

Public procurement in the field of public administration in the Czech Republic, selected aspects

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Abstract: This paper is dealing with the analyses of transparency of public procurement in the field of public administration in the Czech Republic and factors influencing transaction costs and transparency. It is analyses influence o administrative burden and transaction cost on transparency of public contracts. The study is providing towards to the Czech Republic which the one of member state of the European Union. This study and problems with transparency and transaction costs have been demonstrated on the analyses of legal environment and the practice and on sample of contracts awarded by public administration bodies. The public procurement is efficiency when is the balance between transparency (level of competition) and the transaction costs. In this article we concern with some factors of transparency of administrative procedures. According some point of views, there is traditional dominance of formal analysis of tender procedure. It is also an important economic (material) aspects of public procurement.

Key-Words: Public procurement, factors of transparency, new European procurement directives, Anova model, public expenditure

1 Introduction

The issue of public procurement is relevant in that it ties a significant amount of resources (R. Jurčik, 2007). From factors influencing the efficiency of public procurement, there were identified transparency of public procurement, effective administrative award procedure and appropriate evaluation criteria (F. Ochrana, 2001). The aim of this article is to analyse closely transparency of public procurement. Furthermore, the article discussed effectiveness of the public procurement through defining transaction costs. The main added value of this article is prepared in the context of a comprehensive evaluation of transparency of public procurement procedure and to help possible improvement of future procurement policy.

In the first part of the report, there is presented a definition of a transaction cost and are described circumstances of public procurement transaction costs. Furthermore, in the paper there would be recognized various procedures and techniques (across countries, over time, and in sectors), that can influence the costs and effectiveness of administration and participation in selected tender procedures foreseen by Czech legislation in comparison to European Union procurement legislation. The transparency mechanisms for public procurement are defined by the array of norms that determine what information is to be made public

and in what manner. In the Czech Republic the transparency of public contracts is primarily determined by Act No 137/2006 Coll., on Public Procurement (hereinafter the APP), which defines the scope of information obligations for the contracting authority (which information; when, how and for which contracts it is to be published). Secondly there is also Act No 160/1999 Coll., on Free Access to Information, which gives anyone the right to obtain further information that the contracting authority is not obliged to publish. This act does not however ex-ante determine the scope of available information necessary for the bidders and public oversight bodies at the moment the tendering process is begun, but entitles them to request information of a public character. The essential obligatory mechanism for publishing information in the Czech Republic is VVZ, which allows systematic and central publishing of information and remote unlimited access via the internet (see more Ministry of Interior, 2003).

In the conditions in the Czech Republic it is possible to identify the following areas of low or zero transparency in the issuing and implementation of public contracts.

Contracts for which there is no legal obligation to publish any information make up a significant portion of the contracts on the public contract market. In 2010 such contracts made up 44 % of the total financial resources put into public contracts.

The majority of this volume was comprised of so-called "small-scale public contracts" (hereinafter SSPC), to which none of the provisions of the APP apply, nor are they subject to any information obligation.

Contracting authorities generally do not inform the public or the market of planned public contracts ahead of time. The creation of public projects thus often takes place in an isolated environment without the advisable supervision of the professional and general public over the establishing of public needs and the subject and conditions of the tender. The absence of equal access to basic information about future contracts reduces the ability of suppliers to properly prepare for the public contract and increases the risk of manipulation of contracts in the form of the provision of key information to preferred suppliers. The level of official preliminary notification about planned contracts is very low. For example, of the total of 2 918 above-threshold contracts in 2009, prior notice was only provided for 160 of them (5.5 %).¹

Information on the course of the bidding procedure is not generally publically accessible. It is thus not possible to effectively watch over the contracting authority's actions from the outside, in particular whether they chose the truly most economically advantageous offer.

Also not generally accessible is basic information about the result of a public contract. The information obligatorily published in the information system is the selected supplier and the price of their bid. In practice however it is quite frequent that changes are made to the contract's parameters and price during implementation. Completed contracts are therefore not subjected to general public control of whether they correspond to the original intention and fulfil the promised functions.

