

## THE WAYS OF IMPROVEMENT OF BUSINESS ENVIRONMENT BY ORGANIZING PUBLIC PROCUREMENT SYSTEM IN UZBEKISTAN

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### **Abstract**

*The article illuminates the issues of adaptation of the public procurement system in the Republic of Uzbekistan to modern requirements and involvement of business and entrepreneurship entities in the process.*

*The article describes the issues of adaptation of public procurement to modern requirements which was the source of involvement of business and entrepreneurship entities in the Republic of Uzbekistan. The legal basis of the system of public procurement, which has been implemented in 2011 in a completely new context, presents the problems arising in its activities and gradual solution of the problem. Stock exchange organized the relationship between customer, supplier and the commodity were discussed in the article.*

**Keywords:** *business and entrepreneurship, public procurement, stock exchanges, customers, suppliers, budget recipients, trade.*

**JEL classification codes (1969):** *H57 (primary); M21 (secondary).*

### **Introduction**

It is important to note that in the period of Independence, Uzbekistan has established a stable legislative base that strengthens the priority of private property which was the basis of the market economy. The development of small business and private entrepreneurship plays a great role in the formation of the middle class, sustainable growth of the economy, creating new jobs and increasing incomes.

It is well known that the role of small business and private entrepreneurship in the economic and social development of the country is invaluable [1]. This field is characterized by the enthusiasm that comes with seeing the results of this work while at the same time encouraging many people to engage in various activities. The majority of those working in this area are self-employed, that's why it causes the effect of relieving the social environment in the community [2; 3; 4]. Moreover, any resource cycling in this area is very dynamic and it can represent industry and sectors that promote the economy.

### **Initial results**

From the beginning of the second decade of the 21<sup>st</sup> century, special attention was paid to the development of business and entrepreneurship relations in the country. In order to improve the business and entrepreneurial environment and to ensure the development of business entities, the method of public procurement is widely used.

In order to strengthen the legal basis of this process, the following regulatory and legal acts have been adopted:

- State Program of the President of the Republic of Uzbekistan “Year of small business and private entrepreneurship” 07.02.2011 y. Act No. PA-1474;
- The act of the President of the Republic of Uzbekistan “Optimization of the Public Procurement System and Expanding the Attraction of Small Business” 07.02.2011 y. Act No. PA-1475;

- “On Measures to Improve the Legal Framework for Public Procurement” of the Republic of Uzbekistan dated 01.04.2011. Act No. 100;
- The act of the Republic of Uzbekistan about “Public procurement” 9.04.2018 RUA № 472 and others.

Public procurement is the process of procuring goods in whole or in part from public funds [5]. Public procurement is carried out with the purpose of logistical support of public infrastructure. "Public procurement is the receipt of goods (works, services) which is paid by state customers on a paid basis" [6].

#### Main results

Governmental infrastructure can be divided into two large parts:

- economical infrasatructure (transport, utilities, the infrastructure serving to carry out current economic activities);
- social infrastructure (schools, hospitals, libraries, or in other words, the infrastructure that serves the life of the community).

The subjects of public procurement system in the Republic of Uzbekistan are:

1. Customers of the government
2. External supervisory authorities (Chamber of Accounts, Cabinet of Ministers)
3. State and economic management bodies (Ministry of Finance; Ministry of Investment and Foreign Trade; Uzbekistan State Architectural Construction);
4. Suppliers;
5. Organizations which are involved in the procurement process (transport companies; consulting services; Commodity Exchange of the Republic of Uzbekistan).

Government customers are divided into 2 parts: budget and corporate customers.

**Table 1**

**Structure of state customers [7]**

<b>Budget customers</b>	<b>Corporate customers</b>
Governmental agencies	Governmental companies
Budget organizations	Legal entities who has 50% or more state share in the authorized capital
Recipients who take budgetary funds allocated for procurement procedures	legal entities with 50% of the authorized fund (authorized capital) and more than 50% or more of the state shares
Targeted Funds of the State	

The process of public procurement consists of 4 stages:

- Planning of procurement;
- Arranging Procurement;
- Sign up contracts and execute them;
- Controlling.

The process of professional development of budget recipients on introduction of the public procurement system is underway. Branches of the Uzbek Republican Commodity Exchange, Regional Treasury Department and division of the Ministry of Finance, Ministry of Finance and training centers in the financial and accounting sphere of budget organizations of the staff and are actively involved to this process [8, p.27].

