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**Foreign experience in the regulation of procurement activities**

*In this article the questions of the procurement system effectiveness in Russia and abroad are researched. As the object of research the procurement system, mechanisms and the principles of its functioning acts. The Article determines comparisons of the procedures of purchases and unveils features of procurement procedures in the foreign countries. A main objective in the field of purchasing activity is timely, effective and transparent ensuring the requirements with the necessary inventory items, equipment, works and services of the corresponding quality in a necessary quantity and on the most advantageous conditions. The author draws conclusions that the high-quality planning of the state order and the orders of corporations will significantly increase its efficiency, will allow build a system of providing the authorities and corporations with the demanded goods and services, and also a system of the subsequent control of an expenditure of the budgetary funds and means of the other participants of purchasing activity.*

**Зарубежный опыт в регулировании закупочной деятельности**

*В статье исследуются вопросы эффективности системы закупок в России и за рубежом. В роли объектов исследования выступают система закупок, механизмы и принципы ее функционирования. Статья определяет сравнения процедур закупок и раскрывает особенности закупочных процедур в зарубежных странах. Основной целью в области закупочной деятельности является своевременное, эффективное и прозрачное обеспечение потребностей необходимыми товарно-материальными ценностями, оборудованием, работами и услугами соответствующего качества в необходимом количестве и на максимально выгодных условиях. Автор делает выводы, что качественное планирование госзаказа и заказов корпораций существенно повысит их эффективность, позволит выстроить систему обеспечения органов власти и корпораций востребованными товарами и услугами, а также систему последующего контроля над расходованием бюджетных средств и средств иных участников закупочной деятельности.*

***Keywords:*** *federal contract system, placement of the state order, planning, competition, efficiency.*

***Ключевые слова:*** *федеральная контрактная система, размещение государственного заказа, планирование, конкуренция, эффективность.*

Reforming of the system of state procurements and corporate purchases awakens interest in the studying of foreign experience in management of placement of the state order and the purchases of corporations.

Main objective in the field of purchasing activity is timely, effective and transparent ensuring the requirements with the necessary inventory items, equipment, works and services of the corresponding quality in the necessary quantity and on the most advantageous conditions.

There are two laws regulating the procurement activity of different state-owned companies, monopolies and the other organizations in the Russian Federation, it is the Federal law from 05.04.2013 No. 44-FL "About contractual system in the sphere of purchases of goods, works, services for ensuring the state and municipal needs" (further – the Law No. 44-FL) and the Federal law from 18.07.2011 No. 223-FL "About the purchases of goods, works, services as the separate types of legal entities" (further – the Law No. 223-FL).

Many researchers and specialists argue on the need and feasibility of use in Russia the practician of foreign countries. According to the statements of specialists, in it there is no blind copying, we only look at this experience and we try to understand as far as we will shift it onto our Russian realities [7].

In the USA a system of placement of the state order on deliveries of goods, works and services for the state needs – the Federal purchasing system – is used 90 years. The federal purchasing system of the USA is regulated by the federal rules of planning, placement and fullfillment of the state order (FAR – Federal Acquisitions Regulations). These rules contain about 4300 thousand regulations and rules which are in details regulating the single planning cycle, placements and fullfillment of the state order [7].

The use in practice of the USA of the procedure of planning of the state order is represented to the most interesting. This practice was absent in our domestic system and is provided in the new law on contractual system in the Russian Federation. The planning system includes two stages in FCS of the USA: forecast of purchases and creation of the individual plan of purchase. These documents are prepared by each state customer in the USA. The forecast of purchases represents the schedule of placement of the state order. Similar plans schedules are made today by the state customers of some federal executive bodies, and also at the level of some regions. The main objective of such forecast – to make and reveal aggregative information on the amount of the planned state procurements in the authorities.

Procurement plans – the instrument which is used already some time in the Russian practice, but still a lot of things should be made in this area to make it effective. In the United States by each state order the detailed plan of its implementation prepares. Thus, the American practice of individual planning models each future purchase on the stages – from the moment of appearance of need for goods, works or services until realization of the contract and taking-over of the delivered goods, works and services [7].

For the accumulation of information on planning of the state procurements in the USA the multi-level spreadsheets available to the detached onlookers are used. This information system allows trace the plans of public procurements even before conduct of the biddings. In the information system information on each purchase by the public authorities of the USA, the price range, form of the contract and its realization is available, also is available data about the responsible person for each contract. In the Russian practice of placement of the state order it is planned to achieve the same level of transparency by the means of implementation of the planning system of orders and placement of information on the state order in the unified information system.

One more characteristic of the Federal purchasing system of the USA very interesting to Russia is the branched organizational and functional structure with the single center – the Office of the state order of the USA. This central body coordinates work of the Federal purchasing system.

The office of the state order of the USA is founded in 1974 and is structural division of the Office of management and budget of the USA, implementation of functions on carrying out the policy in the field of planning, placement and fullfillment of the state order is included into its power. Such centralization promotes toughening of control over the procedures of placement of the state order [7].

Considering importance of the procedure of planning in the management system of public procurements, the high requirements of qualification to the officials planning the state order are imposed. In the state apparatus have to work professionals who are responsible how is the most effective to carry out the tasks facing the society and the state.

Lack at the moment of enough highly qualified personnel in the field of placement of the state order is, in our opinion, the main brake in implementation of the planning system of placement of the state order in the Russian Federation.

By analogy with the work experience of the Federal purchasing system of the USA in Russia, according to the new legislation, in case of implementation of the procedure of planning of the state order the aim of creation of detailed process of forming of each purchase proceeding from the needs of the state customer for the certain goods and services necessary for it for provision of the state services for the population in the necessary quantity and quality is pursued [7].

