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University of Applied Sciences

Degree Program in International Business

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STRATEGIES TO AVOID CLEPTOCRATIC TENDERS IN RUSSIAN PUBLIC PROCUREMENTS.

Bachelor's Thesis 2015

ABSTRACT

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CRATIC TENDERS IN RUSSIAN PUB-
LIC PROCUEMENTS

Bachelor's Thesis

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Public procurement and tender offers is relatively new, however, rapidly developing sector on the market, which plays significant role in economies of the counties. Considerable amount of monetary funds is allocated to public procurement from federal budgets. This study is focused on the research of cleptocratic public procurement issues and the objective of the research is to compose an applicable strategy of identification and avoidance of cleptocratic tender procurement procedures.

The research is based on the qualitative method, where the reliable and credential experts of procurement industry provided their knowledge and experience concerning this issue in order to work out the algorithm for identification of cleptocratic tenders by virtue of the list of criteria.

The result of this study is aimed to improve efficiency and productiveness of both legal entities and solo-entrepreneurs, utilizing the algorithm of cleptocratic tender avoidance in order to economize monetary funds, time for market research and other resources that may be used during any procurement procedure.

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TERMS AND ABBREVIATIONS

Abbreviations:

CPI	Corruption Performance Indicator
CRM	Customer Relationship Management
FAS	Federal Anti-monopoly Service
GDP	Gross Domestic Product
NDT	Non-Destructive Control
NGO	Non-governmental organization
OCN	Organized corruption networks
SME	Small Medium Enterprise
SPE	Scientific Production Enterprise
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law

Terms:

Cleptocracy

Cleptocracy is a form of corruption on a political or governmental level, when state officials exploit national resources in order to increase personal wealth (Dictionary.com 2015).

Corruption

The use of bribery to influence the actions of officials in order to gain personal interests. (Black, Hashimzade, Myles 2012, 86)

Doubtful procurement procedure

Such type of procurement procedure where risk of corruptive or cleptocratic intervention is high enough and might have an impact on final predetermined result.

Tender

Tender offer is a bid to undertake a project, where the bid will consist of information on the company, individual placing the tender, an outline of how the project will be approached, and a price for completing the project (Black, Hashimzade, Myles 2012, 405)

1. INTRODUCTION

This study was implemented during a short-term employment of 3 months in Russian reseller enterprise Nerkon LLC. My position was a tender and sales manager, which included such responsibilities as research and analysis of Russian tender offers market through special platforms and software in order to find the most suitable offers to take part in, analyzing opportunities and possible profits, taking into account all risks; collection and preparation of paperwork for participation in tender offers; bargaining or setting bets on auctions, then communications with suppliers and customers and fixing the terms of delivery and payment. While I have been analyzing potentially profitable tender offers, I have noticed that some of the offers were a bit suspicious and had bizarre terms of implementation and it pushed me to a thought that there was something suspicious and caused me to carry out a research on this topic of cleptocratic situation on Russian tender offers market.

1.1. Company presentation

The research was performed during my employment in a Russian Limited Liability Company. Nerkon LLC was founded in 2007, however it operated before on the market of equipment for gas detection and radiation monitoring under another brand name “Fela-Control”. In 2009 a new direction of equipment for non-destructive testing (NDT) was created in order to widen product line of enterprise. Due to established contacts and partnership with some European companies and also within Russian area, company prospers in such domains as NDT, gas and radiation detection. The company’s mission states that it is seeking all the possible ways to minimize terms of delivery and operational service of all supplied devices as it values each customer and Customer relationship management (CRM) is one of the key aspects that marketing department is concerned with. In 2013 Nerkon LLC worked out a strategy of expansion, establishing new constant partnerships with many scientific production enterprises (SPE) in Russia and even negotiating exclusive rights of being official dealers for some of them. (NDT 2015)

Meanwhile, the commercial director of Nerkon LLC proceeded to develop its infrastructure and partnerships in 2014, the business developer of the company made a decision to expand channels of distribution, and one of the possible ways was tender offers market, including public procurement tenders. Being a small medium enterprise (SME), Nerkon's LLC human resources staff consists of 20 employees and 3 shareholders, operating mainly on a Russian market, nevertheless, it has a wide range of suppliers from both Russian and foreign production factories.

The new department of tender offers is relatively young, consisting of three managers who are responsible for analysis of public procurement market and preparation of necessary documentation for participation in tenders. In addition, there is one bookkeeper, who is in charge of provision accounting paperwork and verification of documents for application procedure. As being a part of tender department team, I have taken a decision to make cleptocratic situation on tender offers market plain. Cleptocratic and corruptive issues in Russia were always one of the main for foreign companies to be concerned with, hence, this research will give benefits to companies that are going to participate in governmental tender offers.

1.2. Research and development objective and limitation

Corruption was always an issue to be concerned with and it is even a more meticulous moment in Russian business culture that has to be taken into account. As it was mentioned above, such obstacle was faced before during my work placement in the department of tender offers, therefore, it could be instructive and useful information for local Russian companies and for companies that are going to deal with the Russian market.

Moreover, there are a lot of Finnish enterprises, which have constant export and import relationships with Russian ones, and these companies will benefit from the implemented research. First of all, it would be an omission not to mention that the biggest bribes and dishonest negotiated deals, especially, occur in tender offers market in Russia.

The objective of this study is to disclose truth in the sphere of procurement offers, analyze and generate possible solutions that could aid to resolve an issue of cleptocracy in sphere of public procurement. This study includes literature review, as a framework for further analysis of cleptocratic situation in sphere of public procurement, and qualitative research, as a primary data analysis. Interviews with experts in sphere of public procurement will be used as a qualitative research method and this type of research will give clear and relevant information from reliable resources.

Based on the obtained results, the research will have an algorithm of cleptocratic tender's avoidance, thereby, this research will help participants, both legal entities and individual entrepreneurs, to minimize risks such as corruption in public procurement, in addition, participants will benefit from saving their time and money from non-participation in procurement procedures with defaulting organizers and suppliers. Therefore, the research will grant an applicable strategy of corruption avoidance in public procurement, suggestions for improvement of procurement system in Russia, schemes of swindlers in public procurement, which are better to shun.

There is a stereotype about Russia that every money flow has to deal with losses due to the fact of bribery, however, some solutions exist in order to minimize risks of corruption and even prevent it. In fact, corruption issue is one of the key factors in PESTLE analysis for Russian market and it is always included as a political factor in it, hence, this research will bring clear and comprehensive outcome for many companies that are dealing with Russian market or planning to.

This study will focus mainly on tender offers cleptocracy in governmental sector, nevertheless, essential elements of Russian corruption will be covered and any enterprise could benefit from this research. There are several questions that will be covered during this study, aiming to disclose all pitfalls of cleptocratic tender offers market, asking the main question "How cleptocratic tender procurement could be avoided?" which consists of sub-questions:

- What conditions do, generally, encourage bribery?
- What are the outcomes of cleptocracy?
- How does it affect the economic situation of country?
- How to reduce negotiated deals on the Russian tender offers market?

- How to reduce cleptocracy on the Russian tender offers market?

It is crucial to take into consideration that this study is only applicable within Russian tender market and would not necessarily have recommendations of corruption avoidance in general. The research was carried out in order to discover bribery pitfalls and work out a strategy how to manage enterprise in monopolistic situation to minimize risk of frauds in tender offers market, thus, this research may help to develop an anti-monopolistic strategy for companies that are going to participate in governmental procurement in Russia.

1.3. Research and development structure

This study will be structured with several parts, beginning from introduction part, which will include prefatory paragraph, statement of problem, company description and research and development objective and limitations of the study. All of these will expose the idea and purpose of the research in order to state hypothesis and give a start for theoretical part. The following part will include theoretical background about tender offers of government in general and significance of this market, what kind of tender offers exist in the Russian procurement system; corruption explanation and its role in the Russian industries, then it will be followed by the combination of monopoly and Russian tender offers market with specifics about it and examples. Afterwards there will be results of the research and discussion parts that reveal all possible strategies of eschewal of corruption on the Russian tender offers market of governmental procurement and will give a clear view on the current situation on the market. The research could be applied to any size of company, as it does not matter what size is an enterprise for cleptocracy fraud.

2. TENDER OFFER

According to the Dictionary of Economics, tender offer is a bid to undertake a project, where the bid will consist of information on the company, individual placing the tender, an outline of how the project will be approached, and a price for completing the project (Black, Hashimzade, Myles 2012, 405).

Tender offer market is a niche for many expert service businesses, where a successful and efficient company's actions can realize considerable earnings. It is crucially to understand the market of tender proposals to reach the desired result. There are a lot of different factors, having an impact on the success of the proposal and, as a result, on the decision of tender's sponsor, which include different company's abilities, such as partner network, suppliers, influencing the term of delivery and costs; and external factors that could be mentioned in PESTLE analysis.

