

Legal Analysis of Procurement Corruption in Iran Economy

Tahmineh Rahmani¹

Ph.D. Candidate of Public Law, Department of Public & International Law,
College of Law and Political Science, Science and Research Branch, Islamic
Azad University, Tehran, Iran

Nader Mirzadeh Koohshahi

Assistant Professor, Department of Public Law, College of Law and Political
Science, Tehran University, Tehran, Iran

Abstract

In this article, we contextualize and discuss the issue of corruption and identified kinds of procurement corruption in Iran Economic. In this context, there is an evident relation between procurement market failures and corruption. We argue that corruption is one of the causes of the persistence of procurement market failures. Corruption is an emotionally charged concept that inspires in most people immediate condemnation. These reactions can be channeled into supporting anti-corruption strategies to deal with the problem, such as reform administrative law or promotion of essentials rule of law and good governing, but the specific strategies will depend on the definition and conceptualization of the phenomenon at hand. The new law of holding tenders in Iran approved in 2005 to prevent the emergence of procurement occupation different types, predicted some mechanisms, but due to faulty implementation of mentioned law or defect in implementing the law, after passing several years from the approval of holding the tenders, still different types of procurement corruptions in the process of Iran tenders have considerable growth. In present research after offering the concept of procurement corruption, lawful analysis of issue was focused.

Keywords: Lawful procurement corruption, Bureaucratic procurement corruption, financial procurement corruption, Procurement bribe, Procurement embezzlement, Procurement collusion, Procurement fraud, Procurement political corruption.

Cite this article: Rahmani, T., & Koohshahi, N. M. (2015). Legal Analysis of Procurement Corruption in Iran Economy. *International Journal of Management, Accounting and Economics*, 2(12), 1484-1496.

¹ Corresponding author's email: tinrahmani@yahoo.com

Introduction

Procurement process is so complicated and could lead to emergence of procurement corruption. Bribery, embezzlement, extortion, illegal bonuses or commissions, contract commission, relationships rather than rules, lack of proper selection and procurement corruption are all examples of procurement corruption. Procurement stages in many countries and also in Iran follow certain lawful formalities. According to prominent role of procurement and contract section in economic and also vulnerability in different stages of good provision and public services, it seems recognition, prevention and discovery of procurement corruption instances would lead to efficiency of procurement laws. Lawful mechanism to set up tender process by the law and the principles of tender spread in different parts of the world as public procurement law and in Iran as the law to hold the tenders. The focus of this research is on the recognition of corruption substrates and also lawful analysis of the effects with the hope to prevent the fields to increase procurement corruption by rectifying procurement principles, reducing the role of government in the economy, monopoly removal, expanding competitive environment among the suppliers and promoting the transparency that require accurate documentation and informing.

The second reason reflects the need to bring respectively public sector and utilities procurement markets in parallel operation to that of private markets. Jurisprudence, policy making and academia have recognized the distinctive character of public markets. There are two main reasons for the regulation of public procurement in the world. The first reason reveals the importance of public and utilities procurement for the proper function of the common market and the attainment of the objectives envisaged by Economic. Intellectually, public procurement regulation draws support from neoclassical economic theories. The assumption has been that enhanced competition in public markets would result in optimal allocation of resources within industries, rationalization of production and supply, promotion of mergers and acquisitions, elimination of sub-optimal firms and creation of globally competitive industries. Purportedly, one of the most important surrogate effects of public procurement regulation is to yield substantial purchasing savings for the public sector. The price of goods, services and works destined for the public sector will converge as a result of the liberalization of and competitiveness in the relevant public markets. The regulation of public procurement reveals two diametrically opposite dynamics. On the one hand, the influence of neo-classical economic theories has given a community-wide orientation to the regulation process and has taken the relevant regime through the paces of liberalization within the states and with reference to the World Trade Organization (WTO). Anti-trust has played a seemingly important role in determining the necessary competitive conditions for the interface between public and private markets. However, we have seen the emergence of a sui generis market place where the mere existence and functioning of anti-trust is not sufficient, on its own, to achieve the envisaged objectives. Public markets require a positive regulatory approach in order to enhance market access. Whereas anti-trust and the neo-classical approach to economic integration depend heavily on price competition, public procurement regulation requires a system which primarily Safeguards market access. Such a regulatory system could be described as public competition law. There is strong evidence that the emergence of competitive conditions within public markets would render public procurement regulation inapplicable. This development denotes the referral of public markets to anti-trust as the ultimate regulatory regime.

