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E-PROCUREMENT AND THE PROBLEMS THAT ARISE IN THIS SPHERE

The Verkhovna Rada of Ukraine on December 25, 2015, adopted the Law of Ukraine "On public procurement".¹ The purpose of this Act is to ensure effective and transparent procurement, establishing a competitive environment in public procurement, prevention of corruption in this sphere, development of fair competition.

The main condition for the implementation of public procurement is the use of an authorized electronic platform that constitutes an authorised information-telecommunication system, which is part of the e-procurement system and ensures the registration of persons, automatic placement, reception and transmission of information and documents during the procurement procedures, the use of the services with automatic exchange of information, access to which is carried out with the help of the Internet.

The reform in the sphere of procurement for state funds and local budgets is not limited only to the adoption of the Law. The e-procurement ProZorro system was developed and successfully implemented as well. The main principle of the ProZorro system is "everyone sees everything". Now anyone can find out who, what and how buys for taxpayers' money.

Objectives of the reform:

1. The elimination and systemic prevention of corruption
2. Transparent public procurement
3. Inadmissibility of discrimination and objective assessment of tenders
4. Simple application of the procedures
5. Implementation of electronic workflow
6. Full accounting and analysis of all public procurement.

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The idea of the reform:

Launching a full-cycle electronic system of public procurement. In the ProZorro system, the Central Database and auction module (bidding) are designed by the team of the pilot project and are transmitted to the state administration. Prior to transmission to the state, the system technically belongs to the Transparency International.

Principles of the reform:

1. Implementation of the reform through public/private partnership (PPP)
2. Promoting maximum participation of all the stakeholders in the reform
3. Transparency in all decisions
4. Crowdsourcing and crowdfunding, public involvement
5. Accessible software code, standard protocols of data exchange
6. Principle “from simple to difficult”

Since August 1 this year, the e-procurement system ProZorro has become mandatory for all government customers. The new system has made public procurement open and competitive. But apart from openness and economy, an important factor of success is actually the ability to provide the ultimate result – providing the state customers with goods, work and services of necessary quality. Analyzing the tenders, we see that there is a problem when the tender doesn’t take place because a sufficient number of participants just do not come. But there are a number of certain causes, due to which the tender is not attended by a sufficient number of participants. They can be divided into those that are caused by characteristics of the market and those that are specific to the customer’s requirements. The first group should be primarily attributed to lack of awareness of business arrangements in the Prozorro system, unreadiness to work in an open environment, in particular for fear of opening their information to competitors. This factor may increase in some cases when the market has a limited number of players.

However, many tenders do not occur through specific requirements of the customer. The reason is that threshold procurement (the budget of 200 thousand UAH for goods and services and 1.5 million UAH for work) are often held by customers
not in a single tender, but are divided into several tenders within a year. Using such a small budget, the participants are simply not interested to participate, especially given the fact that they occur on some complicated procedure of overthreshold procurement. But if the purpose of the public authority is still to obtain a certain product or service, it is desirable to declare purchases that might interest entrepreneurs.

Another point connected with the budget of the tender, may be in the understated amount on the stated purchase subject, however, only someone who is really knowledgeable in the specifics of this market is able to identify this problem.

Many potential bidders are deterred by these requirements in the tender documents, which cast doubt on the transparency of the procurement, do not prescribe clear requirements to the subject of trade, payment terms and conditions of the contract, provide for a large number of unnecessary documents, or vice versa – there is no description of the documents, submission of which is mandatory according to the law "On public procurement". There are such cases, when the requirements of the tender documents are issued in such a way that a sufficient number of participants do not come to the tender.

There are three main reasons for the existence of the above situations depending on the customer's intentions.

1. Objective conditions of the activity, which led to unattractive conditions of the tender, such as low funding of certain expenditures, specific character of the subject of procurement or an attempt to protect themselves from unscrupulous supplier by way of more stringent criteria.

2. Lack of professionalism of the customer in drawing up tender documents.

3. Deliberate scaring away potential participants with the purpose of holding the tender for the negotiating process with a "favorite" supplier, because according to the Law "On public procurement", if the purchase does not take place twice, due to the absence of participants, it can be done through negotiations with one bidder.

Another problematic aspect is the uncertainty of the timing of payment and a risk of non-payment for reasons of absence of funds on the account in the Treasury.
Somewhat less often in the auction there occur disadvantages associated with the subject of procurement. They appear as vague requirements, which describe a certain product or the documentation related to it.

Another feature that may reduce the incentive for participants to take part in certain tenders is a requirement to provide copies of GOST, DSTU, technical specifications and other standards according to which the products are made. And if you purchase a small quantity of goods, the provision of such copies is not a problem, but in case where the quantity of goods is large, it's just extra work for the participants to scan each standard. The opposite is the situation when vice versa – the tender documents don’t describe the procedure of providing the documents that are required by the law. ²

To overcome the above-mentioned negative factors in procurement it is necessary to improve the professional standards for all bidders in this sphere. Today, seminars on issues of procurement are held, clarifications by authorized bodies are provided, but given that the procurement procedures electronically are a new activity, the participants still have a lot of issues ranging from purely technical, regarding the performance of sites to the accordance of a particular procurement with the standards of current legislation in various fields. An important role in this process is played by the factor of confidence in the system as a whole, as well as credibility to the state, bodies of state power and bodies of local self-government. Some time must pass so that the participants and those wishing to participate in procurement can without fear go to the site and carry out effective purchases.

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