2.1. Introduction to tender offer in Russia

The first occasion of tender concept with detailed study of its structure was brought by the United States. It was developed for maintenance of competitiveness of market, using the practice of competitive bidding as a method of combating corruption and bribery system that flourished in the US in the 50s. The Americans tried to create a process that allows you to choose the supplier as objective as possible, presenting it in the form of detailed instructions of the tender. Meanwhile, such type of purchases is known for a long time in Russia; even in the time of Aleksei Mikhailovich, the tsar of tsardom of Russia in 17th century, a similar procedure was applied in Russia. The Tsar of tsardom of Russia issued a decree to provide flour and rusks to Smolenks in 1654. It was the first officially signed agreement of tender proposal. After the revolution tendering ceased to exist because of the nationalization of industry and the leading party have not given any chance to free competition. Trading system in Russia resumed only in the 90s and has been developing dynamically since that time. (Barsegova 2011, 23)

After a while the idea of tender procurement came to the court and it was supported by United Nations (UN) and United Nations Commission on International Trade Law (UNCITRAL), where a procurement law concerning both goods and services or carrying out the works was elaborated and published. The law was adopted by most countries and became a basis for the creation of the rules of international investment funds. By the 60th year tenders were firmly established in the world practice in the private sector. Governmental procurement is a compulsory tendering process for every public institution as a way to struggle against monopoly and to determine the most favorable supplier. At the same time, public institution can choose different types of tender, depending on several factors. (Barsegova 2011, 24)

2.2. Classification of tenders

Tenders could be classified by admission of participants and by the possibility of changing requirements of the competition. The first classification separates tenders into several groups by the participants that are allowed to take part in a tender offer. The second classification partitions types of tenders by possibilities of moderating organizer's requirements and applicants' terms. It is necessary to state that each type of tender has its own characteristics and requirement for applicants.

Further different aspects of types of classifications, governmental procurement process and federal laws, which are applied in this case, will be presented in details.

2.2.1. Classification by admission of participants

It was legally stipulated to use of different procedures by this classifications:

- Open tender
- Closed tender
- Selective tender

Participation in the open tender is free and granted for both legal entities and individuals (WebFinance 2015a). Thus, the customer receives a wide range of contenders for a victory. An announcement of open tender is placed on the Internet, in public business publications and mass media. The fact of announcement is already an official invitation for every legal entity or individual to participate in it. The customer can carry out the entire procedure or empowers the trustee, signing an official document for transfer of rights.

The participant has to apply according to legal framework and requirements of organizer. If a positive result is given to applicant's documentation for the contest, it means that applicant is permitted to take part in tender. If the applicant has questions regarding the tender documentation, either legal entity or individual has the right to appeal in a written form to the customer; afterwards customer gives the answer in the same form. If an applicant violates the rules, it may lead to exclusion of the applicant from the list of participants. When all the applications for participation are collected, the

customer is obliged to take them all into consideration, especially if it is a government tenders, because Federal Anti-monopoly Service (FAS) pays a lot of attention to governmental procurements due to the fact of corruption and negotiated deals presence on the market of tenders. Then the winner receives a written notice of the award, while all the others know the results through the media.

In governmental procurement closed tender or restricted tender are a common occasion if purchases are exercised for the needs of security or defense governmental institutions. One of the reasons of choosing a closed tender is protection of state security, what is a key factor in these types of tenders, thus, closed tender is an announcement for a selected group of suppliers who get an official offer to participate in a particular tender (WebFinance 2015b). Another reason of choosing closed type of tender is technically complex equipment that could be provided only by a specific supplier. And the last reason could be an inefficiency of tender if review procedure and choice in the large flow of suppliers could be more expensive than the cost of purchased goods (Otendere.com 2015).

Only companies and organizations, which have been invited by the customer, can participate in closed tenders. Therefore, the announcement of such closed competitions is not posted in the media. Each organizer has a right to set peculiar requirements for applicants in accordance with federal law and purchases that are conducted through a closed tender should be accorded with certain government agencies to obtain confirmation of the legitimacy of private tender. Due to cutting of marketing costs for posting tender in media customers economize governmental budget.

Selective tender is an intermediate solution between closed and open tender. In fact it is open to any legal or individual entity, however, it consists of two stages when only a selected number of suppliers can proceed bidding and proposing their commercial offers (WebFinance 2015c). Two main stages could be marked out of this procedure: collection of applications and their selection, and re trading between the contenders.

2.2.2. Classification by possibility of moderating requirements

There is a form of trading, when it is possible to make changes in the requirements for the subject of provision as a result of the discussion between applicants and organizers of the procurement procedure. These tenders can include reverse auctions, re trading or

correctives in terms of provision, therefore, there are one-stage tenders and two-stage tenders that can occur in any of the above mentioned type of tenders.

In a one-stage tender negotiations are not envisaged, and participants apply for participation in the tender with the expectation to become a winner without any right to make any corrections in official commercial proposal once papers are sent. In this case participants would better to double-check documentation of tender proposal and their commercial offers in order to avoid any confusion and misunderstanding, otherwise the company might suffer significant losses due to inattentiveness of employee. (Otendere.com 2015)

A two-stage tender is utilized in case if the procurement procedure is complex and customers cannot finalize the necessary requirements with supplier. In this case, the first stage of the customer determines the suppliers' abilities to solve problems and provide the most suitable work or goods. Then customer analyzes the proposals, which are not allowed to contain price offers, corrects their demands and makes additions and modifications to the tender documentation. The second stage of bidding takes place with the same number of participants who re-submit their proposals, but reflect changes in their modifications in the tender documentation, attaching an official commercial offer including the prices of provisions and documentation about their legal entities, which are required by organizer. Two-stage tendering is commonly used in the case of purchasing expensive daunting or unique equipment, this approach fully justifies itself. (Otendere.com 2015) An example of two stage tender procedure is e-auction, which is the most popular type of tenders in the Russian market.

In addition, it could be seen in Figure 1 which types of tenders are the most common in this niche market. The most popular type of procurement is electronic auction, what means that it is open tender and consist of two stages, counting 51,73% of whole tenders. The second most popular type of tenders is open tender in one stage (24%), when supplier has a right to apply only once with a full package of documents, then it is procurement from a sole-supplier (18%), what is common for defense contracts or other contracts that are concerned in any degree with security of state, as well as for tenders where were less that 1 participant and in that case customer has a right, according to the federal law №44 to sign a contract with this sole-supplier. The rest of the tenders count up to 6,27% and include other types of tenders as closed or selective.

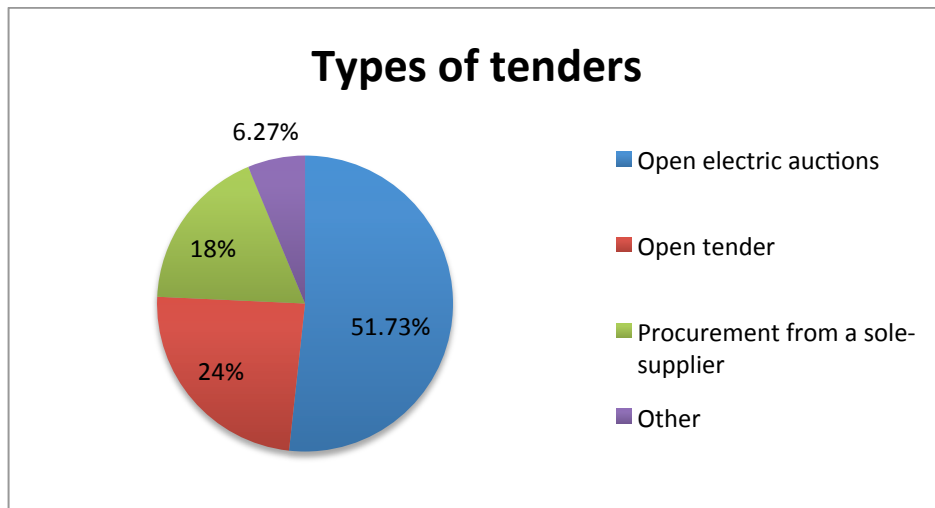


Figure 1. Types of tenders in Russian procurement (Source Federal treasury 2015a)

2.3. Specifics in governmental procurement

International legal regulations on tendering were fixed by UNCITRAL as a part of the UN in the 50s of the twentieth century. In the Law "On procurement of goods, works and services" all tendering procedures were clearly stated. It is important to note that this law was passed by a majority of developed countries in their original form or with minor amendments, and it formed the basis for the creation for sets of the rules of international investment organization up to the World Bank. Modern projects, implemented on the territory of the Russian Federation, sponsored by the World Bank, are also carried out in accordance with these rules. (Barsegova 2011, 24)

In the Russian Federation relations associated with public tendering were regulated by Federal Law № 94 of 21.07.2005 "On placing orders for goods, works and services for state and municipal needs" till 5.04.2013 because of new federal law №44 which corresponds with governmental procurement only from this moment and another federal law №223 for commercial procurement. However, by replacing federal law №94 by №44 The State Duma did some necessary amendments in order to improve procurement system. It might be useful to discover this amendment in details as it concerns mainly anti-corruption and anti-monopoly policies and these corrections in new federal law №44 will be pointed out later.