The situation is likely similar for the voluntary publication of information about SSPCs on the websites of contracting authorities. For example, on the basis of a study of the 70 largest municipalities in the Czech Republic in 2008, an average of 41.2 % of cities informed about the declaration of SSPCs, 12.3 % of cities informed about the course of the bidding, and 2.1 % of cities informed about the conclusion of the bidding (own, research, Pavel, 2005).

¹Own research was based on data from Journal of Procurement (www.vestnikverejnychzakazek.cz).

2 Problem Solution

The economic significance of public procurement in Europe is considerable, with yearly purchasing valued at 3,5 percent of the region's GDP. The aim of this study is to analyze an effectiveness of the public procurement through defining transaction costs. The article is prepared in the context of a comprehensive evaluation of transparency of public procurement procedure and to help possible improvement of future procurement policy. In the first part of the report, there is presented a definition of a transaction cost and are described circumstances of public procurement transaction costs. Furthermore, in the paper there would be recognized various procedures and techniques (across countries, over time, and in sectors), that can influence the costs and effectiveness of administration and participation in selected tender procedures foreseen by Czech legislation in comparison to European Union procurement legislation.

2.1 Effectiveness and relation to the transaction cost

Effectiveness is the main objective of the institute of public procurement and should be managed by providing better services to the public at a lower price than it is possible to achieve by the public sector.

The effectiveness is dependent on the type of production. Many economists then raise the question about institutions, i. e. corporations, markets, franchises, etc., minimize the transaction costs of producing and distributing a particular good or service, and the response tend to specific of a contract involved.

2.2 Transaction cost evaluated by Anova model

Pavel in 2005 suggests analyzing questions of transaction costs in procurement by institutional economics theory. It is based on three main assumptions; first of all "bounded rationality", which means that imperfect contracts are due to the limited rationality of individuals, and these agreements suffer from necessity of additional costs (ex-ante and ex post). "Existence of opportunism" means that benefits extension may be carried out by using methods that are not entirely moral, and in some cases even not legal. Protection against the practice brings additional costs (ex-ante and ex post). The "existence of specific assets" is mentioned as the last one.

Comparably, Williamson (1981) said, that the amount of transaction costs which is relevant when deciding on ways how to ensure certain activities is influenced by three factors: specific activities, measurability of output and input frequencies.

The above described assumptions have serious implications for the analysis of the relationship between government and market actors in the implementation of public procurement.

The key assumption for the “rational” decision-making of public entities is the ability to realize the contracted goods and further quantify or at least estimate the size of the transaction costs associated with the implementation of the contract.

The question of measuring the amount of transaction costs is tricky. The problem is that these costs are not in most cases evident, mostly are not defined separately (in many cases there is a period of savings of scale).

In measuring the value of transaction cost in public procurement it is necessary to realize that there have not been only the public authorities with their costs but also the private sector. It is therefore important to recognize that in order to achieve maximum effectiveness, it is necessary to ensure minimizing both types of transaction costs, not only the public sector transaction costs.

Pavel gives examples of transaction costs related to procurement. Transaction costs in public sector are connected with organization and administration of public, competitions, compensation of independent experts, legal knowhow of contracts, public tender reestablishing, costs arising from the delay in the implementation of public contracts, and lawsuit. In private sector, we can define processing applications, obtaining a qualification requirement, security deposit, and lawsuit.

Transaction costs regarding to the public procurement in public sector are estimated around 1.6 % of the contract value. For example Walsh – Davis estimate that these costs are limited to the ex-ante cost and do not cover monitoring and eventual bargaining activities. Conversely, the costs associated with monitoring were quantified by Audit Commission and is estimated at 3-4 % of the contract value.

In the Czech Republic, there has not been made any underlying attempt to measure the transaction costs in the area of public procurement; and it is the intention of the authors to research the issue as a part of the thesis.

Though, one of the kinds of measurements of transaction costs connected to tax system presented Pudil et al. The methods used in this study may obviously be used after appropriate adjustments,

even in the case of public procurement. However, this approach will not be useful for estimating the ex post transactional costs arising due to non-compliance with the concluded contracts, because there will not be periodic tasks.

The largest positive economic work published until now focusing on transaction cost of public procurement in European Union is a study prepared for the European Commission in March 2011. Especially the second part of this paper introduces transaction cost analysis based on data from more than half a million of purchases published during Tender Electronic Daily (TED) for 30 countries in the years 2006 - 2010. Another source of data was a survey between 5500 and 1800 to the contracting authority suppliers. The study shows that there are significant differences among EU countries. Transaction costs in the Czech Republic are below average. The most important factor will be the labour cost, which is not still as high as in Western Europe.

