

Developing Procedures to Assess Contractors at Various Stages of Cooperation

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Abstract — State customer activities inevitably imply signing governmental contracts with companies of various types. Government contract making may result in certain risks and economic security threats for the state customer and it is of primary importance because its successful execution influences the budget savings and the application of funds. Professional literature shows little information on contractor assessment for the making of government contracts, and there are no developed procedures for the interaction audit of the contractors in the Ministry of Agriculture. We analyzed and suggested procedures for the assessment of contractors in the Ministry of Agriculture of the Astrakhan region. The operations of the ministry and its subordinate entities cannot be isolated at the moment because they enter into dozens of government contracts every year. One of the threats influencing the execution of the contract is the vendor's inability to perform their obligations due to the incorrect calculation of the maximum face price of the contract. The author claims that the inability to properly assess the diligence of a potential contractor is due to the very requirements for procurement participants and the non-compulsory character of government customer audits of the procurement participant's compliance with those. Therefore, the government customer shall be legally obliged to audit the contractor at the selection stage, not during the fulfillment of contractual obligations, which is often done indirectly by auditing the government customer themselves.

Keywords: *contractor assessment, governmental contracts, budget savings, auditing procedures, contractual obligation performance quality check, the Ministry of Agriculture of the Astrakhan region*

I. INTRODUCTION

The problem of selecting diligent and reliable suppliers is becoming more and more pressing nowadays. According to contract legislation for procurements, contractors shall be selected if they satisfy a number of requirements.

The existing standard requirements for purchase participants do not allow state customers to fully ascertain the efficiency, safety, and rationality of a contractor selection.

Relationship building practices for a state customer and a contractor is first and foremost aimed at the reduction of material costs. In other words, the key indicator of procurement efficiency is the economy of budgetary funds, and the key criterion of tender assessment is the price. Thus, an unreliable contractor can win the tender if they offer the best contract price. Since the price is the most important criterion, the state customer has a limited opportunity to select a more rational and beneficial offer. [1] Due to this, a contractor's professionalism shall be considered a key criterion.

II. THE ASSESSMENT OF POTENTIAL AND EXISTING CONTRACTORS.

Currently, when the Ministry of Agriculture of the Astrakhan region audits their partner's compliance, they abide by the Government Procurement Law [2], decrees[3], and orders. Suggestions for the improvement of procurement legislation given in the previous paragraph signify that there existing legislation has some loopholes concerning the auditing of contractors.

At the moment, the process of auditing potential and actual contractors is designed so that in case of threat detection without any breaches of legal requirements for government procurements, the contractor is allowed to participate in the contract.

The contractor audit procedures at various cooperation stages are sketched in Figure 1.

Thus, the ministry can face some difficulties when organizing the contractor auditing process. These may include the lack of uniform contractor auditing procedures, serving as a more efficient basis for the audits of contractors at various cooperation stages, regulating the procedures and the terms, request triggering, and volume of data necessary for decision making concerning the selection of a contractor. With a view to the abovesaid, we deem it necessary to develop local contractor auditing procedures for the ministry, taking into consideration the improvement suggestions for the government procurement law.