High-quality planning of the state order will significantly increase its efficiency, will allow build a system of providing the authorities with the demanded goods and services, and also a system of subsequent control of the expenditure of budgetary funds.

Except an increase of efficiency of expenditure of the budgetary funds, forming of the state orders on the basis of planning will help the state customers to prove more carefully rationality of the purchases, to control their timeliness, to reduce the risks not of deliveries of goods, failures to carry out of works, non-renderings of services.

If to consider the methods and rules of carrying out purchases on projects of the World bank, then the experience of use of different criteria when purchasing goods or services is very remarkable.

The main criterion of choice of the winner when purchasing goods and project works of the World bank – the price with necessary accomplishment of all technical requirements. Unlike the purchases of goods and works as the main criterion when purchasing services is not the price, but the quality. Unfortunately, the principle of selection of the suppliers on quality has not found the place in the Russian legislation on placement of the state order that is the factor significantly reducing the efficiency of state procurements [7].

According to many Russian experts, the most useful experience in the field of control over the placement of the state order among the European countries Germany possesses.

Germany as the member of the European Union is obliged to perform the European legislation on the state procurements. The requirements of the European Union concerning creation of a competitive environment and inadmissibility of discrimination organically are entered in the legislation of Germany.

European legislation regulating public procurements borrowed the section of the law on inadmissibility of restriction of the competition (antitrust law) from the legislation of Germany that conforms to the main requirements of the project of the European Constitution where satisfaction of the state needs is considered as the principle of action of the market economy [7].

Meeting the requirements of the European Union, the monitoring system of the procedure of state procurements operating in Germany has the peculiar features. The monitoring system of state procurements in Germany consists of two levels:

- appellate instance – in the form of independent organization;

- degree of jurisdiction – in the form of judicial authority [7].

An opportunity to challenge the results of placement of the state order in the court became in Germany a successful innovation. The decisions made by the both instances of control of the system of state procurements are published and serve to the further development of transparency of state procurements.

As the law establishes the accelerated claim treatment procedure on the actions of the customer, cancellation of the decision on placement of the state order does not lead to a delay of expenditure of the budgetary funds and purchases of goods for the state needs.

Following the results of biddings the contract is signed with the most economic participant. At the same time, the economic benefit in Germany is understood as not reduction of price as a result of tendering and not acquisition of the cheapest goods, works and services at all. Economic benefit acquisition of the high-quality goods for reasonable price is considered. Such combination can provide an experienced, free in the financial plan and the reliable supplier. But at the time of application all suppliers are equal, according to the principle of an open competition.

One of the mechanisms of ensuring control over the placement of the state order in Germany is the activity of public organization of experts and scientists "The state order forum". During the activity of this public organization there is an exchange of opinions, the relation to the new phenomena in the sphere of state procurements within the country and abroad is created. Decisions of work of the forum and the opinion of experts are led up to the government. The forum annually awards the award for the best scientific work in the sphere of public procurements – Public Procurement Award [7].

In the Law No. 44-FL legislators did not begin to be limited only to the recommendations of public organization for the government.

The law No. 44-FL provides carrying out public control over the placement of the state order. Public control is urged to carry out the following functions:

- preparation of the suggestions for improvement of the legislation of the Russian Federation on the federal purchasing system;

- implementation of the requests about provision of the information on purchases and a course of fullfillment of the contracts;

- implementation of independent public monitoring and an assessment of the course of purchases, including an assessment of procurement procedure and results of performance of the contracts regarding their compliance to the requirements of the legislation;

- appeal to the relevant organs with the statement for carrying out the actions for control and supervision over activity of the customer, and also appeal to the law enforcement agencies in case of availability of the signs of crime in the customer activity;

- appeal to the judicial authorities with the claims on the wrongful acts (failure to act) of the customer and the other functions.

The requests about provision of information on implementation of the purchases and a course of fullfillment of the contracts, other addresses provided by the public associations and associations of legal entities shall not be ignored and are a subject to obligatory consideration by the customers.

The possibility of strengthening of unfair competition and blackmail as the provision of the law on public organizations gives the chance to the side which is not participating in the contract signature about the state procurements to suspend and even to break its accomplishment became one of the first concerns stated by the experts.

Besides, it could be so many requests about the provision of information on implementation of the purchases and a course of fullfillment of the contracts that the employees who are engaged in public procurements will get bogged down in paperwork. In the new law on contractual system the question of what organization shall carry out the functions of public control and who will be its members is also not opened.

Now the model of creation of the future Russian contractual system is developed. Changes happening in the Russian legislation in the sphere of regulation of public procurements in many respects are based on the foreign experience and proceed from a need of increase of efficiency of placement of the state order at all stages of the process by implementation of the necessary instruments of precontractual and post-contractual work [7].

Constructive proposals on separate elements of the system and their interrelation among themselves are based on the experience of foreign countries and the modern principles of development of public purchases of goods, works and services.

When using the foreign experience it is impossible to forget about a number of problems connected with it. Among such problems it should be noted borrowing of separate elements without interrelation and interdependence. Such fragmentariness of borrowing reduces the efficiency of all system of the public and corporate procurements, does incomplete separate provisions of the legislation, generates inconsistency between the system elements.

Thus, developing the domestic system of public and corporate procurements, enhancing its standard legal regulation, it is reasonable to make use of the saved-up domestic and foreign experience. At the same time, it is necessary to analyze carefully the consequences of practical application of the implemented methods, otherwise the ultimate goal of management of the public, corporate procurements – increase of efficiency and transparency of placement of the state order and the order for needs of the corporations will not be achieved.

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