Total cost of public procurement in Europe is estimated at about 1,4 percent of purchasing volume. This equates to about 5.3 billion euro in 2009 term. Businesses account for 75 percent of these costs. Although the unit costs for developing a request and managing the process are higher for authorities, the fact that several bids are prepared and submitted for each tender explains the higher total costs for suppliers. The average competition uses the equivalent of 123 person days of resources; in monetary terms this equates to 28.000 euro.

There is much difference in cost effectiveness between countries. For example, in Germany and Norway the process cost of procurement reaches above 4 percent of total procurement volume, while in the UK and Italy the share is less than 1 percent (R., Jurčík, 2012).

2.3 Factors related to transparency

Public procurement is one of the area's most vulnerable to corruption in the Czech and Slovak Republics. Public tenders are always in the viewfinder of corruption actors because they present real financial transfers between private and public sector and therefore they could be used as corruption tool for legal looting of public budgets. Working on the assumption that a sufficient extent of competition on the offering side is a condition for an efficiently working public procurement system and being able to estimate the average number of submitted offers of such a procurement procedure then a sufficient number of offers makes it possible, due to the existence of a competition effect

(inversely proportional relation between the number of submitted offers and the tendered price), to achieve favorable prices for the contracting authority (Ochrana, F. Maaytova, A., 2012).

The transparency of individual phases of public procurement

In order to identify the desirable level of transparency for public contracts it is useful to first lay out the corruption risks in terms of the individual phases of the whole procurement process and realization of the public contract

During the individual phases of the public procurement process, the below corruption risks can occur, which also determine the reasons for setting the desired level of transparency. Naturally, with respect for the corruption formula, transparency cannot be the sole, all-encompassing tool for reducing the risk of corruption (M.I. Muntean, 2010). It is just as important to establish a system of individual accountability, rules for decision-making, division of decision-making powers among multiple subjects, internal and external oversight, etc. In light of the nature and goals of this analysis we shall however focus only on the area of transparency, which can significantly eliminate certain general corruption risks.

General corruption risks in the public procurement process

Needs assessment phase: the planned investments are not necessarily evaluated well economically. The price of work, services or goods can be inflated to the advantage of a certain supplier. The needs themselves can also be purposefully defined impractically and a completely purposeless and senseless project can be demanded only in order to provide profit to a selected supplier.

Preparation phase/process design: the competition conditions are purposely set ahead of time to suit the preferred supplier; competition is thus practically impossible or severely limited. Such manipulation can naturally also be carried out through invited consultants or mandataries who represent the contracting authority in the proceedings. In particular for more extensive and technically demanding projects it is difficult to monitor and evaluate to what extent the competition conditions are discriminatory.

Contractor selection/award phase: the risk that the deciding party will be influenced by various kickbacks, bribes or conflicts of interest. These risks grow if the evaluating criteria allow for subjective or even "arbitrary" interpretation and the whole background of the selection process is not made public.

Contract implementation phase: the selected supplier can compensate the costs of bribes in two possible ways: (i) by lowering the quality of the work or providing incorrect or differing parameters for the project or (ii) wrongfully increasing the price or changing the conditions of delivery. Usually done in the form of a secret agreement between the supplier and the inspector checking fulfillment of the contract.

Final accounting and audit: the accountant or inspector can be influenced to report erroneously on the resolution of debts and commitments in the interest of the supplier, e.g. that contractual penalties are not charged for poor or late delivery, etc.

The corruption risks will thus generally grow in cases where there is limited access to information; the expectation of the interested parties that the competition will be open is not fulfilled; supervision and monitoring during the bidding and implementation is ineffective, limited or completely absent; the final accounts for the whole project are unclear.