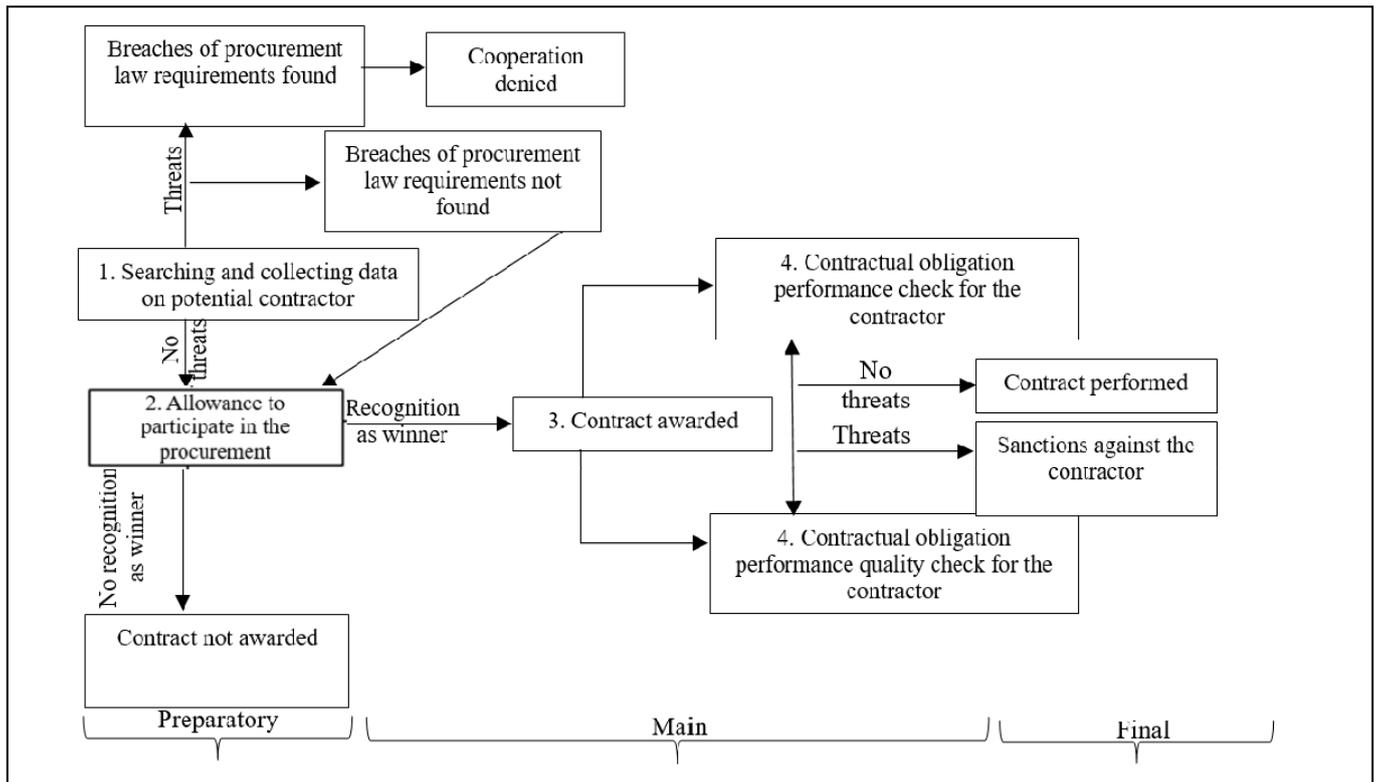


Fig. 1. Stages of auditing potential and actual contractors

This document shall contain the information about the goals and objectives of contractor auditing, selection criteria, officers and departments responsible for auditing, information source lists. [4] That being said, the procedures must include a uniform auditing algorithm with efficient methods for the assessment of potential and actual contractors aimed at the maximized economic effect in terms of maintaining the economic security of the ministry.

The main goal of the procedures must be maintaining the ministry’s security against possible dishonest or improper activities of vendors and other contractors. In order to achieve the goal stated in the procedures, auditing must solve the following problems:

- minimizing economic security risks and threats;
- improving the ministry’s reputation among contractors as an authority and a government customer that is serious about their own security;
- controlling the work of employees responsible for vendor and contractor selection in order to prevent their involvement with kickback schemes and detecting dishonest employees who support companies with a dubious reputation. [5]

The contractor audit procedures shall be communicated to and used by the following officials:

- the minister and their deputies
- the head of the economy and finance department of the ministry and its personnel;
- employees at the department responsible for the area of activity of the contract to be made;

- subsidiaries that sign the contract [6]

