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Published in the USA

European Journal of Contemporary Education
E-ISSN 2305-6746
2022. 11(2): 329-337
DOI: 10.13187/ejced.2022.2.329
<https://ejce.cherkasgu.press>

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The Problems of Contemporary Education

Areas of Improvement of Public Procurement Procedures in the Field of Education

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Abstract

The subject of this research is the normative legal acts of the Russian Federation that regulate the procedure for public procurement in education. The objectives of the article are to identify problematic issues and features of public procurement of educational services, as well as to formulate directions for the development of legal regulation of high-quality and the conclusion of government contracts in the field of educational activities in Russia. The study revealed the need to optimize the legal support of public procurement in the educational sphere. The study used the chi-square test to test statistical hypotheses. The study found that the current procurement system does not fully contribute to the economic growth of the state. Improving the efficiency of the procurement system is hindered by the following factors: 1) the complexity and instability of procurement legislation. In total, during the entire period of the Law No. 44-FZ in force, 80 federal laws were adopted, amending it; 2) efforts are aimed at improving the procurement procedure, and not at achieving procurement efficiency and ensuring the proper quality of goods, works, services. Despite the upward trend in the volume of public procurement and the orientation of the procurement system towards increasing the efficiency of procurement through increased competition, during the entire period of operation of the contract system, there have been no significant changes in the indicators of competition and savings. A significant share of purchases from a single supplier remains, there is practically no competition. In this regard, it is advisable to optimize the procedure for holding tenders and auctions, clarifying cases of purchases from a single supplier in the field of education. Conclusions are formulated that the practical recommendations

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obtained as a result of the research can be applied when developing a strategy for the development of the public procurement system in the field of education.

Keywords: public procurement, customer, education, contract system, educational institution, school, legal regulation.

1. Introduction

Government purchases in the education system are regulated by Federal legislation. The specificity of public procurement in an educational organization is such that both universities and schools are forced to adhere to uniform legislative norms, carrying out purchases for completely different amounts. At the same time, government purchases provoke high competition among suppliers and contractors. The legislation has already undergone changes many times and still remains imperfect, although it fixes the procedure for the distribution of budgetary funds, the formation and publicity of orders for the performance of work, the delivery of goods and the provision of services, a list of requirements for performers.

It should be noted that the public procurement system should simultaneously meet two types of criteria: requirements for state contracts management and economic policy goals. For the reason that the simultaneous compliance with the requirements for these two types is often simply impossible, the development of a balanced policy of public procurement acquires particular importance (Aleksandrova, Ostapovets, 2017).

The specifics of public procurement in an educational organization requires public procurement to be publicly justified, predicted and planned.

Thus, the purpose of the study is to improve public procurement procedures in education in the context of digitalization by developing practical recommendations for the implementation of its digital transformation based on the analysis of problematic issues, features, risks that impede the quality and prompt implementation of public procurement in the field of education.

2. Materials and methods

The methodology for studying problematic issues of public procurement procedures in education in the context of digitalization in order to further improve the directions of development of a competitive environment in the field of procurement is a synthesis of legal science methods based on materialistic dialectics: comparative legal, formal legal, systemic legal (legal aspect), – with an analysis of the main indicators of the development of digital transformation of state economic activity, in particular, in relation to the conclusion of state contracts for the provision of educational services (financial and economic aspect).

Legal technologies of legal analysis allow carrying out a system analysis to study the legal, social, organizational and economic processes of digital transformation of public procurement in general, as well as taking into account the specifics in the field of education, in particular.

The chi-square test was used to test statistical hypotheses. The χ^2 (chi-square) test is one of the most widely used criteria for testing statistical hypotheses in socioeconomic and humanities research. This is the simplest test for the significance of associations between categorized variables. The popularity of this criterion is associated both with its simplicity and with the possibility of a very flexible application.

3. Results

Legal regulation of public procurement in the field of education is carried out by a system of normative legal acts, among which are:

- Federal Law "On the contract system in the field of procurement of goods, works, services to meet state and municipal needs" dated 05.04.2013 N 44-FZ,
- Civil Code of the Russian Federation, part 2 (Civil Code of the Russian Federation, part 2),
- Federal Law "On Protection of Competition" of July 26, 2006 N 135-FZ,
- Federal Law "On Education in the Russian Federation" dated December 29, 2012 N 273-FZ,
- Federal Law "On the Procurement of Goods, Works, Services by Certain Types of Legal Entities" dated July 18, 2011 N 223-FZ.