On the other hand, public procurement has been traditionally viewed as the main driver of national industrial policies. Preferential purchasing patterns, strategic development of national champions and interestingly, an increasing influence of ordo liberal theories have placed public procurement as an instrument of policy not only at national level, but also at World Markets level. Public procurement regulation is an essential requirement for the proper functioning of the common market and the envisaged fundamental freedoms. It is also a valuable source of international trade law in its attempts to integrate public sector markets. The new generation of legal instruments intends to simplify and modernize the regime and bring in synergies with cooperation with communications, as well as with the WTO regime. The purpose of this article is to provide for a comprehensive analysis of the legal regime of public procurement and their interrelations with national policies for prevent corruption procurement.

The concept and basis of procurement corruption

Procurement corruption means monopoly in spite of using power excluding accountability and transparency in government procurement. Procurement corruption in different ways such as political procurement corruption, bureaucratic procurement corruption, lawful procurement corruption and also economic procurement occupation could decrease the degree of legitimacy and effectiveness of states in governmental purchases to the extent that could face the governments and political systems to the crisis of gaining legitimacy and acceptability in the government procurement market regulation. The research title is categorized to 7 categorizations as following from different aspects and by referring to votes, interview with the experts in the field of governmental purchase and also based on the gained results from the reports based on announcement and registration of different procurement occupations and in related to tenders. In the following, the lawful consequences of each would be investigated.

Analysis of Corruption in Public Procurement

Bribery and corruption in public procurement may have multiple negative effects, leading notably to unnecessary, unsuitable, uneconomic or even dangerous projects. The following part reviews the public procurement rules, procedures and practices and looks at the areas where the process is vulnerable to bribery because of the size of a project, the sector concerned or the specificities of the purchasing administration. Links to other, frequently associated crimes and malpractices are also shown. This section brings to light the numerous common bribery opportunities public procurement provides. This functional, process-based analysis could possibly help define counter-measures to bribery crimes.

Public Procurement Rules, Procedures and Practices

Public procurement rules and procedures do not represent an effective obstacle to bribery; ineffective or inadequate public procurement rules and procedures can even create a multitude of opportunities for bribery. These opportunities may be deliberately created, or they may arise from discretionary interface between the public procurement agents and the private operators. Effective and efficient controls of the procurement agent or the procurement authorities may be lacking. Complications in the procurement process

as well as the nature and technicality of purchased goods, works or services may be exploited. Finally, bribery and corruption are rarely isolated crimes they are often associated with other offences or misdeeds.

Procurement frameworks

The existence of public procurement rules or changes related to them is recent, and a number of countries are either still lacking them or otherwise must confront unclear regulations and procedures. The absence of inadequacy of procurement rules provides multiple opportunities for transgressions. The primary focus of procurement rules is to secure the best value for money. It is only gradually now becoming obvious that bribery should be one of the fundamental concerns in ascertaining the effectiveness of procurement regulations. The multiplicity of rules may have a negative impact on transparency and lead to legal uncertainties and high transaction costs, both for the procurement agencies and the potential suppliers. The correct application and supervision of laws may be difficult, and awarding agencies could have problems negotiating their way through the regulatory diversity. However, procurement agencies may also purposely use and abuse the regulatory diversity. For instance, they may privilege firms by opting for tendering procedures which require no controls. They may also formulate requirements which favor specific firms and constrain market access to specific suppliers. Various options are outlined in the following section.¹

Corruption risks in the tendering process²

Public procurement can be characterized as a process flow starting with procurement planning and proceeding in sequence to product design, advertising, invitation to bid, prequalification, bid evaluation (broken down further into technical and financial evaluation), post-qualification, contract award and contract implementation. Each link in the chain is potentially vulnerable to corruption in some form or another.