Information standards

An information standard is understood in this analysis as a fundamental concept of transparency that is based on the above defined role of transparency in eliminating the corruption risks and which reflects possible limitations in its implementation. A basic function of the standard is to cover the information needs of involved parties who do not have access to exclusive information about contracts in the individual phases of the public procurement process. In light of the current high level of information and communications technology, the condition of free and publicly accessible information on the whole public procurement process is understood to mean that all the information listed below is to be made accessible on the internet without any kind of restriction (e.g. needing to register, pay a fee, etc.). The condition of easy access to information should also be met by creating a central space (web portal) for the publication of this information. The definition of this standard in this analysis is governed by the perspectives:

- **information needs:** the minimum of information necessary for public oversight
- **timeline:** the time that it is pragmatic to publish information
- **relevant information for publishing:** a list of information and documents that have a key informational value for the purpose of public oversight; in identifying the relevant information and documents we primarily draw on the types of

information defined in the APP with respect for the minimal added administrative burden for the contracting party of generating a new type of information

- **relation to European law:** in formulating this standard it is necessary to stick to European law, which is the baseline for the national treatment of public procurement and establishing the information obligations; the information one is obliged to provide may not go below the level of European law space: this aspect relates generally to all phases of the information standard, where it is ideal to publish all the information and documents defined below in one place (a web portal) in the interest of easy access to information. In the Czech Republic this is the Official Site of Public Contracts (Ministry of Interior, 2003) which is operated by the official public authority. If the systematic publication of all information in one place would lead to disproportionate costs for administration and technical design of the system, a compromise could be found in the form of central publishing of at least the information on planned and announced contracts.

Information needs: information about invited candidates

Some tendering procedures allow the contracting authority to invite only a preferentially limited circle of candidates for the contract. Information about the invitation allows supervision of whether at least the legally stipulated number of candidates received the call and which candidates were invited. Whether, for example, the same number of companies is always approached. It also allows the public to assess the relevance of the number of candidates approached in terms of the subject of the contract for award procedures where the invitation is not legally stipulated, e.g. for exemptions from the law like SSPCs, for which there are no legal restrictions and yet the contracting authority can apply elements of competition (J. Janoušková, M. Nikorjak, 2014).

Information on evaluation of offers:

For effective oversight of the correctness of the competition, it is necessary to publish complete information about the whole course of the competition, i.e. the number of applicants, the number of candidates evaluated that met the qualifications, the value of their offers, the subsequent ranking of bids, the make-up of the evaluation committee. With this information it is possible to effectively monitor:

- whether the competition honoured the equality of participants and prohibition of discrimination

- whether a disproportionate number of applicants were disqualified = qualifications set too high
- whether the applicants who did not meet the qualifications were also evaluated = lax control of qualification prerequisites
- whether the stipulated competition criteria were observed
- what offers were submitted, i.e. the amount of the bids and other values for the competition criteria
- whether the relation between the values of the individual bids and the final ranking was transparent and clear
- whether any of the evaluation committee members were biased toward certain candidates

Information about the winning offer:

Immediately accessible information on the winner of the competition and their bidding price is necessary for comparison with the actual supplier with whom the contracting authority concludes a contract (see next phase). It is not an automatic rule that the offer with the best evaluation is selected, for example because of lack of cooperation from the applicant in concluding a contract. The effectiveness of public oversight is thus much higher than when this information remains "buried" in the documentation on the evaluation of offers.

In order to be able to describe the possible dependency of selected parameters influencing the intensity of tenders, we have carried out a quantitative analysis of secondary data acquired from the Journal of procurement containing 197 procurement procedures. Individual data have been selected randomly and acquired from published Contract notices and Contract award notices, by selecting following tenders conditions, Open procedure and Restricted procedure.

The reason to narrow the selection to two types of procurement procedures was their high share of the total number and of the total financial value of public procedures in the Czech Republic (Table No. 1). Data from negotiated procedures without publication have intentionally not been used, even though their share on the total number is higher than in the case of restricted procedures, because it is the character of such procedure to only have one offer.