As well as by-laws:

- Decree of the Government of the Russian Federation of September 15, 2020 N 1441,

- Decree of the Government of the Russian Federation of 09/18/2020 N 1490 (as amended on 11/30/2021) "On licensing educational activities",

- "Federal state educational standards, additional professional programs".

As you know, starting from 2022, a number of serious changes will take place in the field of public procurement. 360-FZ introduces innovations in the current bidding procedure and is aimed primarily at simplifying and accelerating all processes ([Federal Law "On the contract...", 2021](#)).

1. Perhaps the most important change will be a complete transition to electronic document management. Electronic registration will be carried out through standard forms that will be sent to the customer in the EIS (Electronic Information System).

The act of acceptance of goods, work or services, all kinds of appeals and other operations will be carried out exclusively in electronic format. The draft contract, for now, will be attached as a separate file, but in 2023 it will also become available for filling in a special form.

Even the filing of a complaint will be carried out through a unified information system, and when filing it, an indication of the IKZ (Purchasing Identification Code is a 36-digit number, in the structure of which information about the purchase is encrypted) will become mandatory.

2. From the beginning of next year, the requirements and instructions for completing the application will become part of the notice. Procurement documentation will remain only in closed procedures, for obvious reasons.

Open tenders, in turn, will become less loaded in terms of the attached documents, which will greatly facilitate familiarization with the tender and all important information.

In addition, when filling out the application form for participation, most of the information will be automatically pulled from the EIS (Electronic Information System). This convenience will appear on 04/01/2022.

Separately, it should be noted that now there is no need to indicate the characteristics of the goods upon delivery. The innovation works only if the customer has indicated the trademark, and only the country of origin will need to be additionally indicated.

3. The new law introduces universal prequalification for participation in tenders worth over 20 million rubles. If the initial maximum contract price is equal to or higher than the indicated amount, then only those companies that have successfully completed a contract with a value of at least 20 % of the current purchase price in the last 3 years will be allowed to participate. In this case, the subject of fulfilled obligations does not play a role, but the fact itself is taken into account.

The innovation will allow customers to protect themselves from unscrupulous suppliers, because only those companies that have managed to establish themselves from a positive side will become participants ([Egorova, Andreeva, 2021](#)).

4. To simplify procurement, the new law provides for only three types of competitive tendering. We remind you that today 11 types are used.

As a result, as of January 1, 2022, the following methods of competitive bidding will be available to suppliers and customers:

- request for quotations in electronic form;
- auction (electronic, closed and electronic closed);
- competition (electronic open, closed and electronic closed).

5. In addition to the significant "downsizing", the procedures themselves will also undergo changes. To a greater extent, they are aimed at accelerating the usual processes so that the procedures take place in a shorter time frame.

In general, in order to place a purchase, you need to understand what kind of educational service you need. It is necessary to decide on the direction and type of advanced training. What will it be: a classic program for obtaining additional education or professional retraining, or a more modern and effective way with individual and situational trainings, master classes? Both options are good in their own way, but they have different methods of conveying information to the listener. The service provider can be both an educational organization and an invited speaker.

The quality of functioning of the procurement system and its effectiveness to a decisive extent depend on taking into account industry specifics in the procurement planning process, organizing and conducting procurement procedures, forming the terms of contracts and their execution.

For services in the field of arts, entertainment, recreation and sports, in the field of education and health care, goods of manufacturing industries, services in the field of information and communication, there are also significant and relatively high values of the correlation and elasticity

indicators. The coefficient of elasticity is an indicator of the strength of the relationship between the factor x and the result y , showing the percentage of the change in the value of y when the value of the factor changes by 1 %. The coefficient of elasticity (E) is calculated as the relative change in y per unit of the relative change in x .

Calculated estimates of the elasticity of output to demand, realized through the system of government and corporate procurement, demonstrate high values for 10 out of 20 considered types of activities. Thus, an increase in the volume of purchases of services related to services in the field of education by 1 % provides an increase in output for this type of activity by 0.30 % (Table 1).

We also calculated the correlation coefficients between the time series of the cost volumes of purchases and the time series of the Gross Value Added (GVA) with a leading annual lag and the exclusion from their values of the demand realized through the system of government and corporate purchases. These correlation coefficients indirectly reflect the influence of the volume of purchases of the current year on the growth of the sectoral output of the next year, which is not conditioned by the demand realized through government and corporate purchases.