Identification of needs and design of tenders: Different preparations take place before launching a tender. Identification of needs and the design of tender are known to be vulnerable to corruption as there are many opportunities for manipulation. Furthermore, corrupt acts that will occur later can be planned at that stage. For instance, exchanges and discussions at this initial stage may lead to the disclosure of confidential bid information. Exchanges between project designers and intermediaries, involving the public bodies which provide or obtain funds for the project(s), may have an impact on the planning of public works per se and can lead to the introduction of inaccurate policy requirements. During the planning period, hidden mistakes and fictitious positions can be built into the project calculation and design, affecting the terms of reference, which leaves openings that can later be used to conveniently account for increased costs, influence the selection process or the selection procedure (see bidding procedure below). The briber and the bribee may for instance decide to:

¹- (2007), Bribery in Public Procurement METHODS, ACTORS AND COUNTER-MEASURES, OECD, pp15-17.

²- (2007), Bribery in Public Procurement METHODS, ACTORS AND COUNTER-MEASURES, OECD, pp 19-21.

- (i) limit the time frame for the tendering process,
- (ii) (ii) use specifications that preclude competitive bidding,
- (iii) (iii) select additional fictitious bidders or ones unlikely to submit competitive bids, (iv) plan a very low bid price and include "hidden" possibilities to expand the contract at a later stage to recover the economies for the vendor, etc.

Selecting a business: Fraud in the selection of tenderers may occur, with unqualified or untested companies being licensed to be a vendor or a bidder. This may result from various shortcomings. The participation criteria may be excessively selective, specifying features that are provided by only a few businesses. These features may or may not be relevant to the project. Unclear or ambiguous clauses may be included or insufficient explanations given as to the tendering arrangements. Any of these defects could result in the exclusion of a large number of bidders; the contract can then be awarded to those familiar with the clauses and conditions. When no tenders have been made in the public procedure, due to various types of built-in subterfuges, tendering authorities will resort to a private treaty, which provides a greater discretion. The bidding procedure: Certain bidding procedures lend themselves more easily to hiding bribery and corruption. The procurement process may be more vulnerable to corruption when non-competitive procurement has become the norm. Although this kind of contract is not in itself proof of corruption, opportunities and inducements for corruption may increase. Similarly, competitive procurement cannot be a guarantee of integrity.

Non-competitive procurement contracts are awarded by a government to a company without competitive process. Such contracts also referred to as sole-source, single-source, or no-bid, are justified by reasons of expediency in emergencies, or when national security interests are at stake. Non Competitive procurement contracts have been identified as a source of concern for reasons of transparency, democratic oversight, value for money and corruption risks. Procurement officials authorized to make single-source decisions have great power over which companies receive the most lucrative contracts. Without evaluative guidance and oversight, individual preference can easily become part of their decision. Receiving lucrative contracts without facing competition is highly desirable from the vendor's point of view. Companies can see the benefit of cutting out the risk of losing a bid by influencing and/or bribing key officials to obtain a non-competitive contract. Ongoing, long-term relations between a vendor and a procurement official may provide for the continual award of such contracts in exchange for personal gain. Framework contracts are standing agreements used as a basis for goods and services purchases as needs arise. Such agreements can save time and money by eliminating numerous bidding processes. However, some experts are concerned that they may represent "a huge growing wedge of contract dollars" that lack transparency and are unaccountable regarding competition. Prices are often not fixed before frameworks are drawn up, leaving the agreements open to corruption risk. However, it was noted that electronic reverse auctions based on price may only cure problems that framework agreements are supposed to address. Competitive bidding or restrictive competitive bidding involve prequalification of vendors and are considered to offer fewer chances to favor a company seeking to influence the right people. Usually, competitive processes also include various levels of supervision, with expert bodies evaluating bids for quality,

specificity and value for money. Furthermore, companies that are not awarded a contract theoretically have the opportunity to call public and judicial attention to their concerns about potential irregularities. Due to the different layers of appraisal, corruption is considered more difficult to conceal. However, diverse sets of corruption risk remain at the various stages of the procurement process and integrity depends on the application and objectivity of the selection criteria. Furthermore, this does not prevent accomplices within the procuring entity calling for tenders. Nor can agreements between the different bidders, with a view to reciprocating benefits in the framework of the public works, be excluded either. Experts shared the view that competitiveness, notably by means of advertising and opening markets, as well as transparency through clear and foreseeable contract conditions, should be promoted as best practice and a means of achieving value for money. However, they suggested that further