Specific terms for auditing are not set and they depend on the stage of cooperation between the contractor and the ministry and its subsidiaries. If auditing is performed at the selection stage, it must be done one day prior to the procurement. If auditing is performed during the execution of the contract, it must be done before the contract expiry date. [7]

The key information sources about the contractor may include the following:

- The official website of the Federal Tax Service (hereinafter FNS) that can provide extracts from the Uniform State Register of Legal Entities and the Uniform State Register of Individual Entrepreneurs, check group incorporators and managers, as well as the availability of qualified directors; [8]
- The Commercial Case File that provides information on the contractor's judicial history, the key points of the lawsuits and the case value; [9]
- The official website of the Federal Bailiff Service that can provide information on the contractor's court-ordered debts; [10]
- The official website of the Ministry of Internal Affairs that can help verify the contractor managers’ passports and work permits or professional licenses for foreign citizens;
- The official website of the Federal Antimonopoly Service that can provide information about the reliability of a contractor through the register of rogue suppliers; [11]

- The official website of the Uniform Federal Register of Bankruptcy Information that can help define if the contractor is bankrupt;
- Other web sources, e.g. the official website of the contractor and their customer references.

III. STAGES OF IMPLEMENTATION FOR AUDITING PROCEDURES.

As for the stages of implementation for the procedures, there must be three key stages: preparatory, main and final. The ministry's contractor and its subordinate bodies must be audited at each of these stages. [12] Contractor auditing must be performed at all three stages as a number of consecutive actions shown in Figure 2.

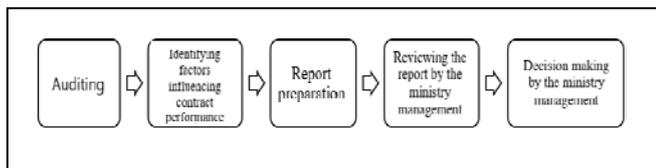


Fig. 2. Contractor audit algorithm

According to Figure 2, the operations of the ministry and its subordinate authorities at all three stages of contractor cooperations shall consist of implementing consecutive actions: during the audit, the government customer may find factors influencing the execution of the contract that shall be recorded in the auditing report. This report is communicated further in order for the top-level managers of the ministry to familiarize themselves with the results of the audit. Having studied the document, the managers shall take a decision concerning the further cooperation with the contractor audited. The managers can prolong their cooperation with the contractor or they can request authorities to use some sanctions against the contractor. [13]

Auditing procedures shall provide several options for collecting the necessary data about the contractor. These may include the open data collection, implying requesting documents from the contractor; the covert data collection, implying the independent information search in open sources without informing the contractor about such activities; and the combined data collection, using both of the options. [14]

Data from Figure 2 show that the cooperation of the ministry and the contractors includes three large stages: preparatory, main, and final.

The preparatory stage is characterized by assessing potential contractors, i.e. before the contract is awarded. [15] Assessing a potential contractor at this stage is important in order to maintain the economic security of the ministry and its subordinate bodies. The methods that should be used in auditing a potential contractor, in our opinion, include observation, horizontal and vertical data analyses, comparison, and some other methods used to assess the compliance of a procurement participant with the stated requirement.

At the preparatory stage of assessing a potential contractor, some documents shall be requested, according to the procurement specifications. They may include the following:

- Procurement participant's agreement to supply products/perform works or services as specified in the procurement documentation;
- Procurement participant's declaration of compliance with the requirements expressed in the contract legislation for government procurements.
- Copies of articles of incorporation;
- Copies of contractor's incorporation certificate, tax reference number certificate, and tax registration certificate;
- A copy of the operating license (if applicable and if the execution of the contract requires the contractor to perform such activities);
- A copy of the document that verifies the authority of the executive body signing the contract (e.g. the decision of the board of incorporators about the CEO), and a copy of a proxy, if someone else signs the contract;
- A passport copy from the top manager of the potential contractor and the employee signing the contract by proxy
- A copy of the financial statement (form 1, form 2), etc. [16]

Besides, it is necessary to request a list of suppliers, customers, and subcontractors from the potential contractor with whom they worked during the previous year: it will provide an additional opportunity for the assessment of the reliability of the data communicated by the audited business entity. If the potential contractor refuses giving such information on the excuse of business secret, it can lead to the reduction of trust towards the potential contractor. After the necessary documents have been received, the signatures of the audited entity's managers in them are compared and identified, thus verifying the legal capacity of the legal entity or an individual businessman and the data in the documents.