Table 1. Structure of procurement procedures in the Czech Republic (selection)

2013	% from total procurement procedures	% from total financial value of public contracts

Public procedure	45,9	68,5
Restricted procedure	4,1	13,3

MMR, Annual report on the state of public contracts in the Czech Republic, May 2014

By using a regression function, the author has attempted to estimate the regression level coefficient expressed by a linear regression function (Marek, L. and coll. 2013) $Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \epsilon$, where $Y \dots$ is the explained value (dependent variable) $X_1 \dots X_n$ are values explaining the variables

$\epsilon \dots$ is an unsystematic (random) element

Because we are interested in the possible influence of explaining variables, specifically the type of procurement procedure ($X_1 \dots$ as open and restricted), number of offers in procurement procedure (X_2) and the estimated value of the public procurement (X_3), on the explained variable defined as the difference between the estimated value of the public procurement and the tendered price offered by the winning candidate (Y), we have included the before mentioned variables into the model (model No. 1, J. Hanclova, 2011, Palat, M., et al. 2012). We have calculated the following values:

Table 2. Regression statistics of model No. 1

<i>Regression Statistics</i>	
Multiple R	0,931354275
Reliability value R	0,867420786
Given reliability R	0,865359969
Standard error	11868694,78
Observation	197

Own calculation

Table 3. Regression of variance (Anova model) No. 1

	<i>Difference</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Importance F</i>
Regression	3	1,7787 6E+17	5,9292 E+16	420,91 11569	2,1614 E-84
Residual	193	2,7187 1E+16	1,4086 6E+14		
Total	196	2,0506 3E+17			

Own Calculation

The adjusted coefficient of determination $R^2 = 86,7$ implies that it is possible to explain 87% of the

variability of values of the explained variable thanks to this regression model.

We used the F-test for a complex evaluation of the model. The tested hypothesis contains a claim that all regression parameters β_j ($j=1 \dots, k$) are, expect for the β_0 constant, equal to zero, i.e. the model does not contain any explaining X_j variable, which is statistically important.

$H_0: \beta_0 = c; \beta_1 = \beta_2 = \dots \beta_k = 0$

$H_1: \text{non } H_0$

It is obvious from Table 3 that the P-value of the F-test is $2,1614E-84 < \alpha = 0,05$, so we can dismiss the zero hypothesis about an improper model.

We continued with partial t-tests, mainly the hypothesis test regarding the β_0 parameter and parameters β_1, β_2 and β_3 . Based on the calculated reliability intervals, we reject the tested hypothesis for β_0, β_1 and β_2 . However, the reliability interval for the partial β_3 t-test contains zero. We do not reject the zero hypothesis ($H_0: \beta_3 = 0; H_1: \beta_3 \neq 0$).

We will try to improve the described model in the next step and we will exclude the explaining X_2 variable. In this case we will receive the following parameters (model No. 2).

Table 4. Regression statistics of model No. 2.

<i>Regression Statistics</i>	
Multiple R	0,930829354
Reliability value R	0,866443287
Given reliability R	0,865066414
Standard error	11881626,37
Observation	203

Own calculation

Table 5. Anova model No. 2.

	<i>Difference</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Importance F</i>
Regression	2	1,7767 6E+17	8,8837 8E+16	629,28 32227	1,5473 E-85
Residual	194	2,7387 6E+16	1,4117 3E+14		
Total	196	2,0506 3E+17			

Own calculation

Thanks to the adjusted coefficient of determination $R^2 = 86,5$, we are able to see that it is possible to explain 86% of the variability of values of the explained variable thanks to this regression model. In comparison with model No. 1 this value has changed minimally, thus we can continue considering the use of such model.

As well as for the P-value of the F-test being $1,5473E-84 < \alpha = 0,05$, we can dismiss the zero hypothesis about an improper model.

After finishing partial t-tests (hypothesis test of parameter β_0 and parameters β_1 and β_2), it is possible to state that the constant as well as both explaining variables of the procurement procedure type (X1) and the estimated value (X2) contribute to explain the model.

The regression level has the following form: Price difference = $-9178287,082 + 8900448,76 * \text{type of procedure} + 0,394208136 * \text{estimated value}$. If the procedure is restricted then the equation implies that the price difference will decrease, meaning a higher achieved tendered price in comparison to its estimated value (in this case β_1 is equal to 0).

Transparency as the tool to reducing corruption?

In considerations on the issue of corruption, transparency is unconditionally regarded as a key instrument for effective prevention of corrupt behaviour. The majority of experts agree that the level of transparency in general and in the public sector in particular has a significant influence on the level of corruption in society.

Generally speaking, in the public sector transparency is understood to mean the clarity of the decision-making process, i.e. that the affected parties have access to the relevant information in real time. The concept of transparency also encompasses the principle of equal and unrestricted access to all essential information about public decision-making (P. Kotatkova Stranska. 2012).