Attention be paid to newly established areas, such as e-procurement and competitive bidding dialogue. Technological sophistication, on which these techniques are based, may not be sufficient to counter potential corruption. Contract award: This is the phase during which the winner of a contract is determined. Ineffective control structures along the process provide for frequent manipulation. Lack of transparency in the attribution of the contract may also occur as all bids may not be publicly opened, or their content may be subject to manipulation. Inadequate communication with participants is another widespread feature. The absence of objective decision criteria or the inadequate weighting of the various criteria are further ways to influence the awarding process. For instance, costs are only one among a number of components to be considered. It is often found that technical features of a proposal, the fact that it meets community requirements or the time required for its implementation, are given excessive, poor or no consideration, as the case may be. The fact is that the evaluation is being left to the individual discretion of the official. Some models have been moving towards dispersing the authority, including by committees, so that there is not a single person taking the decision. In this case, attention needs to be paid to the composition of the committee and how effectively it carries out its duties. Experts suggested that transparency is absolutely indispensable in preventing corruption. The decision criteria and objectives should be known and communicated to all bidders. This means that all bids are opened publicly with their content registered immediately to prevent them from being manipulated. Contract execution: This phase is less susceptible to regulation. Techniques to hide bribes during the execution of a contract are manifold. Rendering of fictitious work, inflating the work volume, changing orders, using lower-quality materials than specified in the contract, supplying goods of a lower price and quality than quoted, and rendering contracted services in an improper way are some of the most common ways of defrauding the public budget. Alterations between the decisions made and the conclusion of the contract may also go unnoticed and provide ample room for bribery and corruption. In addition, flaws in the technical and administrative supervision of the works may be exploited. Interventions by the public service to control the quality of the materials, the completion of deadlines, the quality of the services, the financial accuracy and the full execution of a contract may be insufficient. Certification of the execution of the works may not correspond with the real supply.

In the execution phase, new corruption challenges may emerge with officials threatening to withhold payment unless they are remunerated by a percentage of the

contract. In such cases, officials delay due payment in view of bribe payments, creating serious liquidity problems for the companies that have adequately executed the contract (this qualifies as ‘solicitation’; if in addition the supplier is physically threatened it qualifies as ‘extortion’).

Other risks in relation to tendering¹

Ignorance of procurement procedures: although contrary to the regulations in place, procuring entities may ignore the tendering procedures. This can be due to a lack of knowledge, but it can also be a deliberate decision to avoid due procedures and rules of fair competition. In the absence of announced procurement contracts, information about the contracts can only be obtained through audits, competitors or citizens. Confidential bid information: Experts noted that in principle, the release of confidential information is regulated. Confidential information may for instance relate to the tendering procedure, the evaluation criteria or the oversight process. Of course, bid information or documents pertaining to transactions, business, technical or financial structures may also be secret and should thus be handled with care and not released to competitors. It was noted that little attention is actually paid to the information that is released. Since confidential information dealings raise bribery and corruption opportunities, experts suggested that further attention be given to where, when and how information is disclosed. Procurement complaints mechanisms are destined to bring forward possible violations of procurement procedures. While these procedures are generally very useful, they can also be misused. For instance, companies can file unfounded complaints to delay the process or harm competitors selected for the attribution of the bid. Indeed, the submission of a complaint suspends the competition and delays the contract until the complaint has been processed and reviewed. Experts stressed, however, that corruption is far more frequent when no mechanisms to report corruption exist.

Lawful procurement corruption

Discriminatory procurement legislation in the market of governmental purchase and in favor of powerful politicians is called lawful procurement corruption. For example, the laws that specify the monopoly of purchase or production of one product to an individual or group without any economic or social justification. The sample of this corruption or vague and cloven procurement laws provides the field for bribery, embezzlement, etc. that are clear samples of lawful procurement corruption. (Mirzasharif, 2012: 1) Paragraph (A) of Article 4 in holding the tenders approved in 2005 have prescribed that: one step tender is one which there is no need to commercial and technical evaluation of proposals. According to the fact that commercial technical evaluation and determination of scores is on commercial and technical committee and must be performed in the same session. Therefore it could be seen that legislator ignored to allow an opportunity to choose proper price, while the law regarded it publically and for different tenders regardless of being one stage or two stages. It is clear that legislator weakness in explaining the terms of holding provided the field for unfair selection and led to fulfillment of lawful procurement corruption.

¹- (2007), Bribery in Public Procurement METHODS, ACTORS AND COUNTER-MEASURES, OECD, p25.