According to the Civil Code of the Russian Federation, the identifying features include company's name, address, primary state registration number, tax reference number, special franchise (if any) data: number, date, and grantor of license.

During the study and analysis of the materials provided by a potential contractor, the main focus must be made on the presence of illegal business operation features in their activities (acting without registration with the tax authority, or without a special license) and on the submission of documents that contain deliberate misrepresentations. Then it is necessary to study the articles of incorporation of the audited business entity and define the authorities of the contractor's employees who would sign the contract. Besides, it is necessary to check any affiliations or connections between the beneficiaries of the potential contractor and other companies by enquiring with the Uniform State Register of Legal Entities.

The next step is analyzing publicly available data pertaining to the business reputation of the entity in question. The assessment of the business reputation of a

potential contractor helps define the feasibility of entering into a contract with them in due time. In this respect, it is necessary to check the diligence of the potential contractor as a taxpayer; define if they were involved in some arbitration cases, if the managers of the potential contractor have any economic crime records, or if they are involved with the criminal world.

Finally, it is necessary to draw up a conclusion using the contractor assessment methods that would have solid arguments about serious factors and threats that can lead to adverse consequences for the ministry or its subordinate bodies if they enter into a contract with the contractor in question. [17] This conclusion shall be communicated to the top level of the ministry or its subordinate bodies for review and in order to make a proper decision upon allowing the potential contractor to participate in the procurement, restricting the terms of the contract, or communicating the materials to the antimonopoly authorities to include the procurement participant in the register of rogue suppliers. When analyzing the quality of contractual obligation performance by the contractor, it is necessary to use observation and sometimes expert appraisal methods.

IV. CONTRACTUAL OBLIGATION PERFORMANCE QUALITY CHECK.

The contractual obligation performance quality check consists of comparing the actual results of the contract with those expressed in the state quality standards and in the contract in question. (Figure 3).

If the ministry or its subordinate body allows the potential contractor to participate in the procurement, as well as if the contractor wins the tender, it is necessary to review the draft contract. First of all, it is necessary to check the scope of contractual obligations so that there would not be any diverse interpretations of the contract in the future. Besides, it is necessary to verify the information in the contractor's articles of incorporation and other documents, as to whether the details of the documents specified in the contract are denoted correctly. It is possible to use the inspection method in order to perform a sanity check of the contract design. The expert appraisal of a draft contract is aimed at detecting its drawbacks that may influence the economic security of the ministry or its subordinate bodies. Apart from the legal aspects, the economic ones shall be assessed as well. In this case, the method of the arithmetic check (data recalculation) is used: it is necessary to compare the price calculation for product procurement, work and service performance.

The key stage of the implementation of the procedures is checking the actual contractors using the following methods: expert appraisal, arithmetic check (recalculation), document check (inspection)m data comparison and observation. During the contractor's performance of obligations under the contract, the employees of the ministry responsible for auditing have to assess the implementation of the contractual obligations. In order to perform such an assessment, it is necessary to collect all the existing and contract-related documents, including progress reports, bills of lading, financial estimates, etc Then it is necessary to compare the sums stated in the documents and the calculated ones using the arithmetic check (recalculation) method. [18]

