

Contracting in public procurement of local government units in Poland in the light of the new institutional economics

Summary

The thesis is composed of four chapters, each of them dealing with different aspects of contracting in public procurement.

The aim of Chapter One is to introduce the reader to the problems of investment activity of the local government units (LGU). Chapter One provides and defines basic terminology used in thesis: the concepts and tools appropriate for the new institutional economics, such as property rights and transaction costs. The main part of Chapter One is a description of the issues of economic activity of LGU, with special emphasize put on the problem of the nature and characteristic of the expenditure. Chapter One analyses in detail the issue of alternative sources of financing the capital expenditure, because of its importance as the primary capital investment of the local governments. The last part of Chapter One examines the issue of the parameterization of investment expenditures of the LGU and shows its impact on public procurement in a analysed period.

Chapter Two deals with regulation of public procurement in polish law.

Part One shows a brief outline of the history of public procurement legislation, in terms of the fact that laws create a formal institution as defined by NEI, in other words "the rules of the game"¹. Part Two compares the versions of institutional approach, which have been characterised in literature. The basic version of institutional approach accepted in my thesis is the definition created by D. North. Part Three concentrates on problems resulting from the market and institutions, and points out the main theoretical and practical aspects of public procurement. Part Three concentrates on problems resulting from the market and institutions, and points out the main theoretical and practical aspects of public procurement. The next section juxtaposes the model of perfect competition with unlimited tender in the light of terms and tools of NEI. The purpose of this juxtaposing is to reveal the similarities of that mechanisms of resources. The last section attempts to make a segmentation public procurement related to capital expenditure of the LGU.

Chapter Three explains the concepts and tools of NEI, such as: incomplete contract, bounded rationality, opportunism, asymmetry of information and negative selection. The problem of imperfect and asymmetric information as a factor in determining buyers behavior

¹ D. North, Institutions, Institutional Change and Economic Performance, Cambridge 1990, p. 3.

and distorted exchange process leads to negative selection. Negative selection means that a worse quality product will displace from the market a higher quality product. In the context of the research, this problem will be analyzed as a case study of the quality of building works. This Chapter explains the concept of building works and the concept of a contract for building works concluded between local governments in the light of the new institutional economics. This Chapter explains also the nature of the contracting an ex ante and ex post, in frame of public procurement for building works organized by LGU. The main emphasis is put on the quality of public procurement, factors which determined the quality and mechanisms of concluding contracts in public procurement by local governments, and the conditions for cooperation between the parties of the contract after the signing of the agreement on public procurement.

Chapter Four, begins with characteristic of the role of subcontractors works as interest groups in public procurement, in the light of the mechanism of political rent-seeking. Next section examines the research hypothesis. The most important information is that NEI distinguishes between economic rents and political rents. First of them is an element of competition mechanism and a form of income resulting from the use of production resources to produce new goods and services.² The second is a kind of benefits related to the use of limited resources to a kind of activities which does not increase the number of new products or services.³ In this dissertation, I focus on the latter kind of rent, because, political mechanisms which exert an influence on laws, are also as opportunism of business entities, one of the sources of unauthorized rent. New institutional economics asserts that a community interest group is capable of taking organized action and representing the collective interest against the public authorities.⁴ The feature of the activities of the interest is the postulate of rational behavior. Next section examines intentionally selected sample of the structure of local government contracts for building works, before and after the intervention of the legislature in terms of transaction costs. This section also diagnoses other transaction costs related to the realization of building works ordered by the LGU. Conclusions are drawn at the end of this section. The main conclusion is to evaluate the effectiveness of state intervention.

² J. Wilkin, Rent-seeking by political mechanisms [in] *The theory of public choice. Main trends and applications*, J. Wilkin (ed.), Publishing Scholar, Warszawa 2012, p. 222.

³ *Ibidem*.

⁴ D. Milczarek-Andrzejewska, P. Tłaczała, Analysis of interest groups [in] *the choice theory ...*, op. cit., p. 196.