Table 1. Indicators of correlation and elasticity of output with respect to demand realized through the system of government and corporate purchases

Industry name	Elasticity index	The indicator of the correlation between the volume of government and corporate purchases and industry GVA
Educational services	0,30	0,96
Services in the field of arts, entertainment, recreation and sports	0,78	0,84
Health and social services	0,74	0,65
Manufacturing products	0,20	0,61
Information and communication services	0,33	0,61
Services related to scientific, engineering, technical and professional activities	0,34	0,49

These tables indirectly confirm the significance of the impact of government and corporate purchases on the development of a number of industries, and, therefore, planning and implementation of purchases with a high probability have an impact on the magnitude of the multiplier of budget expenditures, and, accordingly, on the rate of GDP growth. The procurement system can be used as one of the tools to stimulate economic growth.

Consider the statistical data in the field of public procurement for 2020–2021. The situation in the third quarter of 2021 is ambiguous. The total number of purchases is 1,978,920 tenders for a total amount of about 11.5 trillion rubles.

Compared to 2020, the number of tenders increased by 36,891, the growth rate reached 6.97 %. At the same time, the total cost of all purchases fell by almost 1.2 trillion rubles.

The decline was due to government orders: last year, 2.4 trillion rubles more were spent on the purchase of goods, works and services.

In the public sector, a significant increase in funds invested in procurement was shown by the sphere of science – 478 %, although in terms of the total amount of purchases, science is only in eighth place.

Thus, we see that already in the 1st quarter of 2021, the number of government contracts concluded by an educational organization with a single supplier decreased, which is a positive aspect in the development of competition in the public procurement market in education (Analiticheskij otchet..., 2013).

Table 2. Contracts Concluded in 2020–2021 with a Single Supplier (Contractor, Contractor) in the Settlement of The Grounds for Concluding such Contracts

Reason for contracting with a single supplier	Number of concluded contracts (3 quarter 2020)	The price of the concluded contracts (3 quarter 2020)	Number of concluded contracts (1 quarter 2021)	The price of the concluded contracts (1 quarter 2021)
Part 1, paragraph 33 of Article 93 – the purchase of teaching services, as well as the services of a guide (guide) provided by individuals	14 390	820 850 918	10 970	627 194 345
Part 1, paragraph 35 of Article 93 – the conclusion by organizations engaged in educational activities and recognized in accordance with the legislation of the Russian Federation on education as federal or regional innovation sites, contracts for the supply of equipment (including its technical operation), software necessary for the implementation of scientific and technical results and results of intellectual activity, with the owner of exclusive rights to such equipment and software at the expense of funds allocated for the development of innovative infrastructure in the education system	19	5 501 110	3	306 747

4. Discussion

Any purchases for educational institutions are strictly regulated by law. Some procedures allow the conclusion of an agreement with a single supplier for a total amount of less than 400 thousand rubles. In other cases, the maximum contract price is 100 thousand rubles.

The status of an educational institution determines the subtleties of the procurement procedure. In addition to 44-FZ, there are several other laws regulating this area. So, 223-FZ "On the procurement of goods, works, services by certain types of legal entities" is applied in the case of the purchase of goods or services at the expense of grants, the income of the organization or within the framework of subcontracting ([Federal Law "On the procurement...", 2011](#)). According to this law, the regulation on procurement in an educational institution determines the procedure. If other procurement methods are used, one should be guided by the content of 44-FZ ([Demchenko, Simaeva, 2021](#)). The main criterion for choosing a specific type of procedure is the maximum competition between suppliers. This is what determines the efficiency of the purchasing process. To follow the principle of maximum competition, the law provides for various types of procurement procedures: auction, competition, request for quotations and proposals. These

activities are time-consuming and involve a large volume of workflow, which creates additional difficulties. Note that, according to 44-FZ, the contracting authority has the opportunity to sign an agreement with a single contractor of its choice (part 1 of article 93).

Selection of a single supplier or contractor an educational institution may not conduct a competitive procurement procedure in two cases. First, there are situations when conducting a competitive procedure does not make sense from an economic point of view, that is, the time and money spent are incomparable with the cost of the contract. Secondly, some areas will be distinguished by the absence of competition in principle, that is, the purchased product or service is unique, or the executing company has exclusive rights for implementation. The most common example is utilities, where there is only one copyright holder. In addition to the above situations, the choice of a contractor is carried out without a competition, if the services are paid for to an individual (teaching or the work of a guide).