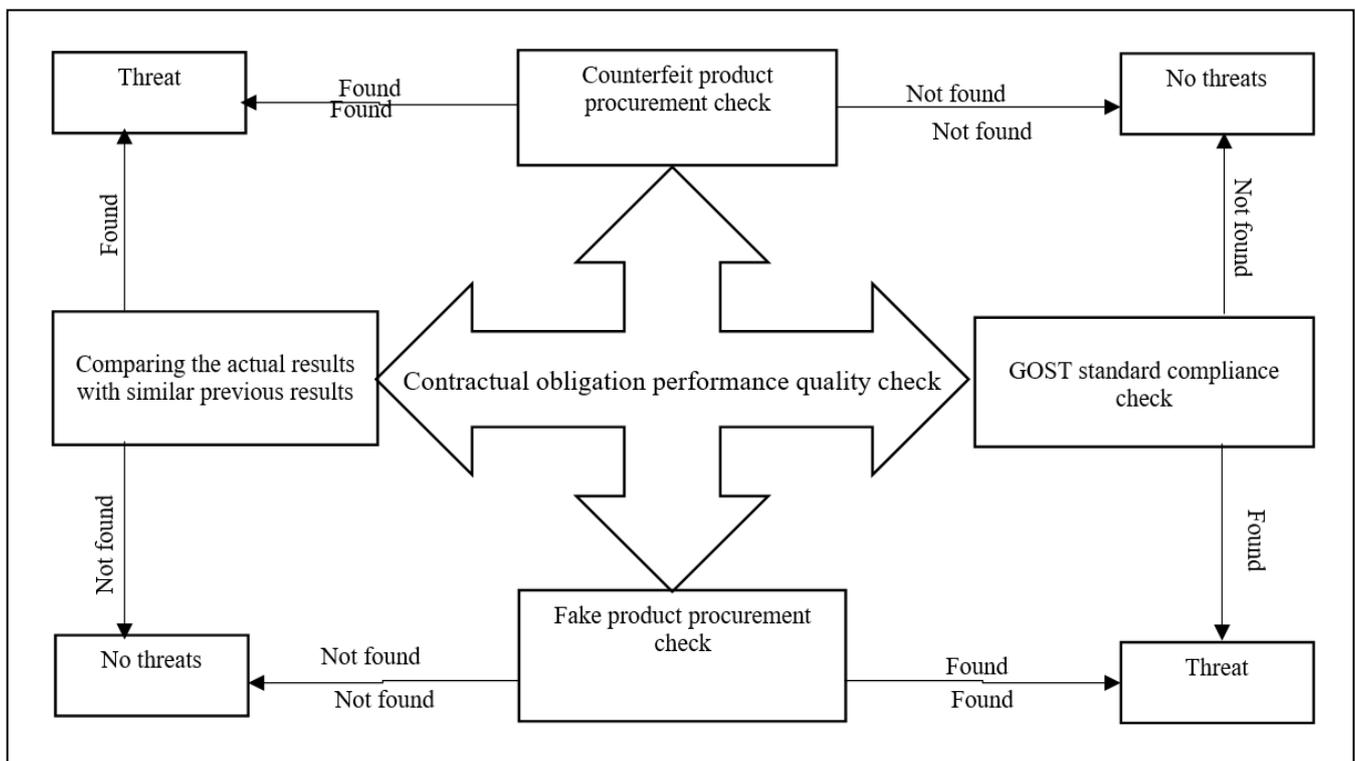


Fig. 3. Contractor's performance quality check for the contracts with the Ministry of Agriculture of the Astrakhan region and its subordinate bodies.

In order to check the quality of contractual obligation performance, ministry employees responsible for auditing have to visit the sites where the contractor performs his works/services or procures the products, review their activities and evaluate the quality of obligation performance according to the results of the review. [19] Besides, these employees have to be highly competent in state standards and norms, as well as local quality standards. If special expertise is necessary to assess the performance of contractual obligation, the expert appraisal shall be called for.

According to the results of all contractor checks, the information obtained during this process shall be systematized and presented as a report that shall be communicated to the top management of the ministry or its subordinate bodies for review and relevant decision making.