2.4. Significance of tender procurement in the Russian economy

Tender or competitive procedures are used for many centuries in Russia and in the world, but their relevance is increasing. Today, it is a good opportunity for companies to expand their customer base, to sign a contract with large, having a great name, customer, and provide themselves with work for a certain period of time. More and more foreign companies announce tenders on the Russian market, which in the future will enable local companies to take a stable position in the international market. Even a recent amendment in federal law concerning procurement of goods, works and service for governmental and municipal institutions implies that this economic sector will proceed developing.

Doubtless, it is useful to study significance, scales and potential of governmental procurement on the Russian economic system. Below you can see Table 1 with some indicators that have an impact on macroeconomics of county.

Table 1. Role of governmental procurements in system of macroeconomic indicator. (Kravtsov 2010, 114)

Name of indicator	Indicator values (in trillion roubles)				
	2006	2007	2008	2009	2010
GDP of Russia	26,62	32,99	41,69	39,02	40,19
Volume of the expenditures of the budget	4,43	6,53	7,02	9,85	10,21
Volume of governmental procurements	1,71	3	3,98	4,20	5
Volume of governmental procurements of defense contracts	0,24	0,71	0,95	1,11	1,11

Economization of budget in governmental procurement	0,07	0,17	0,22	0,5	No data
Losses of budget from inefficient governmental procurements	0,30	0,35	0,36	More than 0,42	More than 0,50

It is possible to make an inference from the table that in 2006 38,6% of federal budget was spent on governmental procurements, in 2007 – 45,9%, in 2008 – 56,7%, in 2009 – 42,6%, in 2010 – 49%. Therefore, half of federal budget is spent on this type of expenditures on average; thus, it may be implied that this niche is one of the biggest markets for any supplier.

Correlation of governmental procurements to GDP of Russia says that the share of governmental purchases was constantly increasing from 2006 to 2010, on average, by 10% each year. Since, GDP is one of the key indicators in Marco-economy of any country, an assumption may take place that this sector of purchases rapidly increases.

In addition, it is worth to mention that one of the key customers in governmental procurement are defense contracts that reach up to 26,4% in 2009, and even now it might have even increased in such an unstable and prewar conditions due to the Crimea case.

Moreover, in 2008 the President of Russia V. Putin launched a large-scale military reform, the key point of which was a program of rearmament. In 2010 it was decided to re-allocate 20 trillion roubles until 2020 to increase the share of new equipment up to 70%. Later there was adopted another rearmament program until 2025. After the 2014 the EU and the US imposed sanctions on a number of major Russian defense enterprises and were threatened with military-industrial cooperation with Ukraine, Russia took the policy of import substitution in the defense sector. The increase of defense contract is noticeable in the table from 2006 with 14% of governmental procurement to 23,7% in 2007. (MIA “Russia today” 2015)

Economization of federal budget is 7% on average from 2006 to 2010, however, the current prewar situation pushes The Ministry of Finance either to economize more than 10% or to use federal reserves in order to perform 90% of rearmament reform in 2015 (MIA “Russia today” 2015).

Another indicator that might have direct impact on the monopolistic situation in Russia is losses of budget from inefficient governmental procurement. According to the table, a sum of economization for the whole period from 2006 till 2010 was 0,96 trillion roubles, while losses from inefficient governmental procurement were 1,43 trillion roubles. It means that 11,1% of the federal budget was lost due to inefficiency, hence, there is a considerable reserve for increased efficiency, in case of which economization could rise by 2,5 times.

In addition, it is necessary to mention that Russia is in a period of decadence nowadays due to sanction from the EU and the US, thus, definitely, this crisis will leave a trace on the economic situation of the county. It is commonly known that SME suffer losses and even decays in a period of crisis due to decline of demand and purchase power of both legal entities and individuals. However, practice shows that major companies were able to compensate decline of commercial demand on their production by governmental procurement, for instance in construction and car industries. (Kravtsov 2010, 115)

It could be concluded from this chapter, that public procurement is rapidly developing and getting to impact more and more on the growth of the country. On average the half of the federal budget is spent on the public procurement, however, it is only public procurement procedures and nothing is mentioned about commercial procurement procedures, which are worth up to 25 trillion roubles what is fourfold more than public procurement, which is worth 6 trillion of roubles. Therefore, the market of tenders is considerable and it plays a significant role in growth of the economy.

2.5. Federal law №44 as a tool to increase competitive ability in governmental procurements

Nowadays, governmental procurements are a priority area where effective legal regulations are required, and there are several reasons for that:

- Large amounts allocated from the budgets of various levels for such procurements;

- Increased interest of business entities, as any business entity can generate significant turnover for a long period even per one contract with the organizer of the tender, thereby ensuring stable existence;
- Interest of the state and municipal services, institutions of state and municipal property in the timely delivery of goods, works, quality services and cost savings;
- Public interest as procurement costs, mainly funds from tax revenues of state.

The main reasons for the introduction of this federal law are: increased level of corruption in public procurement, the development of Russian business sector, as well as the application of new rules to the unresolved issues arising during the use of the Federal Law № 94 "On placement of orders for delivery of goods, works and services for state and municipal needs. "It is assumed that the new Federal Law №44 is a full replacement of the current Federal Law №94. There are several changes that are introduced in new Federal Law №44; first of all, improving the efficiency of governmental procurements as it was seen above in the table in what degree losses affect federal budget, secondly, ensuring transparency in governmental procurement will help to monitor process of purchase from the beginning till signing of contract and provision of goods, works or services, thirdly, clause of prevention of corruption and other abuses corresponds with transparency in procurement process. (The Federal law №44 2013)

The main areas of regulation that are proposed to the realization of the goals, which apply to the introduction of:

- Implementation of planning the procurement of goods, works and services;
- Identification of suppliers (contractors, performers);
- Conclusion of a civil contract, the subject of which is the delivery of goods, works and services, including the purchase of real estate or rental property on behalf of the Russian Federation, the subjects of the Russian Federation, municipalities, budgetary agencies, as well as other legal entity;
- Features of the contracts;
- Monitoring the procurement of goods, works and services;
- Audit of procurement of goods, works and services;

- Monitoring of compliance with legislation of the Russian Federation and other normative legal acts of the contract system in the procurement of goods, works and services for state and municipal needs. (The Federal Law №44 2013)

It might be useful to present a comparison of previous Federal Law №94 and current Federal Law №44, because it could be surprising how such articles of the federal law were not included at the first place. According to the Table 2, it could be emphasized that new Federal Law №44 has been significantly modified in order to fulfill requirements that were mentioned to improve transparency of governmental procurements by exempting this point out of commercial secret and publishing it on accessible sources; to monitor process of governmental procurement by launching new federal and municipal institutions and audit of implementation of contract; to give possibilities of expansion to SME in order to reduce anti-monopolistic situation on the market of governmental procurement by giving some advantages to SME in certain tenders.

Table 2. Comparison of Federal Law №94 and Federal Law №44. (The Federal Law №44 2013, The Federal Law №94 2005)

Preliminary points	The Federal Law № 44	The Federal Law № 94
Transparency of procurement process	✓	✗
Publication of main actions of process	✓	✓
Institute of public control over public procurement	Planned	✗
Institute of contract customer's service	Planned	✗
Personal customer responsibilities	✓	✗
Possibility to use different kind of contracts (tenders)	✓	✗
Obligatory planning of governmental procurement	✓	✗

Anti-dumping articles	✓	✗
Audit of provision's results of contract	✓	✗

In conclusion of this chapter, it could be implied that new federal law is directed to improvement of the previous one as it was noticed by some of the experts that it suffered considerable amount of amendments and it is better to pass new federal law №44 on public procurement on the basis of Federal Law №94 with some corrections that relate corruption issues mainly and counteractions against it.

3. RUSSIAN MONOPOLISTIC SITUATION

Monopoly and non-competitive markets were always an issue to take into account because these factors might have significant influence on economic system and situation. According to Dictionary of Economics, monopoly is a market situation with only one supplier and due to this situation market can be inefficient and suffer losses, thus, it is market failure (Black, Hashimzade, Myles 2012, 269). Monopolistic situation could be measured by deadweight loss, a measure of market efficiency when equilibrium for goods and services is not achievable (Black, Hashimzade, Myles 2012, 99).