Certainly, at first (to be more clearly in 2011) it took some time to start the process of e-commerce through the electronic portal of the Uzbek Republican Commodity Exchange. The following problems were encountered during the implementation of this process, which were later gradually eliminated [9]:

- Because of the large number of budget recipients, it was difficult to cover them all with brokerage services. After some period of time, the leader who is in budget recipient was able to have a guarantee the right to trade on behalf of his organization.
  - Taking in consideration of the computer equipment for budget recipients in remote areas, difficulties connecting to the Internet, problems with the presence of electricity in some areas, finance departments of some district and Treasury divisions had an opportunity to have one room from their premises.

- some district finance departments and Treasury divisions jointly allocate one room from their premises; It has been handed over to the budget recipients by providing it with several computers and connecting it to the Internet. They provided computers and the connection of the Internet by budget funds.
- There were also small businesses that won the budget orders from the budget recipients but did not provide them. In this case, it was given the necessity to control the electronic portal of the register of unreliable sellers and customers.

Accreditation of the budget recipients is carried out by The Ministry of Finance of the Republic of Uzbekistan and automated centralized mode of electronic databases of the stock exchange[10].

Accredited customers who receive budgetary funds, when presenting their bids for the first time (independently or through agents<sup>1</sup>), should present notarized signatures of the head of the customer and chief accountant of the customer [11].

Applicants for accreditation of customer who do not receive budget funds submit following documents to the Stock Exchange:

- Application form;
- Copy of the certificate of state registration<sup>2</sup>;
- Notarized card with the signature of the head of customer and the chief accountant.

An applicant<sup>3</sup> as a supplier submits following documents to the stock exchange:

- Application form;
- Copy of the certificate of state registration;
- Notarized card with the signature of the manager and chief accountant of the supplier (for budgetary organizations - approval may also be made by a higher organization);
- certificate which is issued by the tax authorities on the number of employees and belonging to small businesses<sup>4</sup>;
- a copy of the relevant license or permission certificate<sup>5</sup>.

Suppliers are responsible for the accuracy of the information.

Accreditation of customers and suppliers is free of charge and is of unlimited position. Customers and suppliers are required to submit written information to the Exchange within five days, in case of changes in organizational-legal form, name, address, bank details or other changes affecting the status or duration of accreditation.

By the results of accreditation Stock Exchange should:

- according to the individual user number<sup>6</sup> of the customer (supplier) opens a separate personal account of the customer (supplier). Advance payments from customers and financial pledge of suppliers are credited by Accounts Chamber's<sup>7</sup> and required secondary deposits will be taken into account personal accounts;
- it provides e-mail addresses to customers and suppliers, which is includes sales and other necessary information.

The Customer may participate in the bidding either independently or through an agent, they should do:

- the article of the announcement of the bidding should be replaced on the special

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<sup>1</sup> a legal entity is a person who has passed the procedure of accreditation at the exchange and provides professional services to customers and suppliers on their participation in e-auction on a contractual basis.

<sup>2</sup> Individuals with copy of passport

<sup>3</sup> An economic individual expressing his intention to participate in electronic auction bidding and deliver goods (works, services) in case of winning the auctions

<sup>4</sup> For small business individuals

<sup>5</sup> if the activity connected with performance of works or rendering of services, requires licensing or obtaining permits in accordance with the legislation

<sup>6</sup> customers and suppliers of the Exchange Accounts Chamber

<sup>7</sup> Structural subdivision which provides depositing appropriate advance payments and financial allowances of the exchange's customers and suppliers, performing contractual obligations by way of records and putting suppliers into electronic auction

- information portal<sup>8</sup>;
- to perform the subject of bidding on a written or electronic way, and to provide and estimate documentation (with the exception that cases are designed in parallel with the legislation) in case of bidding for services.

The trades will be conducted taking into account the requirements which was set out in the bid announcement.

Relationship between customers and suppliers with their agents, including the price of reward of the agent, will be determined by the contract which was assigned between them. The price of reward of the agent may not exceed the limit, because of it was determined by the stock exchange with the agreement of the Ministry of Finance, the Ministry of Economic Development and Poverty Reduction of the Republic of Uzbekistan.

Customers who passed accreditations in order to participate in bidding should pay advance payments to their personal accounts within the secondary deposit account of the Accounting Chamber, to provide the exchange commission fee of 0.05% of the starting price, but not later than twenty-five days from the date of announcement of the bidding.

Payments which was paid by the customer in advance will be blocked by the electronic system<sup>9</sup> until the winner will be selected.