V. CONCLUSION

Thus, taking into consideration the above, the implementation stages of uniform evaluation procedures for potential and actual contractors by the ministry or its subordinate bodies shall be the following (Figure 4).

According to the data set out in Figure 4, the necessary changes suggested in the previous paragraph promote understanding a potential contractor's reliability and prompt refusal of the cooperation with them at the preparatory stage of the check. It can help the ministry reduce risks and threats to their economic security associated with the performance of contractual obligations.

Thus, using the procedures that employ the evaluation methods for potential and actual contractors described above, it is possible to achieve high economic security for the Ministry of Agriculture of the Astrakhan region.

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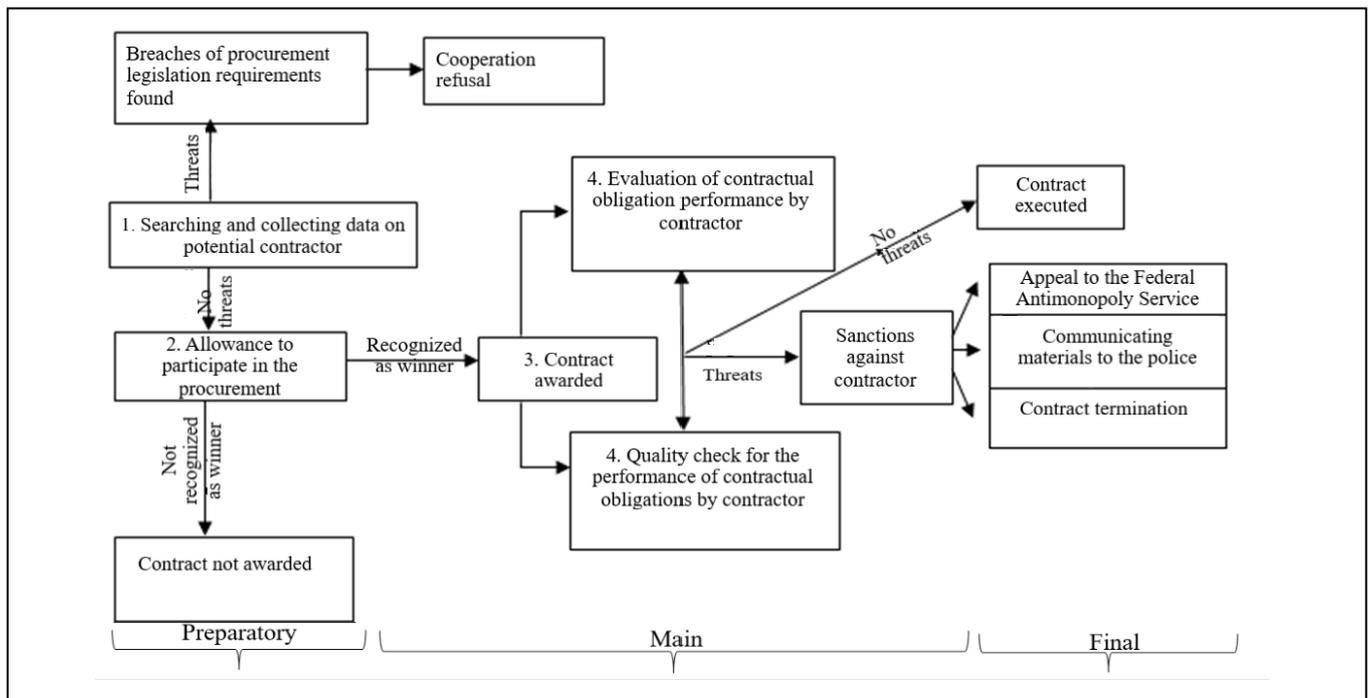


Fig. 4. Implementation stages of evaluation procedures for potential and actual contractors of the Ministry of Agriculture of the Astrakhan region.

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