At first sight monopolistic situation on the Russian market is so black-and-white that everyone can say few words against non-competitiveness of Russia, however, it is complex in reality and even ambivalent. For example, 2% of industrial enterprises produce up to 40% of GDP of the county, what could be called an oligopoly, when market is supplied by a small number of firms, which are linked by a strategic interaction (Black, Hashimzade, Myles 2012, 290). However, there is a large number of firms that produce as diverse types of goods as transport equipment, agricultural machinery and provide these products to both legal entities or individuals and state (Smith 1995).

According to Economic Journal of High school of economics in Moscow (2006), natural monopolies has a side affect apart from unfair manipulation of market prices. For example, natural monopoly is a common occasion in case of high costs of products that are urgently required. As a result, natural monopoly could simplify process of

supplier selection, accelerate it and economize time and federal budget. Natural monopoly is a market situation when the presence of a single supplier is more efficient than a competitive market (Black, Hashimzade, Myles 2012, 276).

The laws of the Russian Federation referred to natural monopolies, that are the main part of the railways, airports, services of transport terminals, ports and airports, oil and gas pipelines, power transmission backbone network, public post offices. Prior to market reforms of 90s and early 21th century natural monopolies take also a large part of the production of electricity, housing and communal services in Russia. Monopsony includes the right of state for arms purchases. Monopsony is a market situation with only one buyer (Black, Hashimzade, Myles 2012, 269). As a monopoly position creates an opportunity for the manufacturer and seller to manipulate an unjustified price of the goods and services and delivery terms due to the lack of competition, companies in these sectors in all countries are either public or objects of strict government regulation. (VATV.ru 2015)

According to the above-stated, monopolistic situation has different forms of it and different outcomes of it, either positive as it was said in case of natural monopolies and monopsony, or negative due to incompetitiveness of the market and effects of over-valued prices and the purchase power of customers. Thus, the incompetitiveness of the public procurement could be only applicable in case of defense contracts in closed tenders, however, in the rest of public procurement procedures, it may only have a negative affect and it would be investigated in further chapters.

3.1. Corruption and negotiated deals in Russia

According to recent report on Transparency of International's corruption perception index (CPI) Russia was placed among the most corruptive countries and it could be counted as 77 percentile, what means that 135 countries out of 176 situate less corruptive conditions, as you can see from the Figure 2. The most backward countries in Africa (Congo, Guinea-Bissau) and Papua-New Guinea and Tajikistan are next to Russia. Transparency International has recognized Russia as one of the most corruptive countries among the leading countries of the world, members of the "Big Twenty." Our colleagues in the BRIC - Brazil, China, India (69th, 78th and 87th places respectively) look much better. (Transparency International 2015).

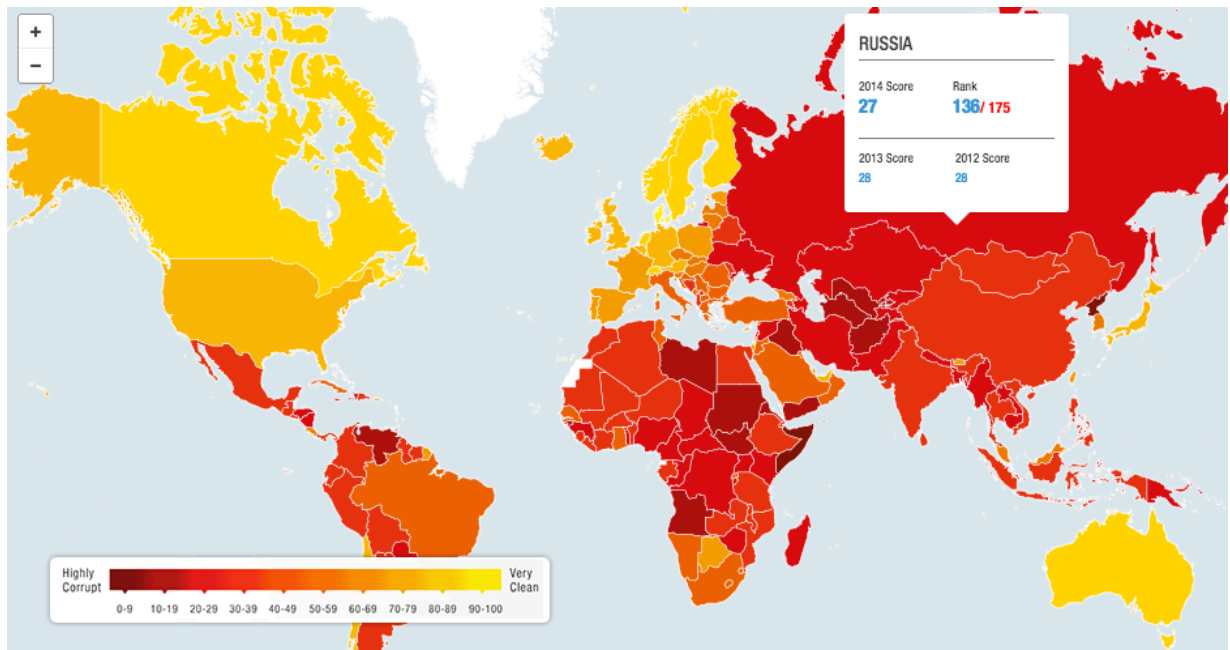


Figure 2. CPI of world (Source: Transparency International 2015)

In 2003 the President of Russia declared a struggle against corruption, establishing anti-corruptive council and various federal and regional officials, however, CPI of Russia in 2004 was ranked on 121st place, whereas, after tons of amendments and declarations, the situation is not only stayed unchangeable, but it became even worse. According to the research of INDEM foundation in 2005, about 54% of Russian citizens were involved in corruptive deals or had any relation with corruption and INDEM foundation describes this situation as a conflict between the president of Russia Vladimir Putin and powerful businessmen where corruptive situation is used as a tool to manage those businessmen, also to support his electoral campaign (Orttung, Latta 2013, 190).

For instance, each third Russian driver bribed, at least, once in life State Automobile Inspection officials to save his driving license; and 60% of citizens gave gifts or money to doctors, nurses, teachers and other social workers to pass by queue, to get a better mark for an exam, nevertheless, it is kind of an essential social element of any Russian citizen and a normal behavior because, sometimes, people do give gifts as an acknowledgement (Cheloukhine, Haberfeld 2011, 53).

It is assumed that corruption is a social problem, because every Russian citizen is brought up with an ethical problem where an idea of corruption is an essential element of Russian Federation, what makes it morally standard for citizens; and Russian citi-

zens do not perceive it as a problem, but even support corruptive deals because of their necessity, from their point of view. However, democracy building process and development of civil society still takes place in Russia and every year there are more and more non-government organizations (NGO) protesting against corruption and trying to organize anti-corruptive campaigns calling to avoid bribery. Such NGOs are considered as “ideological agents”, fighting for human rights, equality of everyone, building democracy and claiming government transparency (Orttung, Latta 2013, 195).

Another outcome of corruption is non-competitive market, which leads to unjustifiably inflated prices, slow technological development due to non-competitiveness of market, absence or low foreign investments. Theoretically, business entities are implied to struggle against corruption in order to improve market competitiveness and create favorable business environment. Such business entities are considered as “rational agents” because they have pragmatic ideals and purposes of fight against bribery. (Orttung, Latta 2013, 196)

Organized Corruption Networks (OCN) are common in Russia, as corruption has penetrated into all spheres of economics, politics, judicial and social systems, where it is needful to collaborate for more productive outcomes. “Lobbying, protectionism, creation of favorable conditions for selected group of people, investing into commercial structures from the state budget, traditions of appointing political leaders and presidents of corporations and private companies, transferring state property into possession of holding company, etc. are latent forms of modern corruption.” One of the examples of OCN could be car-stolen industry. (Cheloukhine, Haberfeld 2011, 54)

First of all, it might be useful to introduce some statistics in regard of this topic, for instance, a car was stolen every 53 min in Saint-Petersburg, what counted 8514 cars in total in 2007. Doubtless, those cars were sold with changed personal identification numbers in other regions of Russia or even abroad in the nearest post-Soviet counties like Kazakhstan or Turkmenistan. This process requires intervention of higher authorities to clean up history of a car and make it documentary legal vehicle but not indeed. This criminal sector could be an appropriate example of OCN. Figure 3 below presents participation of negotiated and corruptive deals within different industries. This

figure represents opinions of law enforcement experts and banks and enterprise managers, thus, it has two bars per each sector. (Cheloukhine, Haberfeld 2011, 54)