Educational institutions can also purchase from a single supplier in other areas when it comes to suppliers with exclusive rights. This rule applies, for example, to the purchase of books and electronic publications for the organization's library. In this case, the supplier (author or publisher) must be the exclusive right holder, have an exclusive license to sell books or electronic access to materials (clause 14, part 1, article 93). When concluding a contract with such a supplier, an annex to the contract will be documents certifying the exclusive rights to the goods: letters of guarantee, lists of contracts between authors and publishers, etc. Similarly, books and works of specific authors are purchased, incl. recordings of performers, phonograms of certain studios. Exclusive rights or licenses in this case must be in the hands of one person (clause 13, part 1 of article 93). But this rule does not include film projects that cannot be purchased in this way, if the purpose of the purchase is further rental.

Leisure of students is another area in which it is permissible to do without competitive procedures (clause 15, part 1 of article 93). Tickets for a theater, concert, circus, museum or sporting event can be purchased from one supplier. In the same way, you can pay for services for the creation of works of literature or art, the organization of a concert, physical. person or legal entity face. This also includes the creation of decorations and props for performances.

When making purchases, in particular, food products, it is recommended to give preference to competitive methods, while reducing the number of purchases from a single supplier (contractor, contractor), thereby observing in the field of procurement, goods, works, services to meet state and municipal needs " principles of ensuring competition and efficiency of procurement, as well as the efficiency of using budget funds, provided for in Article 34 of the Budget Code of the Russian Federation. In this context, attention should be paid to the possibility of such a procurement method as a tender with limited participation. This procedure provides for the ability to guarantee the required qualifications of the supplier by establishing additional requirements for him.

The educational institution may need to purchase medicines to fill the first-aid kits and ensure the work of honey offices. The purchase of this type of goods is governed by Art. 33 44-FZ. This article sets out the requirements for the indication of the international non-proprietary name (INN) of a product, and not the name of a specific brand name. If a drug does not have an INN, then its chemical name (grouping) is indicated. The exception is drugs from the special list of the Government, as well as those prescribed for specific indications. In this case, you can specify a specific brand.

It should also be remembered that purchases for educational institutions are carried out according to the national regime. The national regime is understood as a list of established prohibitions and restrictions on the acquisition of foreign goods. The same concept includes preferences for manufacturers from the Russian Federation. Admission restrictions apply to the following groups of goods: medical products; medications; Food; electronic goods. There are also a number of bans for the following products: furniture and woodworking products; mechanical engineering; light industry; software products.

5. Conclusion

The purchase of educational services is a specific process. In addition to the fact that you comply with all the rules and procedures of Federal Law 44-FZ, you need to take into account the requirements of Federal Law No. 273-FZ "On Education". You have to carefully choose an

educational service so that its content meets the goals and objectives of future students. Choosing a reliable provider of educational services is becoming a serious issue.

Let us calculate the significance of the results of the study (p-value) on the need to reduce the conclusion of state contracts in education with a single supplier. Thus, in the third quarter of 2020, 14,390 contracts for the purchase of teaching services in the field of education were concluded in the first quarter of 2021, the number of contracts decreased significantly and amounted to 10,970 contracts with a single supplier. Let's assume that in the first quarter of 2022 the number of such contracts drops to 5,100. Let's look at the value of χ^2 (chi-square). We determine the number of degrees of freedom by the formula $n-1$ and get 1. Further, by the formula $\chi^2 = \sum((o-e)^2/e)$, where "o" is the observed value, and "e" is the expected value. we get the value of χ^2 -square equal to 2.3. Using the χ^2 -squared spreadsheet to find the p-value, we find that it is 0.1, which is practically equal to the 0.1 significance level. This means that there is a proven plausible link between our observed results in phasing out single-source government contracts in education and is likely to decrease over time.

In general, the first quarter of 2022 was generally marked by a drop in the number of public procurements. During this period, their number reached 425 thousand, which is 7 % less than in the first quarter of 2021.

If we consider all public procurements for the 1st quarter of 2022 by industry, then contracts in the field of construction works and structures occupy the first place by a huge margin. Here, the total maximum price of all contracts amounted to 1.1 trillion rubles. In second place are products of manufacturing industries (550 billion rubles), in third place are services related to scientific, educational, engineering and professional activities (86 billion rubles).