Suppliers who passed accreditations in order to participate in the bidding must pay a financial guarantee in the amount specified in the prior bidding announcement, but this price should be no more than three percent of the starting price for their personal accounts, within the secondary deposit account of the Clearing House.

The financial pledge which was paid by the supplier will be blocked by the electronic system, until the winner of the trade is selected, or, if the supplier's offer will not be the best and suitable, in this case the written form of supplier's notice from the lot will be taken.

When the supplier leaves the bidding, his pledge must be credited to his required deposit account within one working day from the date of receipt of his written notice, or upon his written request to be accepted for further participation in other bidding.

If supplier leaves the bidding, his pledge must be credited to his required deposit account within one working day from the date of receipt of his written notice, or upon his written request, should be accepted for further participation in other bidding.

The announcement of tenders which was given by the Stock Exchange and submitted by the Customer independently or through his agent, must be posted on the special information portal within one day from the date of their submission. Announcement of public procurement of goods, carried out at the expense of centralized sources determined by the Government Commission, must be posted on the special information portal not later than 30 days before the date of determination of the supplier or the winner of the bidding.

For placement of the announcement on the special information portal, the agent charges a fee in the amount not exceeding the amount which was established by the exchange in consultation with the Ministry of Finance and the the Ministry of Economic Development and Poverty Reduction of the Republic of Uzbekistan.

The bidding announcement must contain the following information:

- name and address of the customer;
- the sources of financing of the trade;
- the first and the last day of the trade (deadline of the trade);
- the starting price of the subject of the trade;
- description of the subject of the trade (specification of the trade);
- dividing the subject of auctions by lot and the quality of each lot;
- terms and conditions of supplying goods, performing works and rendering services;
- location (address) of goods which should be supplied, works and services.

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<sup>8</sup> a special site of the exchange, which provides the location and review of bidders' announcements on electronic auctions and other necessary information for customers

<sup>9</sup> ordering system for purchase of goods (works, services) between suppliers through the use of software and hardware complex that ensures bidding for all who are interested in it.

If, in accordance with the legislation, some types of goods (works, services) are procured exclusively or predominantly from small businesses, this condition must be included in the bidding announcement.

Bidding is conducted in an electronic system and starting price reduces gradually. The size of the stage is determined by the exchange.

Organizing trades, bidding on each lot according to the amount of financial paid pledge, identifying winners of the bids and registration of transactions and drawing up of the protocol of the sale (ticket) is carried out by the electronic system of software complex.

As the operator of the electronic system the Exchange is obliged to provide:

- non-stop system of wireless network;
- tenders should be organized in accordance with the requirements of the legislation;
- in spite of the location of all suppliers put up for auction on this lot, it should give all of them an opportunity to participate in bidding;
- conducting and summarizing the results of tenders should ensure publicity and transparency;
- the equality of rights of all accredited participants of the auction;
- the objectivity of identifying candidates by automating the process of determining the best bid applications;
- to provide applications by put up trades, only in case, after they have paid the suppliers a fixed amount of financial.

Reception of suppliers' bids will begin from the moment when the customer or his agent put in the electronic system for purchase in the electronic system, provides advance payment to the customer's personal account within the secondary deposit account of the settlement of clearing house.

The names of the customers who passed accreditation and their contact details will not be mentioned in the electronic system.

During the bidding, the electronic system automatically chooses the lowest price from the suppliers' orders, and at the same time it will be displayed in an electronic system and will be available to all bidders, customers and suppliers.

If there are at least two suppliers in bidding, in this case trades are considered as valid.

If less than two suppliers participate in the trade, the bidding will be considered invalid, the winner will not be determined and trades may be repeated.

If tenders conduct on public procurement, if suppliers do not have bids, or suppliers are offered higher than initial prices, whether a public procurement of foodstuffs is declared by the supplier of budgetary funds, in this case placement of the order without holding of repeated bidding is possible with the consent of the Treasury of the Ministry of Finance or its territorial subdivisions.

To coordinate the decision of the placement of the order for public procurement without repeated bidding, the customer which is the budget recipient, sends a written request to the exchequer department with attached copies of the public procurement documents and the failed bidding.

The duration of the agreement on the placement of orders without conducting repeated bidding should not exceed three working days from the date of receipt of the request for approval by the exchequer department.

The contract with supplier without conducting repeated bidding can be placed on a special electronic portal on the terms and conditions stipulated in the announcement. In this case the price of the contract should be:

- the price of the bidder which was in the event that only one supplier was offered the lowest price of the trade;
- if there were no offers from suppliers in the trades, whether the prices offered by the suppliers were higher than the starting price, in this case the starting price should not exceed more than 10% .