In order to understand the role of transparency in preventing corruption during public procurement, it is necessary to mention in particular the economic and social viewpoint of the importance of transparency for the level of corruption.

From an economic viewpoint the actors are acting rationally (*homo economicus*) and take the risks and costs of corrupt transactions into consideration. Corruption is an illegal act and problem-free fulfilment of a corrupt agreement must take place in secrecy. Higher demands transparency of decision-making forces corrupt parties to expend more resources to keep the corruption secret (K. Matatkova, P. Kotatkova Stranska, S. Pichova, 2014). The level of transparency thus influences the behaviour of the actors in corruption, and when this level is high, corruption is not always economically viable.

This rational view of the motivation of individuals to act corruptly is shared by economist Robert Klitgaard³, who is the author of the corruption formula: $\text{corruption} = \text{monopoly} + \text{discretion} -$

accountability and transparency. A low level of transparency thus opens up a greater field of operations for illegal activities and motivates public officials to carry out corrupt transactions, with public tenders no exception.

From a social viewpoint higher transparency shows itself in a greater level and intensity of public control. Better access to information allows the agents of public oversight (e.g. the media, civic society organisations, experts, entrepreneurs on the public contract market), who stand outside the contracting authority's organisation and do not have exclusive access to information, to more effectively watch over regularity, economy and adherence to the public interest in public procurement. From this perspective, high transparency also allows the general political representation to watch over the work of the public servants in charge of issuing and implementing public contracts. They can watch whether contracts fulfil the stipulated goals and whether the expenditures made correspond to the public need (Myskova, R., 2013).

Transparency also significantly disrupts the social system of corruption as it reduces the exclusivity of the information required to carry out corrupt transactions. Access to privileged information and the sharing thereof means a comparative advantage compared to uninvolved players, strengthening the ties of corruption and increasing the likelihood of benefiting from corruption (Pavel, 2005). If key information is available to everyone, the functionality of corruption ties is weakened and contenders for contracts need no longer have a reason to enter into corrupt transactions, while the delegated contract administrators are no longer able to offer preferential information for a corrupt transaction. This role of transparency is crucial for the proper functioning of the public contract market. In the context of public contracts, transparency is understood to mean the possibility for all interested parties to access information and understand the current means and processes by which the contracts are being issued, implemented and managed. Transparency is the central characteristic of an effective public procurement system and is characterised by:

- well-defined regulations and procedures for the bidding process and contract implementation
- clear, standardised tender documents
- bidding and tender documents containing complete information about the selection of a supplier and the contract

The limits of transparency

The demands for transparency in the public procurement system and its function in preventing

corruption bring with them certain limitations that influence the formulation and implementation of the transparency policy for public contracts.

Balance between the costs and benefits of transparency

In formulating the framework of information in the interest of greater transparency, it is necessary to distinguish the balance presented between different possible anti-corruption instruments as well as their limitations. In shaping and implementing instruments of transparency, the tension should be fine-tuned between the requirements for sufficient transparency and accountability in public procurement on the one hand and the fact that these innovations should not endanger the economic effectiveness of public procurement on the other.⁹ To put it simply, the tools of transparency should not overburden the administrative capacity of the contracting authority for issuing and implementing contracts. Otherwise there will be rational opposition on the part of the contracting authority and its employees to observe the higher information standards.

Asymmetry of information

Just as when acquiring goods or services on the regular market, there is also an asymmetry of information on the public contract market. This can especially be encountered between contract administrators and suppliers, where the suppliers have greater knowledge of the product, service or work to be provided and can use this asymmetry to their advantage (profit). On the other hand there is a similar asymmetry between the contract administrators and the general public or political representatives. Administrators can take advantage of their greater knowledge about the contract to conceal potential failures or manipulation and the public or political representation have less potential to effectively monitor the work of the authorised administrators (Krause, J, 2013). In general, both forms of asymmetry are most prominent for technically complicated and far-reaching contracts, where the effect of public oversight will likely be reduced.

