

Issues of Improving Prosecutorial Control Over the Organization and Implementation of Electronic Public Procurement for the Designation of Construction and Contracting Organizations in the Construction Industry

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Abstract

According to the decree of the Cabinet of Ministers of the Republic of Uzbekistan dated 09.11.2020 No. 699, the implementation of the procedure for calculating and maintaining the rating of Project - Search and construction-contracting organizations is established.

This decision included the procedure for the formation and maintenance of rating data of legal entities registered on the territory of the Republic and whose main activity consisted in the implementation of construction and installation work and services, as well as the corresponding license for the development of urban planning documents.

Introduction

The accounting of the rating of construction and contracting organizations is maintained by the Ministry of construction and housing and communal services of the Republic of Uzbekistan, following the principles of impartiality, transparency and Justice.

The main directions of the rating, criteria and points determined by each criterion, as well as assessment methodologies and corresponding changes and additions to the monthly period of the formation of the rating are strictly prescribed by the Ministry of construction and housing and communal services in agreement with the Republican state for the control and coordination of the implementation of state programs approved by the.

Information on the ratings of construction and contracting organizations is published on the official website of the Ministry of construction and housing and communal services of the Republic of Uzbekistan.

In integrated software developed in the National Information System "transparent construction", introduced by the decision of the president of the Republic of Uzbekistan PQ-4464 of September 20, 2019, the rating of construction and contracting organizations is formed. The procedure for forming the rating of construction and contracting organizations was adopted by the Cabinet of Ministers of the Republic of Uzbekistan on 31.01.2022 Resolution No. 46 "on measures to improve the procedure for organizing and implementing electronic public procurement in the construction industry".



By this decision, the regulation “on the procedure for the organization and implementation of electronic public procurement in the construction industry” was approved, which is now funded at the expense of the state budget provided for in the program for the development of social and production infrastructure of the Republic of Uzbekistan and other targeted programs, decisions of the president of the Republic of Uzbekistan or the Cabinet of Ministers, in determining the construction and contracting organizations available in the field rating for reconstruction and perfect repair facilities, this regulation applies to purchases in the field of construction, which are financed at the expense of the budgets of the budgetary system of the Republic of Uzbekistan, as well as other funds established in budgetary organizations.

Also, if, along with the state budget funds provided for by the program for the development of social and production infrastructure for construction, reconstruction and excellent repair facilities and other targeted programs, out-of-budget funds are involved, the construction and contracting organization will be determined on the basis of the requirements of this regulation. This regulation was forcibly applied to electronic tenders in the construction sector, the value of which is more than 6,000 times the amount of base calculation of state customers under one contract, and the requirements of this regulation were determined to be of recommendation importance to electronic tenders in the construction sector, which is less than 6,000 times the amount of base calculation.

According to the regulations, the State customer must study the documents obtained from the State customer for a maximum of 3 working days and place them in an ad in the prescribed manner with the winner of the electronic tender sales due to the correctness of the resource costs (salary, volume of machines and mechanisms, without specifying the price), and the tender organizer, was made responsible for the correctness and consistency of each other.

PQ-425 of the president of the Republic of Uzbekistan dated 17.11.2022 “on measures to improve control mechanisms in the implementation of construction projects, to further increase the openness and transparency of the process” was adopted.

As part of the projects included in the programs from January 1, 2023, as well as projects for construction and repair work, funded on the basis of initiative budgeting processes:

- identification of objects by electronic tender (competition) sales held at the main project-search and general construction-contracting organizations “transparent construction;
- conclusion of tender (competition) sales conducted in this system and the conclusion of contracts between the customer and the project-search and construction-contracting organizations for the development of project-estimate documentation and the performance of contract work on direct negotiations;
- given the identification number of each object included in the approved address lists, the “transparent construction” was determined to be included in the AT.

At "Transparent construction", an act confirming the performance of works (delivery of goods) by the general contracting organization identified by objects is electronically formed and electronically agreed with the customer organization. Invoices are sent by the customer electronically to the Public Finance Management Information System for financing.

Information about the enterprises available in the ranking of Project-Search and construction-contracting organizations will be published in “Transparent construction” at.



The data includes information about the rating of organizations, urban planning documents, volumes of work performed at the facility and funds financed. On the basis of rating indicators at the project organization “transparent construction” on construction sites, tender (competition) sales conducted without a human factor are determined, and contracts for the end of tenders are also concluded electronically, by digital signature. Also, construction and contracting organizations are excluded from the rating when an application for voluntary exit from the rating is made, the main type of activity changes to another type of activity or is terminated.