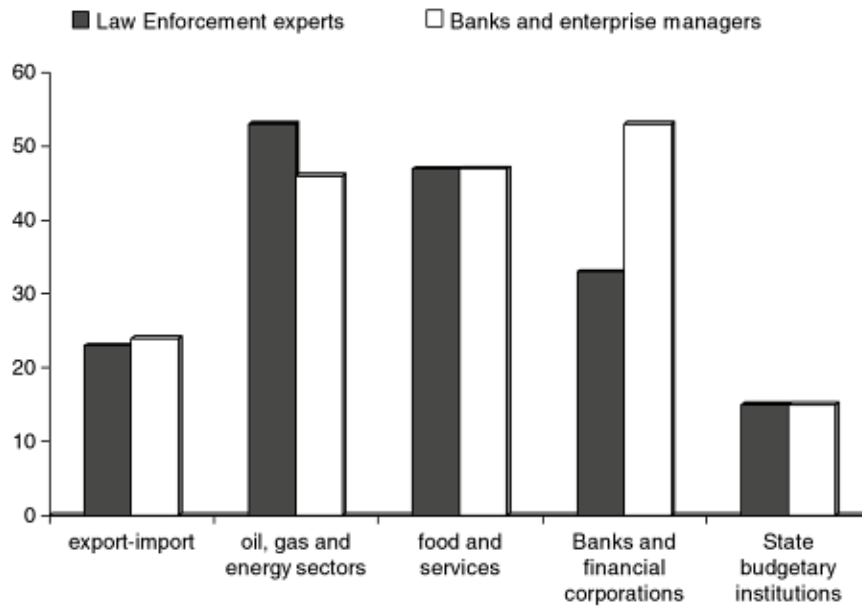


Figure 3. Enterprises infiltrated by organized corruption networks (%) (Source: Cheloukhine, Haberfeld 2011).

The most criminalized sector where corruption occurs in more than half (53%) of contract agreement negotiations is oil and gas industries and 46% - in energy petroleum industry. In addition, it is worth to mention that this industry is one of the biggest and most significant for the economy of the country and gets a considerable part of federal budget for governmental procurements (see Figure 4. Presence of RAO UES of Russia in tender market). It is a large group of companies, which formed Unified Energy System of Russia (RAO UES) and involved in potential competitive and monopoly activities.

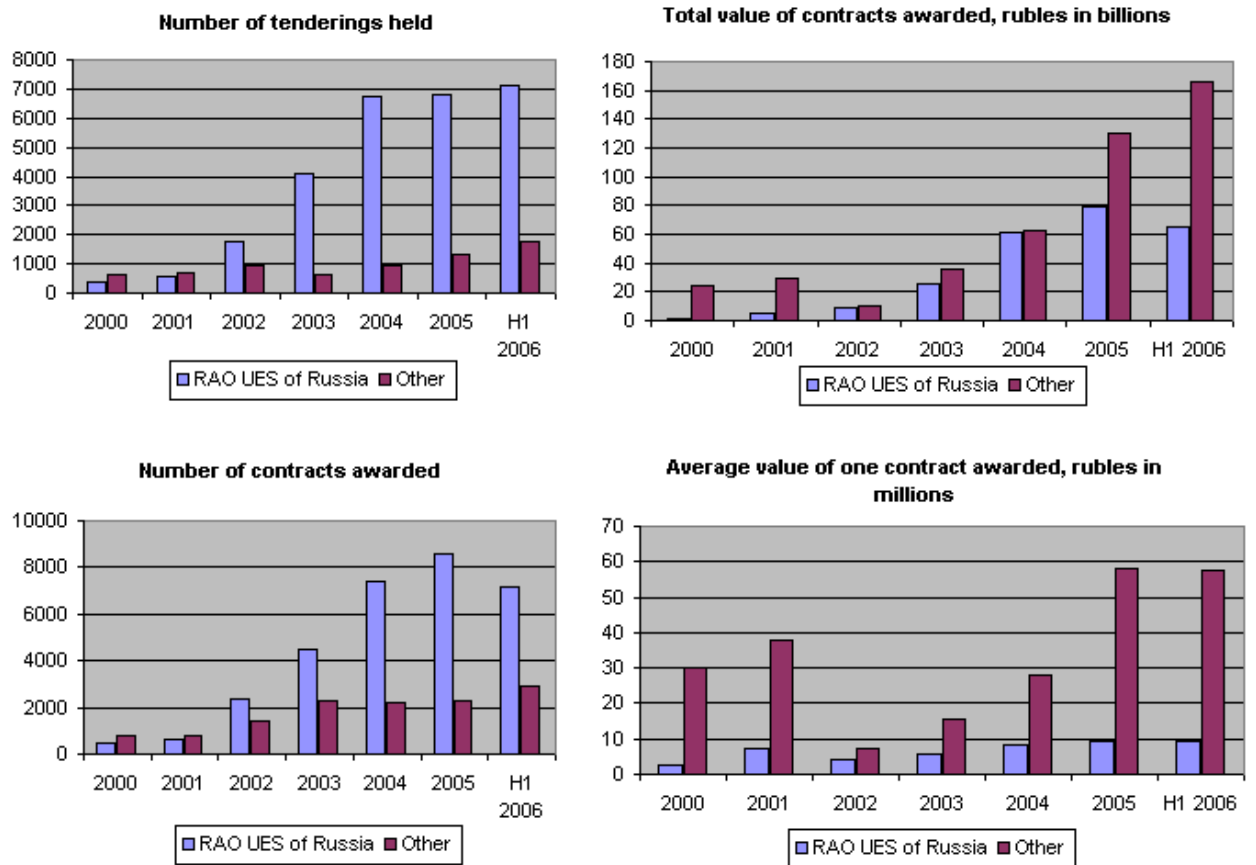


Figure 4. Presence of RAO UES of Russia in tender market (Source: RAO "UES of Russia" 2015)

According to Cheloukhine and Haberfeld (2011, 115), the organized crime groups have integrated into the OCNs, by bribing officials:

- 64% in local government
- 24% in representative bodies of the Russian Federation
- 41% in executive bodies of the Russian Federation
- 17% in territorial and federal government
- 28% in regional law enforcement.

Therefore, the corruption issue is one of the key problems nowadays as it became almost a standard for Russian citizens, thus, it is necessary to work out strategies for struggling against it and improving social aspects of people in order to let them perceive corruption as a negative element of economy and absolutely not essential, but adversely affecting on growth of the economy.

3.2. Cleptocracy in governmental procurement

Cleptocracy is a form of corruption on a political or governmental level, when state officials exploit national resources in order to increase personal wealth (Dictionary.com 2015). It is the highest form of corruption when government transforms politics into trade, when most of amendments are affirmed mostly in personal purposes even if the amendments seem to be affirmed for public or state interest. The aim of cleptocracy is to extract wealth using power and position. This phenomenon often occurs in governmental procurements and it is used to be one of the essential evidences in them.

According to annual results of procurement monitoring in 2013 by National Association Institute of Purchasing (NAIP), an organization for infrastructure, expertise, commercial, governmental and non-governmental organizations in the field of corporate, government and municipal procurement, customers began to prepare documentation much better and avoid direct violations of the law compared with 2012. These changes are due to increased activity of public discussion of very expensive procurements, at the same time, still signs of a possible restriction of competition are found in the most purchases, 28 out of 42 analyzed, and several of these signs could be met in one trade procedure. (NAIP 2012)

The most popular way of limiting competition was the flaw of required documents, which prevents potential supplier to get a complete picture of the purchase. Customers did not place complete package of documents in 16 cases. However, most of them after the comments and requests for additional information either added missing documentation or cancel the purchase and re-posted it already with all necessary documents. Other ways of limiting competition were groundless definition of the initial maximum price, what is already a violation of law according to article 19 of the Federal Law №44 and means that customer has already determined supplier; incorrectly pointed classification code of product is the third most popular indicator of unfair procurement, what tangles search of information about procurement announcement. (NAIP 2012)

There are some agencies that monitor procurement and tender offers market, provide an aid to participate in suitable tenders for companies, accompany these companies all the time during procedure of tender and analysis market of procurements for these

companies. One of such companies is Tenderanalytis, which have introduced such term as “doubtful tenders” what means not definitely fair tenders. This assumption is shown in Figure 5.