Bureaucratic procurement corruption

Bureaucratic corruption and in field of governmental purchase is making decision and planning in the field of governmental provision by the people who don't have scientific and practical qualifications, ethical management and proper capacities with the responsibilities. The considerable part of bureaucratic procurement corruption is due to inability of managers and experts who aren't dominant of their responsibility. The observations showed: bureaucratic procurement corruption is done indifferent levels that is due to Non-transparent and non-accountable administrative structures and the lack of required certainty among some supervisory organizations, inspection and even in judicial cases, no decisively, institutionalized and sustained deal with the offenders. The relation between bureaucratic procurement corruption and low level of government staff salaries is also remarkable. (Hamdami Khotbehsara, 2004: 168).

Financial procurement corruption

Financial corruption could be seen in public procurement contracts in all countries even those with highest level of honesty like Singapore or New Zealand. For example in Zimbabwe, the complicity of ministers of posts and telecommunications and a Swedish telecommunications company to deceive routine process in international tenders could led to delivery of contract to Swedish company. The amount of paid bribes has been announced to 7/1 million dollars. In fact, wherever there is money, the corruption would emerge. To fight financial procurement corruption, the reasons should be recognized. Regarding organizational aspect, financial corruption occurs when government officials have too much power, poor accountability and negative incentives. The high level of financial procurement corruption could lead to inefficient government procurement market regulation. In case of pointing the reasons and factors of spreading financial procurement corruption, it should be told that high guided economics are one of the pillars to nurture bribery and financial corruption. The experience of south Asia countries confirms this issue. Also in case of existing powerful but poor managers, the tendency to do procurement corruption would be aggravated. Legislating different laws on one hand and creating rent in this regard for governmental officials on the other hand are the basic factors to emerge financial procurement corruption. Financial procurement corruption in governmental tenders is emerged in the form of bribery and as result collusion between bidders and receiver or involved people and in all stages of tender; it means from requirement time by the bidder to the time of contract and product delivery, there is the possibility of misuse and as result corruption emergence (Rezai, 2007: 60). In this section some of the important financial procurement corruptions are mentioned:

Procurement bribe

Procurement bribe is the cash or the good which is received or delivered in a corrupted procurement relation to people in charge in governmental purchase. Although in Iran the generality of holding the tender follows clear rules, but explanation technical and financial details like necessity and project priority, restrictions, technical and financial standards capabilities, the timing of the implementation, supervision and control of the project and the quality level of used technology, machinery and equipment are all affected by expertise, experience and aspirations of the human factor. On the other hand, the

impact on process of decision making and choosing governmental applicant companies or change in contract terms is considered as one of the most important reasons of procurement bribery exchange.

Procurement embezzlement

Embezzlement means extracting from the sources by the people who managing this benefit is on them and it happens when employees misuse the properties of employer, governmental authorities or public sources. The transparency of the transactions and organizing the process of governmental purchases is one of the best methods to prevent procurement corruption. The law to hold the tenders and related regulations are edited to organize and transparent governmental transactions while it seems: this law is non-transparent and inconsistent that led to different interpretations on behalf of agencies and contractors. Transparency would lead to prevent fraud and collusion methods in transactions, Embezzlement, bribery, wasting public funds and so much. (Khodabakhsh, 2012: 8) even though executive regulations of documentation and information system of tenders approved in 2007 and the issue of article 23 to hold the tenders approved in 2005 in line with the fact to transparent governmental transactions, but in action it isn't effective enough and is having weak enforcement guarantee to face the offending bidders.

Procurement collusion

The existing gaps in the law of holding the tenders approved in 2005 underlies collusion between the bidder and applicant. To explain recent mistake, it should be mentioned that, in many cases, the increase of work scope, the issue of tender and increase of work value and capacity are among the cases which in case of not predicting in the documents of tender, after satisfying the contract parties, the increase of work value as an attachment should be done. On the other hand, the bidder organization or people in charge of holding the tender in mentioned organization enter small or medium contract with the bidder to get away the competitive process of huge transaction and try to enter the easy contract of small or medium tender and in spite of mutual contract, predict the increase of work value and contract fee 10 times more than small or medium transaction price, so by relying on after entering the small or medium contract try to increase the work value and contract fee against bidder organization. Undoubtedly in analyzing such behavior, nothing would be achieved but procurement collusion and violation of rights of other applicants attend the tender and lack of existing any profit for the government. (Pay RAZM, 2012: 2).