The decision of the Cabinet of Ministers of the prosecutor general's Office of the Republic of Uzbekistan dated 09.11.2020 No. 699 was initiated by the legislative initiative to simplify the rating score criteria of Project - Search and construction - contracting organizations and amendments to the legal document.

The procedure for the implementation of prosecutor's control over the organization and implementation of electronic public procurement for the designation of a construction-contracting organization.

In paragraph 3 of the resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 46 of 31.02.2022, the first heads of relevant ministries and departments are responsible for the validity of the information provided to the platform electronically.

At the same time, paragraph 50 of the Regulation approved by this decision establishes that persons guilty of violations of requirements will respond in the manner prescribed by the legislative acts. Article 29 of the law “on competition” of the Republic of Uzbekistan prohibits actions that may or may not lead to restrictions on competition in trade, including the following:

- violation of the legislative procedure for conducting sales;
- influence on the process and results of trading;
- the use of a price algorithm that leads to the artificial formation of prices in electronically conducted sales, that is, software that allows you to monitor, calculate, set and control the price of goods based on predetermined parameters.

Based on the above, it was noted that in purchases made by operators, the corresponding ministry will lead to a violation of the requirements of the “Competition Act” if the incorrect introduction of information about participants in electronic form affects the process and results of sales.

Article 215 of the Code of administrative responsibility of the Republic of Uzbekistan states that officials violate the procedure for submitting state statistical reports, distort reporting data or violate the deadlines for submitting reports, expressed in the absence of reporting and other information necessary for conducting state statistical monitoring

In Article 2782 of the Criminal Code of the Republic of Uzbekistan, the illegal (unauthorized) use of computer information, that is, information in information and computing systems, networks and their components, if this act is the reason for the destruction, blocking, modification, copying of information or its capture, violation of the work of electronic computing machines, electronic computing machinery system or their networks, it is strictly established that persons who commit these acts are criminally liable. Due to the requirements of the above-mentioned regulatory legal acts on cases of violation of the law, which were



identified during the control measures carried out by the prosecutor's office, it is ensured that a legal action will be taken.

We can see that the supervision of the prosecutor is being improved in the construction sector, with each one organizing its own control. As a result of the introduction of electronic tenders without a human factor, excessive paperwork was put to an end in public procurement in the construction sector, a fair competition market was created for construction and contracting organizations. Also, as a result of the limitation of the human factor in tender processes, corrupt relations are obtained. The main thing is that the concept of the possibility of an honest tender winner was formed in business entities in this area, based on their capabilities. In the invoices entered into the tax authorities, the tender lot of the state procurement object is entered by the contractor submitting the invoice. Today, the reform of public procurement in the construction sector is carried out on the basis of digitalization. This means that the history of the fulfillment of the terms of the contract for public procurement of each construction and contracting organization is entered into an indelible database, and now they are sorted on the basis of this data. In this case, it will be advisable for business entities in the construction and contracting direction to work hard on their image.

A special electronic platform that provides for the transfer of public procurement in the construction industry allows you to automatically obtain information about participants without a human factor by integrating them into the systems of ministries and departments. Due to the elimination of the human factor and the establishment of open and transparent requirements, the competitive environment between construction and contracting organizations is becoming more and more healthy.

Today in Uzbekistan, the work carried out in the construction network, services, among other branches of the national economy, make an important contribution not only as the creator of the main funds of the economy, but also in the implementation of structural changes in the country's economy and current tasks in the various social spheres.

Within the framework of the general strategy and the programs adopted in accordance with it, over the past 5 years, consistent reforms have been carried out to further improve the construction Network, form mechanisms for the consistent development of construction bodies and institutions, ensure the effectiveness of the public administration system and introduce digital technologies into the industry.

In the selection of contracting organizations, the new digitized system mentioned above has its effect, public procurement in this regard is carried out without a human factor in the National Information System "transparent construction", preventing the risks of corruption and conflicts of interest.

As part of the programs in 2023 alone ... in order to determine the contracting organizations for construction projects, public procurement was carried out through the transparent construction electronic platform, and contractors were selected based on rating indicators, bringing the total to ... ta facilities were ensured to be put into use at the end of the year.

In these processes, control measures are regularly studied and carried out by the headquarters and working groups established in the prosecutor's offices, providing accurate information by the departments integrated into the electronic platform "transparent construction".



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