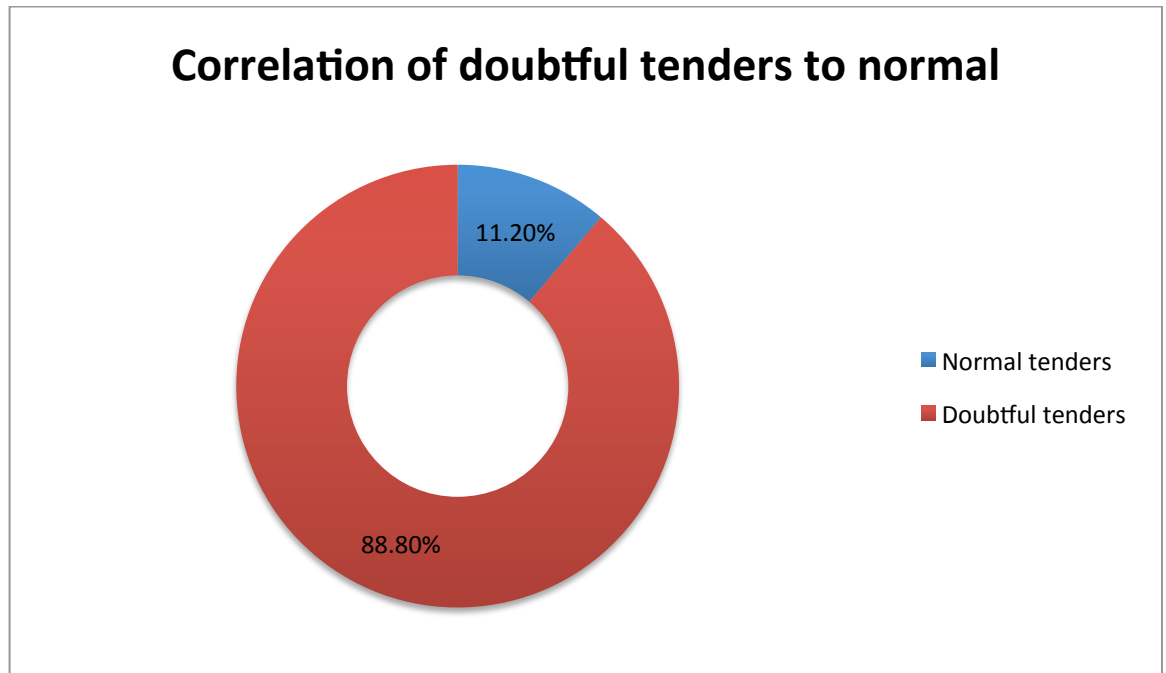


Figure 5. Correlation of doubtful tender to normal (Source TenderAnalytics 2012)

This is an astonishing result, which is provided by TenderAnalytics, however, it is not groundless, as NAIP has discovered almost the same figure of not 100% fair tenders during its research in 2013. This means that there are a lot of factors that have to be taken into account before actual initiation of participation in governmental procurement. (NAIP 2012)

There are various indicators that could sow doubts about procurement and all of them concern terms of procurement that are required by an organizer of tender procedure. For instance, if a customer requests short term of delivery of goods, works or services that could not be accomplished unless there is already a supplier who was prepared for that tender and has these goods or works in stock.

Another indicator is initial maximum price, what indicates the maximum price of requested goods or works for filling an application. This indicator may be calculated from a sole-supplier, despite the rules of Federal Law №44, which states that initial maximum price has to be calculated as an average from 3 or more different suppliers.

Thus, if the initial maximum price is too low, for instance, production factory can only provide goods on basis of such price, it is clear that only this factory has abilities to participate in tender.

The third indicator is complexity of technical requirements, what means that a customer has already chosen specific product that satisfies his needs, however, he does not want to violate the law and has to specify only technical requirements of the product in procurement documentation in order to give an opportunity to the rest of suppliers to participate in tender. Nevertheless, these requirements are often so strict that there is only one product that fits these requirements, what means that production factory has an advantage over others to provide this product.

Khamkin A., Director of the Institute of the Russian Academy of public procurement of public service under the President of the Russian Federation says: "You must see not only the timing of the volume of works and their cost, but also other conditions and restrictions specified in the documentation for tenders, the terms of reference and the draft state contract to determine how likely a conspiracy of organizer's auction and a particular vendor party" (Holding RBK 2012).

Another source of information that can point to a corruptive tender is the registry of state contracts. "If the analysis of purchases of the product turns out that the same supplier or affiliated company has supplied these goods in previous years, the probability of fair trading is low", implies Khamkin A. (Holding RBK 2012).

There is a term "otkat" in Russian terminology ("kickback" in English) what means a part of the contract price (fixed or percentage) that supplier returns to the responsible representative of the customer, which has decided that product is purchased from this seller at this price (Investopedia 2015). For instance, market participants confirm that situation with corruption in public procurement of information technology is really deplorable. Olga Uskova, the president of Cognitive Technologies, estimated a kickback of 20%, which is the average across the country for procurement in the IT sector was relevant in 1999-2003, according to the calculations of the presidential administration. In 2005-2008 it increased twofold, and in 2009-2010 it reached 70%. (Holding RBK 2012)

Members of Dmitry Medvedev's administration reported on a recent meeting that money, allocated to public procurement was stolen. 1 trillion of roubles out of 5 trillions roubles, allocated for governmental IT procurements, are kickbacks. "Huge amounts assigned to officials and unscrupulous businessmen in the IT sector, which counts up to 10 million contracts per year. And a significant portion of them contains kickbacks" - protested the president. Personal opinion of Dmitry Medvedev concerning the corruption in the IT industry is even worse: "What about the software ... we understand what is software. They can be assessed either at million rubles or at 10 million rubles. And it's such an inexhaustible source for theft". (Holding RBK 2012)

To sum up, the public procurement system is absolutely complex to participate in it without juridical knowledge as every contract and procedure is based on Federal law №44, which has a lot of flaws and loopholes that could be used in favor of organizers. Therefore, it is necessary to be prepared for cleptocratic tenders, as according to this chapter, there are a lot of criteria that identify doubtful procurement procedures. NAIP and TenderAnalytics provided almost the same figures about percentage of doubtful tenders on the market, hence, it is crucial to certain strategy to avoid them and take part only in fair tender procedures.

3.3. Recent precedents of doubtful tender procedures

This chapter will give an overview how social mass media represents doubtful tender procedures, how FAS acts according to the appeals of participants of procurement procedures. It is helpful and exemplarily to compose appeals and arguments legislatively and juridically right in order to satisfy all the criteria of FAS. There were some of the occasions when appeals were rejected due to inaccuracy or juridically wrong composition of the appeals, hence, it is crucial to go through this process with an excellent awareness of procedure and knowledge of federal laws in order to bypass pitfalls or catches and to follow the law.

For instance, LLC "Yanga" has set a deadline for submission of applications from 10:00 up to 13:00 local time what means that establishment of a three-hour application period per day significantly limits the ability of potential buyers to bid, preventing the objective of exhibiting the property at a public sale. According to FAS of Bashkortostan, it was a first occasion of federal law violation after enactment of new federal law №44. As a result, Eighteenth Arbitration Court of Appeal upheld the decision and de-

termination of Bashkortostan FAS Russia considered under Article 18.1 of the Law "On Protection of Competition" on 24th of September 2014. Meanwhile, there are sometimes occasions when urgent procurement is necessary due to certain circumstances and every case is unique and it has to be taken into account that deadline application is not always a criteria of doubtful tender procedure. (UFAS 2015)

Another recent tender procurement which has a lot of rumors and talks about it since is State Unitary Enterprise "Moscow Metro" conflict with Bombardier and CAF. Scheduled for November 24 metropolitan subway tender for supply of 768 new cars for 133 billion rubles could be derailed. Uralvagonzavod, Bombardier and CAF and the Spanish joint venture group "Sinara" complained to the FAS on strict conditions of the competition. According to them, the stated requirements can match only controlled "Transmashholding" (TMH) "Metrovagonmash" which remains the only Russian supplier of cars for the subway. It is worth to mention the special condition that was stated in documentation of procurement to be more precise. At the time of the contest, participants must have experience in the production of subway cars in Russia and have its own design office, and in his absence to reduce the cost of its services to 10.98 billion rubles. In addition, one of the criteria is the localization of production in Russia of cars and components to them, and getting in 2011-2013, the net profit of 1 billion rubles annually. (Interfax 2015)

In conclusion, FAS has revealed signs of violation of the antimonopoly legislation in the announced tender "Purchase of 768 cars of new generation for Moscow Metro", which cost 133 billion rubles, in October. Checking the conditions of competition for compliance with the current legislation was carried out after complaints from foreign manufacturers. However, despite the results of a violation, the FAS stressed that results would not be affected from it because none of the above mentioned appeal's applicants participated in tender due to the conditions of competition not allowing them to take part in it. Unofficially, appeal makers talk about the close contact to the head of the Department of Transport in Moscow Maxim Liksutovu. He really was a co-owner of "Transmashholding", but according to the official version, sold the share partners. A similar scandal involving TMH occurred in 2012, when Moscow held a tender for the supply of 120 low-floor trams for 9 billion rubles. Then Uralvagonzavod (UVZ) and "Sinara" also tried to stop the contest and appealed to the FAS that conditions are only designed for partners Alstom and TMH. As a result, the tender

was canceled on formal technical reasons, and the winner of a new competition was UVZ. (Interfax 2015)

