of risk of forming the subject of procurement is targeting orders for products or services of a particular manufacturer. In this case, there are risks that the manufacturer of a product offering illegal rewards to responsible for creating purchase orders person for inclusion in purchase orders products after its production. To avoid these risks in the law of Ukraine "On public procurement" a rule was laid down that it is prohibited in the specifications indicate specific brands.

The above rule of law reduces the corruption risks of lobbying specific manufacturers, but creates other risks associated with providing proper quality of goods. The fact is that if the client specified in its terms supplying expensive and high-quality product of a certain brand, but according to the law said for that position "or equivalent", it opens the possibility for suppliers to offer instead of quality products its cheaper and lower-quality substitutes. However, due to lower cost, such providers are receiving unjustified competitive advantage over suppliers who, according to customer requirements, attempted to offer specific product or brand, or appropriate substitutes real quality. Of course, in theory, the customer has the right to reject proposals vendors offering poor quality substitutes. But in practice it is often difficult to implement. So there are frequent cases when tender committee agrees to accept proposals for the supply of goods of questionable compliance with the requirements of the customer, but when the need for corresponding goods are already pressing.

So we can say that the problem of formation requirements for goods of certain brands or their equivalents are not regulated and the introduction of electronic public procurement system does not solve it automatically.

The second step is to develop procurement tender documents, where are specified requirements for products or services and to companies that may be their suppliers. Problems concerning the formation of product requirements have been discussed above, so focus on the problematic aspects of the requirements to potential suppliers. These requirements according to the Law of Ukraine "On public procurement" are based on two major articles - 16 and 17. Consider major type of purchases, the use of which implies that the potential customer respond to requirements both Article 17 and Article 16.

The requirements under Article 17 are sufficiently regulated and duty to verify the absence of grounds for rejection under this article mostly translated to customers by introducing open state registers. But the list of grounds for rejection under Article 16 is not sufficiently regulated and their practical application is often difficult. To illustrate this we can cite one of the first recommendation, which was formed by results of examination of the situation in public procurement by Security Service of Ukraine: "in evaluating tender bids customer must check the participants having own production facilities, material and technical base, and well qualified" [8]. It would seem that these recommendations are entirely appropriate and it should be conclusively establish in practice because their logic is designed to prevent participation in public procurement one-day firms. However, in reality the requirement of having own production capacity in the event of its inclusion in the eligibility criteria can be challenged the Antimonopoly Committee as discriminatory. Since it violates the rights of intermediary firms and is contrary to the principles of public procurement (Article 3 of the Law of Ukraine "On public procurement") and non-discrimination requirements for procurement (Article 5 of the Law of Ukraine "On public procurement"). So, participation and winning the tenders by intermediary firms are often the subject of criticism as a sign of collusion or corruption. But on the other hand the exclusion of such firms from participation in tender will also be a direct violation of the law.

As for the other set of criteria, such as availability of material and technical base and qualified personnel, their application allowed by Article 16 of the Law of Ukraine "On public procurement". However, attempts to specify distinctly these requirements is also very easy spinning for customer to accusations in discrimination. The introduction of electronic public procurement system does not solve the problem automatically.

The third step is the submission of participants' proposals. Participants major risks at this stage was to late submission of paper proposals, as they were to be submitted to the address specified by the customer, within a certain date and time. In practice, participants often tend to submitting proposals in the last day (and some - at the last minute). Therefore, there were cases of delayed submission of proposals by individual participants, which led to prevent their participation in the procurement or even the withdrawal of the appropriate procedure (in the case if the total number of participants was lower than required by law).

Transition to the Law of Ukraine "On public procurement" uniquely solves this problem, because participants submit an application for participation in the auction electronically, eliminating the need to get to the customer, to find the necessary cabinets and responsible persons.

The fourth step is the opening of proposals. Corruption risks of this stage were largely eliminated in September 2015, when the Law of Ukraine number 679-VIII of 15.09.2015 was adopted. Before the amendments were implemented, customer had the right do not display the content of offers to the representatives of other suppliers or other independent persons, who present at the opening of tenders. After appropriate amendments, representatives were entitled to review the contents of their competitors offer. But the greatest extent of all abuses during opening offers are removed by the implementation of the Law of Ukraine "On public procurement", because disclosure of paper proposals abolished and replaced by an electronic auction.

The fifth step - consideration and evaluation - was not significantly changed from the point of view of corruption risks in connection with the transition to the new law. However, some simplification for customers is that they must not consider all proposals of participants, but only of the winner. It will significantly increase the reliability of public procurement.

The sixth step - a contract - undergone significant changes. At this stage some improvement concerning time limitation for contract signing expecting.

The seventh step includes quantitative and qualitative control of conformity of products that actually supplied to requirements of the contract signed on the results of the procurement procedure. This stage is closed and the introduction of "Prozorro" does not allow to eliminate existing threats at this stage.

The eighth stage relates to payments made to the supplier. At this stage there are corruption risks of delaying payment from the customer. The transition to e-procurement system automatically doesn't solve this problem. However, additional public control in this area is created through the introduction of "e-data" portal and creation the portal of public finances of Ukraine (site http://spending.gov.ua/). His features, among other, can detect a

particular "preferred" suppliers, who get payments instantly, and "outsiders", who used to wait for payment for a long time.

But the general problem, that threaten the stability of the process of procurement in public sector, is that public procurement system provide no conceptual orientation on ensuring the reliability of the service objects – the state enterprises and organizations. In this system some "protections" provided, but conceptually orientation of the system doesn't ensure reliability. Only repeated failure of the procedure (and only if just one of the many reasons - failure to offer a sufficient number of participants) can be given to the application "fuse" - the negotiating process.

Under condition of the absence of opportunities for early conduction of the procedures, the high probability of failure of the announced procedures and the considerable time required for repeated procedures, the reliability of the functioning of the procurement system is extremely low. The specified situation requires studying and correction, because it invokes the risks of unstable functioning of state customers and discrediting the new "Prozorro" system of procurement.

Conclusions. Thus, according to the results of the analysis, it can be noted that the introduction of the "Prosorro" system has the potential to reduce corruption risks in the field of public procurement and can positively affect the reliability of its functioning. However, solving the problem of ensuring the stability of the system of public procurement in the long run requires the inclusion of the principle of reliability to the conceptual framework of the functioning of this system.

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КОРУПЦІЙНІ РИЗИКИ ТА НАДІЙНІСТЬ СИСТЕМИ ДЕРЖАВНОЇ ЗАКУПІВЕЛЬНОЇ ЛОГІСТИКИ В УКРАЇНІ

Розглянуто основні причини виникнення корупційних ризиків в сфері державних закупівель на різних етапах закупівельної діяльності. Виявлено окремі фактори, що обмежують надійність функціонування системи державної закупівельної логістики.

***Ключові слова**:* державні закупівлі, закупівельна логістика, корупція, ризики, надійність.

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КОРРУПЦИОННЫЕ РИСКИ И НАДЕЖНОСТЬ СИСТЕМЫ ГОСУДАРСТВЕННОЙ ЗАКУПОЧНОЙ ЛОГИСТИКИ В УКРАИНЕ

Рассмотрены основные причины возникновения коррупционных рисков в сфере государственных закупок на разных этапах закупочной деятельности. Выявлены отдельные факторы, ограничивающие надежность функционирования системы государственной закупочной логистики.

Ключевые слова: *государственные закупки, закупочная логистика, коррупция, риски, надежность.*