When it will be high time to finish the bidding, the system will automatically determine the lowest bid submitted during the entire trade process. The name of the supplier will be displayed on the electronic system. According to the electronic system, the requirements which are set out in the customer's application, executes the protocol between the exchange and the supplier or the winner of the trade.

The trade report in hard copy shall be signed by the exchange or the regional trade floor of the exchange and the supplier (his agent) in duplicate, one of which is issued to the customer (his agent).

The written form of trade statement should be signed by stock or regional trade area of the exchange and must be signed by the supplier (his agent) in duplicate, though one of them will be given to the customer (his agent).

After the winner has been determined, the customer and the winning supplier must sign the contract within five business days.

In case of rejection or refusal of the customer to conclude the contract, the supplier may apply to the court for compensation for losses incurred by the refusal of the contract.

Information on the customer's refusal about the conclusion of the contract for public procurement should be sent to the Government Commission to take action against the public officials violating the public procurement legislation.

In case of failure or other refusal of the winning supplier to conclude the agreement, his budgetary assurance, aside from the trade charge, will be credited to the deposit account of the customer within one week from the date of assurance of the winner as compensation.

In case of rejection or refusal of the supplier to conclude the contract, the customer has the right to apply to the court for compensation caused by the rejection of the contract. The supplier, who won the bidding but refused or rejected the trade he or she will enter into the register of irresponsible suppliers, but cases of rejection due to force majeure circumstances is the exception of the rule.

Suppliers included in the list of irresponsible suppliers will not be allowed to participate in the trade within six months. Information on the inclusion of the supplier in the register of irresponsible suppliers is posted on the special information portal.

In case of rejection or refusal, the winner of the bidding and the supplier, who offers the best price for the customer, will be considered the winner of the bidding if the supplier agrees to declare the winner of the tender and concludes the contract. The contract with the second bidder will be concluded based on the price of the trade.

According to the settlement of the clearing exchange chamber collects 0.05% of the actual sum of exchange in favor of the exchange from the amount of advance payments of customers and financial compensation of suppliers.

After entering into a contract with the customer and the winning supplier, the exchange (or the regional trading floor of the exchange) registers the specified contract within one business day.

The development installment of the client by trade and the rest of the money related security of the winning provider, ought to be credited to their necessary store accounts within one working day from the date of the agreement or as indicated by their written notification it can be credited with the development installment for other exchange.

The financial security of the supplier who is not recognized as the winner of the auction will be returned within one working day from the moment of the winner's determination.

Table 2

**Responsibility of the bidders [12]**

<b>Customer</b>	<b>Supplier</b>	<b>Stock Exchange</b>
Reliability and compliance of the documents submitted for bidding;  To conclude a contract between winning bidder and supplier or customer who won the trade and suppliers should adhere the refusal deadline of the contract;  To provide reliable information to monitor the implementation of the Regulation during the public procurement of goods by	Reliability of the documents which is submitted for bidding;  The compliance of quantity, quality, technical parameters, as well as terms and conditions of supply of goods (works, services), terms and place of supply, the conditions in the customer's application;  Other violations of the terms of the bidding;	Announcement of tenders should be announced on the special information portal;  Accreditation of customers, suppliers and their agents or to sell their unjustified refusals, or their limitation in the trade;  Adherence to procedures for organizing and conducting the trade and determining the winner customer;

<p>the customer to the working body of the government commission;</p> <p>To keep the originals of the bidding announcements and technical documentation within five years upon completion of the contractual obligations between the parties.</p>	<p>Failure of the terms of the contract</p>	<p>Violation of the terms of signing the trade or refuse to sign up;</p> <p>Uninterrupted operation of the electronic system and special information portal;</p> <p>Registration of the contract by the parties based on the results of bidding</p>
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Taking everything into account, it can be concluded that, the gradual introduction of the public procurement system so as to guarantee the effective use of public funds in the conditions of modernization of the economy will inevitably give its positive results.

### Conclusion

In conclusion, we can say that the organization of trading through the electronic portal in the near future will have the following effects:

- It allows more effective use of budgetary and extra-budgetary funds of budget recipients;
- Involving small businesses in the public procurement system, allows to produce regular goods (works and services) and ensure the development of small businesses;
- Special attention will be paid to computerization of budget recipients and access to the Internet;
- It encourages to make a plan ahead of time execution of budget expenditures approved by the head (and accountant) of budgetary organization

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