One more remarkable cleptocracy incident was noticed in one of the procurement procedures “Efforts to maintain facilities and areas of green space, repair of green spaces and compensatory planting Vyborg, Seaside, Resort, Kronstadt areas in 2015” in Saint-Petersburg (Federal treasury 2015b). In the editorial office of DP.ru audio recording was transmitted in which the high-ranking official urges businessmen, whose firm won the competition, to refuse to work in favor of the state-owned enterprise. This conversation has recorded a pressure from a side of high-ranking official in the form of threats. High-ranking official and his deputy have been intimidating and directly suggesting to refuse from the tender, otherwise, “0,5% fees from maximum price of contract would be levied for each violation of contract and there would be lots of such violations”. As a result, the company has resigned itself from execution of the contract in favor of state-owned enterprise. (Bonnier Business Press 2015)

Figure 6 below represents the main concepts of the literature review. As it could be seen from info-graphic, the main concepts are bribery and cleptocracy in public procurement. The literature review presented necessary framework for further analysis of this topic, especially making accent on the significance of tender sector, providing certain statistics and why it is so important to investigate this topic, utilizing the figures about corruption. Also, this info-graphic represents the basic framework about tenders themselves, like types and ratio of different types of tenders on the Russian market. Moreover, it was necessary to mention that the pass of new federal law is one of the key aspects and elements of this research as everything is based on the law.

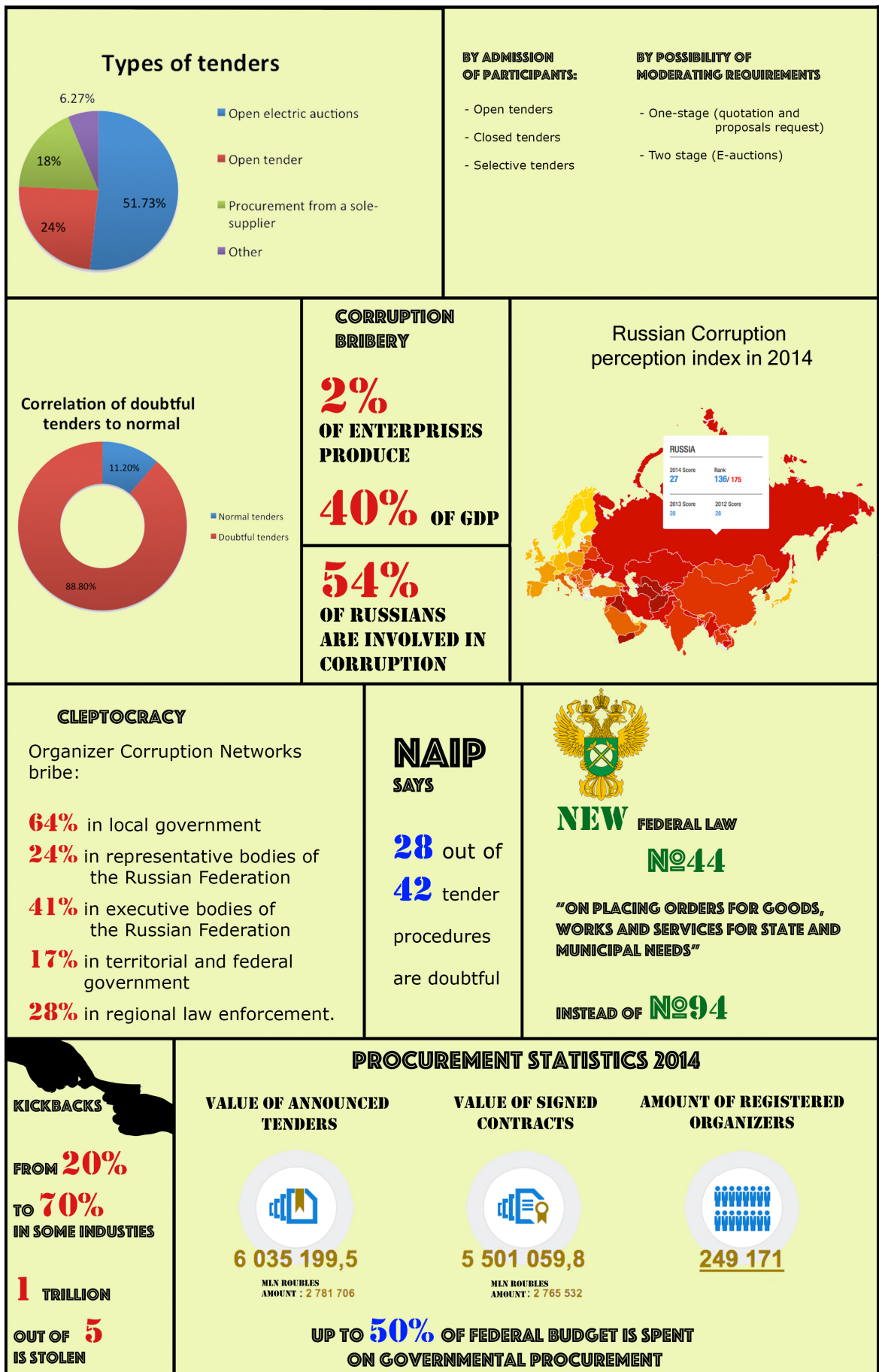


Figure 6. Info-graphic of Literature review

In conclusion, it might sound straightforward that kleptocracy is a common component in public procurement, nevertheless, facts of corruptive incidents exist and it would be better to think twice before making a decision to participate in a particular tender. Government attempts to make this type of procurements as clear and transparent as possible utilizing and enacting new federal laws and amendments, however, situation is roughly changing because corruption increases with economic wealth of the country, thus, it means the more sources and assets the more places, ways and occasions to get money from. Following chapters will cover instructive strategies of utilizing federal law in a proper way to be juridically prepared for any kind of corruptive incidents, suggestions and advices from experts of public procurement how to act and analyze the market of tender offers.

4. METHODOLOGY

4.1. Choice and Justification and Applying of Data Acquisition Methods

This research is based on a qualitative research where the main method is implementation of interview and narrative data acquisition from email questionnaires , which will be filled in by experts in public procurement.

Qualitative methods are used in the analysis when it is impossible to quantify performance or when it is needed to take into account the influence of some qualitative factors. All of these methods, called behavioral, divided into two groups:

- Methods of expert assessments;
- Psychological methods. (Gürtler 2003)

In cases of extreme complexity of the problem, its novelty, lack of information available, it is impossible mathematical formalization process solutions necessary to refer to the recommendations of competent experts, well knowing the problem. Their solution to the problem, reasoning, quantitative estimates of the formation and processing of all acquired data lead consensual solution to any kind of problem. (Bakanov, Melnikov, Sheremet 2005, 134)

This method is appropriate and the most suitable in case of this study due to its novelty and complexity because governmental procurement is extremely compound topic to be properly analyzed by public. Therefore, it is crucial to get reliable and relevant information and suggestions from experts who know governmental procurement and tender offers sufficiently to give applicable advice. My commissioner provided some of these experts' contacts, and others were contacted directly myself, such as NAIP officials, RosPil officials and some tender specialists from different firms.

While the other part of the research will be conducted via email, using narrative inquiries of questionnaires, as commissioner and I have prepared a list of questions in advance to be asked, meanwhile, some of the interviews were held in person or by Skype software. Narrative inquiry is the interdisciplinary study of the activities involved in generating and analyzing stories of life experiences (e.g., life histories, narrative interviews, journals, diaries, memoirs, autobiographies, biographies) and reporting that kind of research. (Schwandt 2007, 204)

The list of open questions, which have an aim to disclose real situation in public procurement and leave experts' comments and recommendations, was composed in collaboration with the commissioner. Meanwhile, if there was any misunderstanding or lack of information, additional data was requested by using email or videoconference services. Qualitative data research may include various techniques of data acquisition, using such types as coding and categorizing, documentation, examining relationships and displaying data, authentication conclusion and reflexivity (Miles, Huberman, Saldaña 2013). In case of this research the most relevant would be documentation where a list of questions is prepared in advance according to the template. (See appendix 1.)