Procurement fraud

The importance of public procurement on one hand and financial pressures due to financial crisis and instability of current worldly economic environment led to growing increase of fraud even though all economic confirms are endangered by the risk of fraud in procurement cycle, but their capacity in public and governmental section organization is having direct relation with country's economic structure and governmental section wide activity. Even though there is no data about the rate of fraud in Iran, but by considering 1/5 world average procurement fraud percent and according to GDP announced by the World Bank in 2012, procurement fraud in Iran could be assessed 8/2

billion dollars (Ghanbari, 2013: 2) procurement fraud could be considered as a menace against honesty and to face it, some policies should be edited to control probable corruption activities and also upgrade Transparency, accountability and good work. Fraud tricks could be seen in two groups of confiscation of assets and violations of financial statements. The process of purchasing the goods, service and constructing construction project are involving processes and the person in charge of procurement should follow the stages to buy the goods and services. In first stage, required goods and services of different sections in governmental organization should be recognized. Then the best good providers and required services should be recognized and finally timely delivery of goods and services, considering quality and provision of goods and services with best price should be ensured. The fraud could occur in different stages of procurement. Some of them could occur in all cycle of procurement. The risk of fraud is always related with lack of transparency. The lack of transparency could lead to proposer's inappropriate distribution of information, vague reasons for the selection of procurement procedures, unjustified use of competitive procedures and vague assessment criteria. Also the authorities involved in governmental purchase may be aren't trained sufficiently and as result aren't professional. This issue could lead to planning, budgeting, and non-standard risk management. Furthermore, control mechanism and insufficient response could be changed to mismanagement. This issue could lead to ambiguity in accountability for procurement responsible and also monitoring the company's performance could be unsatisfactory. (OECD, 2012)

One of the instances of procurement fraud is fraud in field of assessing qualified supplier. In all parts of the law holding the tenders approved in 2005 and implementing regulations implies that qualitative evaluation of applicant, as the first supervisory loop by the bidder is to prevent the attendance of unqualified applicants whether public or limited. (Kamali, 2012: 8) in this regard, advertising quality assessment recall for the tender issue in widely circulated press and receiving qualitative assessment documents of applicants, observing of documents in specified date and mentioned on tender documents delivery site to the applicants and finally qualification and tender process with precise observance of the law and its executive regulations of the requirements in the regulations is predicted. One of the most important basis in procurement stages is the role of governmental procurement responsible which choose required supplier through tender. Therefore the existence of weakness in choosing the qualified suppliers would be shown as the weakness in providing the goods, service and emerging fault in reaching country's long term goals. As the spirit of law to hold tender force the provider to the most appropriate price based on time and place aspects, so choosing such provider to perform the tasks based on the quality required by the procurement responsible or bidder could be considered as success. (Hagh Shenaz, 2012: 8) Providing required services to perform constructive projects that service provider take measures based on price list, couldn't accept the proposals after holding the tenders as according to article and paragraph 2 related to the law of holding the tenders, commercial and technical evaluation of proposals is the process to observe features, standards, efficacy, continuity and other technical characteristics of the business proposals of the applicants and qualified proposals would be accepted and the contractor is obliged to assess the documents based on the mentioned features and standards.