Despite this, the total amount of public procurement, on the contrary, increased by 11 % year-on-year and amounted to 2.1 trillion rubles.

Thus, the main reasons for such changes to reduce the number of public procurements, including in the field of educational services, were, among other things, changes in legislation that came into force in 2022. According to them, customers are not required to publish data on procurement participants. The second reason is the unstable economic situation in the country and the imposed sanctions, due to which the fulfillment of a number of contracts was called into question.

Any payment for goods and services in the field of education must be initially entered into the organization's procurement plan in the appropriate line. The schedule and procurement plan must be published in the Unified Information System. The procurement plan of the educational institution for each item should include: the procurement identification code, the purpose of acquiring educational services within the scope of the customer's activity, the exact name of the services purchased, the amount of financial support for the procurement procedure, timing, justification for the need for procurement (drawn up in the form and in accordance with Decree of the Government of the Russian Federation of 05.06.2015 No. 555).

When drawing up a plan, it is important to correctly indicate the purpose of the purchase, as well as to describe in detail the purpose of the allocated amount of funding. By this, the customer justifies the need to purchase certain goods and services. The law provides for a number of goals, of which the one that most fully corresponds to the specifics of the customer's activity is selected. It is important to indicate how the purchase of certain educational services will contribute to the fulfillment of the functions and powers of the client.

Customers often purchase training through auctions. Here the winner is determined on the basis of one criterion – the price of the contract. It is difficult to objectively assess the service only by its cost, and its characteristics in the description are interpreted by participants in different ways. It is preferable to use an open tender in such cases, since it provides several evaluation criteria. Price is not always critical here. Resolution No. 1279 of 09/30/2019 clarifies whether the procurement of the employee training service is included in the schedule: yes, like the rest of the procurement of the organization ([Decree of the Government..., 2019](#)).

Tender documents for training are drafted so that suppliers correctly interpret all requirements and criteria. In this case, they will be able to objectively calculate the price.

When preparing the terms of reference for the tender of educational services, take into account a number of nuances, the violation of which entails the restriction of competition and, as a result, disputes in the FAS: Educational institutions themselves determine the names of their

own educational programs (No. 273-FZ of 12/29/2012), therefore the customer does not have the right to indicate in the terms of reference the exact names without special instructions. It is recommended to indicate the number of hours in a range of values (for example, minimum or maximum), and not a specific one, since this limits the number of participants. The choice of the location for the training should be left to the provider. The customer indicates only the locality where the end users will be able to gain new knowledge, or the area. For full-time or part-time training, indicate this, as well as the name of the procurement object required to ensure the transition to distance learning for employees. For example: distance learning on labor protection. The services purchased are described based on educational standards. For example, advanced training will take at least 16 hours, and retraining will take more than 250.

Educational activities are subject to licensing (Art. 91 No. 273-FZ) ([Federal Law "On Education...", 2012](#)). The procurement documentation should establish the requirement for the supplier to have an educational license. Such a document is not required only for individual entrepreneurs who provide services directly.

The place of provision of services is not indicated in the appendix to the license. This means that educational institutions are not limited in terms of the place where classes are held. Rejection of the application on the basis that the supplier's address does not coincide with the customer's requirements is not permissible (Decision of the FAS dated February 27, 2020 in case No. 44-1161/20) ([Decision of the Federal..., 2020](#)).

Federal Law № 273 explains what license an organization must have for training in accordance with 44-FZ: a license to conduct educational activities in the field of additional professional education.

In addition, the conclusion of a subcontract for the purchase of educational services under 44-FZ is not prohibited (unless otherwise specified in the contract), therefore, the place of training does not always coincide with the address of the winner of the tender.

In the future, the acceptance of training is carried out in accordance with the terms of the contract. It provides for an examination, the creation of an admission committee at the request of the customer, the drawing up of an acceptance certificate within a specified period. After the fulfillment of obligations, the contractor provides the customer with an act of reconciliation of mutual settlements ([Gavurova et al., 2019](#)).

Thus, in order to carry out procurement procedures in the interests of an educational institution, it is necessary to know all possible methods and situations in which they are applied in accordance with the Law on the Contract System. Note that this activity can be carried out most effectively if you approach the issue flexibly and choose a procurement method in accordance with the interests and characteristics of the customer's activities.

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