The element of time

The true value of information in the decision-making and implementation process is often dependent on the current moment and after a certain time it can become quite worthless. This is doubly true for public procurement mechanisms, as the main steps of the process are usually legally binding and, in the case of error, can only be reversed with great difficulty. For this reason it is necessary to take time into account when formulating an information standard, to make sure the published

information still has a real value for the decision-making processes of the involved parties.

The perspective of European law

In defining the space for increasing transparency in the public procurement process it is also necessary to take into account the requirements laid down by European law, as European Union member states must conform to these requirements in their legislation. The fundamental procedural rules are stipulated in three directives, with each addressing public contracts issued in a specific sector of the market. In general it can be said of all of them that they govern the procurement process up to the selection of the supplier. The directives are supplemented by several regulations that set out the aspects of the procurement process in more detail, such as the cut-offs for above-threshold procurement, standard forms, and the common procurement vocabulary (CPV). The main difference between the two types of legal act consists of the fact that while a regulation directly and generally binds member states on a certain matter, directives are binding only in terms of an established goal. It is however left to the individual state what means are used to achieve that goal.

At the European level, information about public contracts is published in a supplement to the Official Journal of the EU (TED). It is operated by the Office for Official Publications of the European Communities. Contracting authorities can publish individual announcements in TED either directly through the Office for Official Publications of the European Communities or through an operator of a domestic public procurement information system. The obligation to publish at the European level applies only to above-threshold procurement.

These general preconditions apply for the publishing of information in European law:

- notices and their content may not be published at the domestic level before they are sent to the European Commission
- notices published at the domestic level must not contain different information from that contained in notices destined for the European level

3 Conclusion

The authors have pursued to determine the level of dependency of selected variables. Pearson's correlation coefficient (r) has been used to determine the relation's dependency intensity.

A positive correlation of $r = 0,171582$ was measured from secondary data for the dependence of the number of submitted offers in a procurement procedure and the price difference (defined as the

difference between the expected value of a public procurement and the winning bid of a candidate). Due to the positive value and the amount of r , we can talk about a weak dependency (r has an interval of $\langle -1, 1 \rangle$ and, in this case, does not reach limit values). A possible interpretation could be: the increase of the number of offers has a weak positive influence on the price difference.

The public procurement is the issue of professional economic debates; it is difficult to understand the prevailing neoclassical microeconomic apparatus, and therefore it is necessary to start supplementing economic instruments of transaction costs.

The above mentioned theoretical aspects are introduction to the next paper – the research how to determine these costs and identify factors that interact. This would allow dividing the goods and services in terms of whether they are suitable or unsuitable for outsourcing. The next step and also more problematic would be the quantification of these costs. It is necessary to focus on their decomposition and determine which aspects of the institutional setting the transaction costs increase. On the basis of results will be relevant to formulate economic policy recommendations for reform of formal and informal institutions. This should have a positive impact on the effectiveness of public procurement as well as for the overall efficiency.

Also, the above stated findings gained from the information of the given issue and conducted analysis represents a fundamental platform for further scientific work. Measuring has discovered the dependence of the price difference on the type of procurement procedure, and the positive dependency between the number of submitted offers in a procurement procedure and the price difference. However, due to the fact that the analysis is based on a relatively small sample of data, the authors of this article consider to verify and expand their conclusions through further and more extensive measuring.

It is clear, that the transparency of public procurement is only meaningful if information about all key phases of the contract's procurement and realisation are actively made public, i.e. from the defining of the request for tender through the realisation of the subject and handover for use.

The existing legal treatment only requires the contracting authority to publish basic information about the declaration of the contract, the selection of the supplier and the price offered.

The submitted amendment to the law significantly increases the standard for information in the public procurement system by adding a new responsibility for contracting authorities to publish

information on tenders before the contract is announced, information about the contract concluded and subsequent changes to it, as well as information about the final price of the contract.

The proposed amendment also counts on substantially reducing the limit for small-scale contracts, making the public procurement market more transparent, as it is in other EU states, and limiting the wilfulness of contracting authorities in issuing public contracts.

The fundamental instrument for public oversight – the public contract information system – is difficult for users to use and understand and can present a barrier to more effective public oversight.

There is a significant number of contracting authorities in the Czech Republic that voluntarily declare small-scale contracts via the official information system. This behaviour proves that reducing the limits for small-scale contracts need not necessarily present a disproportionate additional administrative burden for contracting authorities.

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