Procurement political corruption

Misuse of political power for the personal and illegal goals of individuals is called procurement political corruption. Procurement political corruption and also power are twin. In other words, procurement political corruption is made of political power or conflict to gain power. Through two ways procurement political corruption could be tracked, first governmental authorities misused his position and second considered his position a place to gain wealth. Nowadays freedom fundamental laws to prevent false stability of such governor, by separating triple forces try to decrease the corruption and domination of the governors. Whenever supervising the activity of public affair agents is weakened, there would be an opportunity for political corruption. When the division of power between political actors (government) and other power isn't clear discovering the corruption cases and punishing the agents would be difficult. As in recent two decades in all over the world, paying attention to the law and facilitating the economic activities is emphasized, is just to remove political corruption (Sameti, 2006: 93) Making a monopoly of power in government would lead them to arbitrary interference in economic activities. Having such power along with the access to the data which the others are deprived of cause the opportunities for the government authorities to increase their profit even by decreasing the public interest. On the other hand, from the political view, corrupt political behavior occurs when public officials despite of having high authority have no sense of responsibility. In this regard, senior political are not willing to be completely transparent in their activities. For some of the governors, the higher transparency may be along with the lower power as this issue could be effective to increase the welfare among the beneficiaries in governmental purchase or the governors to stable and protect their power need non-transparent financial resources. Therefore fighting against corruption can't be away from the government re-engineering. In some of the countries, it could be seen that governmental authorities are willing more to governmental purchase with more procurement corruption opportunity and never choose it due to the positive effect on economic growth. The observations showed: Bribery in government procurement led some procurement to grow complicatedly. The result is that some of the governmental purchases are moving in the direction of slow economic growth and their share in GDP is decreasing. Each country needs investment and increase of investment for economic growth and also there should be indirect relation between the costs of governmental purchase and economic growth. According to this opinion, if a country added the cost due to governmental purchase, so the economic growth would be decreased.

Conclusion

What is gained through the observation and recognition related to the production of procurement corruption in holding the tenders in Iran indicated that: legal system in Iran is having legislative gaps, incomplete and subject to constant change. Undoubtedly in general conclusion, the most important factor of procurement corruption in governmental tenders is the fields related to weak supervisory mechanisms. The political aspect of holding the tenders, bureaucratic power, and the rent-seeking tenders are next in rank and other factors that facilitate access to rent sources. According to the scholar's opinion, the main sub-factors lead to economic corruption are related to lack of independent informing in holding the tenders, the existence of political expediency in facing the offender officials, holding governmental tenders in the frame of relations and also the government interference and the governmental tender adjustment. The danger to create procurement corruption in the tenders according to different stages of the tenders, type of procurement

contract and the way of implementation and legal management, the economic complication level and also required economic section are different. It seems that the amount of money, technology complexity, the necessity and urgency to acquire goods and services and also power among the authorities are among the main elements to form the procurement corruption in governmental purchase.

Recommendations

Regulating public procurement market through simplification of procurement rules and promotes the integrity of the honest system could lead to transparency and spread of competitive atmosphere. The most important factor of success to guide the trend from procurement market status to optimum status is planning based on good governing and Procurement rules deriving from the basic principles of human rights such as the right to freedom of expression, freedom of trade, the flow of information. Iran procurement rules is considered more as internal administrative law and this thought decreased the importance and position of procurement status and the effect in expanding the democracy and stabling the law and other effective laws in good governing and involve most of the governmental sections, while it seems necessary to continue this scope of rules to private companies and economic firms which are using public bonus and governmental monopoly. Finally democracy stability, good governing and law government are considered as high goals of public law and fighting procurement corruption, increasing transparency, expanding the rule of civil society as supervisory and accountability tools would be provided.

References

Ghanbari (2013), Prevention and detect fraud in procurement in the public sector entities, Hesabrasi Diploma Magazine, pp1-4.

Hagh Shenasi (2012), reform process qualitative evaluation of bidders in special projects, Monagheseh and Mozayedehe Newspaper, Vol.7, No.764, p8.

Hamdami Khotbeh Sara (2004), Corruption Finance: Causes, issues and Prevention strategies: Tehran, Strategic Studies Quarterly, First Public.

Kamali (2012), Lack of law enforcement tenders, Monagheseh and Mozayedehe Newspaper, Vol.7, No.764, p8.

Khodabakhsh (2012), Contradictions, Lack of transparency and Pathology of Holding law and suggestions to review and reform, Monagheseh and Mozayedehe Newspaper, Vol.7, No.752, p8.

Masoumi (2007), Prevention Corruption and economic Iranian law And International documents, thesis Senior, Legal Faculty Sadegh Emam.

Mirzasharif (2012), Review and Evaluation of the tenders, No. 130890 dated 17.11.1383 subject Iran Parliament and Its executive regulations, Monagheseh and Mozayedehe Newspaper, Vol.7, No.785, p1.

Pay Razm (2012), Collusion and the need for prevention Tenders law, Monagheseh and Mozayedeh Newspaper, Vol.7, No.785, p2.

Rezaei (2007), Actions to fight corruption in Malaysia Requirements to combat corruption, Bank and Eghtesad Magazine, No.82, pp59-61.