Comparison and combination of these two different types of data acquisition will definitely contribute to the whole research and give applicable and precise guidelines to follow. Both methods of data acquisition, interviews and narrative inquiries, provide reliable first-hands information and suggestions. Secondary data research would not be a proper choice for this research for the same reasons as quantitative research method. Novelty and complexity of topic and inaccessibility of data regarding this topic would lead the research to a deadlock. These methods of data acquisition are relatively similar, thus, it would be easier to analyze and compare collected information

and suggestions, hence, it is important to take all acquired data into account to compose working and applicable plan of corruption avoidance.

As it could be noticed from appendix 1 “Organizer and participant narrative inquiries”, there are three groups of questions. The first group of questions have to justify credibility and reliability of respondents:

- How long do you work in public procurement
- Work placement and position
- How would you rate your knowledge of the legislation on public procurement?
What you should pay special attention to during the study of federal law on public procurement?

Another group of questions is focused on public procurement procedure mostly and requires profound knowledge of this commercial sector in order to give applicable advise. This group of questions provides the main part of results to work out a strategy of corruptive tender avoidance:

- Which criteria do enable to identify doubtful tender? Why?
- What steps are you taking on this issue?
 - If you are a victim of unfair purchase
 - If you notice something suspicious and decided not to participate
- What percentage of doubtful tenders are there on the market in your industry, in your opinion? Give examples or recent cases
- What percentage of rejected applications do you usually have according to you experience? And what are the reasons for rejection of applications?
- Why do such errors happen? Due to the incompetence of procurement specialists, or otherwise?
- What do you recommend to pay attention especially when you prepare an application for participation in the procedure? Why?
- How often were you offered a reward for "help" during certain purchases? What is the cause of this behavior and what was your reaction?

The last group of questions is dedicated to the federal law analysis; therefore, it includes questions about efficiency of the federal law and its drawbacks. The reason for choosing this group of questions is importance of legal side in public procurement, as it is a vital element for implementation and signing the governmental contracts. This group of questions will provide opinion of the experts about the federal law and their suggestions for improving it:

- What do you think what level of development are now purchasing activities at? Why?
- What, in your opinion, should be done to reduce the level of corruption in public procurement?
- What changes do you see in procurement that have occurred since the beginning of your career?

4.2. Choice, Justification and Applying of Data Analysis Methods

This research includes qualitative methodology; and interviews were held with experts in their scope of activities. Nevertheless, approach of data analysis is different due to its complexity, which differs from quantitative data analysis when processing of acquired data and representation of it in the form of graphs and tables is enough to give a clear and comprehensive overview of the results. Primary data requires accurate and coherent summary to analyze and pick up only useful and relevant information for further analysis. “Qualitative Data Analysis (QDA) is the range of processes and procedures whereby we move from the qualitative data that have been collected into some form of explanation, understanding or interpretation of the people and situations we are investigating. QDA is usually based on an interpretative philosophy. The idea is to examine the meaningful and symbolic content of qualitative data” (University of Huddersfield 2015). It is crucial to interpret ideas of expert properly, using different types of data analysis. Interviews and narrative inquiries will be processed in the form of tables or graphs in order to give clear and concise picture of their ideas, afterwards, the presented results in graphs or tables will be explained and commented to add clarity.

First of all, all respondents’ replies are compared to each other with comments and assumptions to sum up the general and unique strategy of implementation tender pro-

curements. Then, the results are visually interpreted and the main concepts and ideas are represented in the form of statements and hypothesis. The results will be presented in the form of table with experts' opinions concerning the topic of this research. Based on the questions from the interviews, which were mentioned above, table will include several rows to compare their opinions. Therefore, another part of data analysis will be represented in the form of algorithm for corruption avoidance in public procurement. This algorithm will help to save time searching for fair tender procedures and economize resources of the company. In addition, the credibility of the experts will be explained in the beginning of the Chapter 5 in the form of a diagram to represent the reliability of this study. It is crucial to interpret statements and responses of experts, who participated in interviews, into a single unit, which represents the main concepts of this data.

5. FINDINGS

This chapter will give an open, coherent and sterling answers to the list of questions that was stated in chapter 4.1 "Choice and justification and applying of data acquisition methods", disclosing pitfalls in public procurement from expert's point of view by using graphs, tables or diagrams as this way of data analysis provides clear and transparent result presentation. After all, a strategy of corruption avoidance in public procurement and tender offers will be presented in form of algorithm to reach gradual stepwise instruction. Discussion and further questions for possible research of this topic will be presented in the following chapter 6 "Discussion". The list of questions for interview and narrative inquiries was ready by the end of research's first month. The commissioner provided few contacts, which were chosen for participation in narrative inquiry research. However, most part of experts were found by virtue of Internet where some of the organizations were kind to provide their knowledge and experience in public procurement as it is in everyone's interest to improve competitiveness in public procurement except individuals and legal entities that benefit from current unstable and non-transparent situation on the market of public procurements.

The following chapter will disclose detailed information about the experts experience and reliability, about justification of choice of certain experts and their credibility. The chapter 5.2 "Results of narrative research and interview" will present suggestions and advice from the experts concerning the cleptocratic issue in the procurement sector

and possible ways to improve and develop competitiveness in the sector of governmental procurement, experts' opinions about the current situation in public procurement and recent changes with introduction of the new Federal Law №44. After, a list of criteria of defaulting organizers and unfair doubtful tender procedures will be represented in chapter 5.3 "Strategies to avoid cleptocratic tenders"; in addition, the algorithm of corruption avoidance in procurement sector will be presented in this chapter.

5.1. Interview and narrative inquiries as a qualitative research method

As it was mentioned before, complexity and novelty of this topic leaves the only possible way to investigate such theme. Qualitative research is implemented in form of narrative inquiries and interviews to derive highly reliable and useful information from first hands of people who work in public procurement sectors. Two of interviews were implemented in person, one of which was with the commissioner of this research, the other one was conducted with an official representative of RosPil organization, a NGO which has rather 3rd party interest than a participant of tender procurement procedures. RosPil organization works in collaboration with FAS and Ministry of internal affairs, aiding in monitoring of doubtful and unfair contracts that have been signed already and implemented. RosPil employees carry out private investigation of contract implementation using their network of suppliers, press office official and free sources like Internet.

Narrative research is a part of this study due to experts' inaccessibility. A list of open questions, which could be found in appendix 1, is designed to gradually lead the discussion to an applicable strategy of corruption avoidance in public procurement. These narrative inquiries include such questions to disclose experts' opinion about current situation in public procurement industry in Russia concerning bribery and cleptocracy, as well as questions to provide experts' reliability, suitability and credibility in the sphere of tender offers. Beside the above-mentioned questions experts are asked to provide their ways and strategies struggling against cleptocracy and their characteristics, which should be paid special attention to in order to define doubtful procurement procedure.

There are three persons who have agreed to participate in this study and have stated their interest in this topic of cleptocracy in public procurement. One of the respondents, who desired to stay unknown in this study, works in OOO "United center of

Bidding” in Moscow agglomeration region in a senior juridical consultant position for 2 years and has previous experience as a junior jurist in municipal institution of Ivanovo city, where his responsibilities were collection and preparation of documentation for tender offers for governmental needs. Udalikhin Aleksandr is another respondent, who works in public procurement sector since middle of 2009 and runs his own enterprise, called OOO “Independent specialized organization”. This organization provides consultancy services for suppliers/ participants of tenders and customers/ organizers of tender proposals. Udalikhin Aleksandr has two Master degrees in Jurisprudence and Philosophy and has participated in several trainings for professional development in the sector of public procurement. Also Udalikhin Aleksandr is an author of series of articles, dedicated to problems of contract functioning of public procurement and its solutions in public procurement. The last respondent desired to stay incognito as well and provided all necessary information about his credibility concerning public procurement in the form of proof of his experience. The respondent works in public procurement in NGO organization, which has a significant impact on procurement industry and is respected by both participants and organizers of tender procedures.

In conclusion, the study has credibility and participants of public procurement procedures benefit from the results of this research. The next chapter 5.2 “Results of narrative research and interview” will present ideas, conjectures and opinions of experts’ in regard of topic “cleptocracy as an essential obstacle in public procurement in Russia”. Experts presented their examples of unfair and cleptocratic procurements procedures, reasons of this issue, drawbacks of federal laws and suggestions for its improvement, their advice for determination of doubtful tenders and strategies for acting in such circumstances.

5.2. Results of narrative research and interview

The research was carried out with an aid of the commissioner, in addition, only reliable and credential persons took part in narrative research and interviews, as it could be noticed from the chapter 5.1 “Interviews and narrative inquiries as qualitative method”. Undoubtedly, the experts had obtained considerable amount of experience in order to provide applicable and reliable information in regard of public procurement. According to Figure 7. “Credibility of experts”, 80% of respondents assessed their knowledge regarding Federal Law №44 and procurement procedures above average.

Thus, this statement can give a credit to the research and obtained data from these sources.

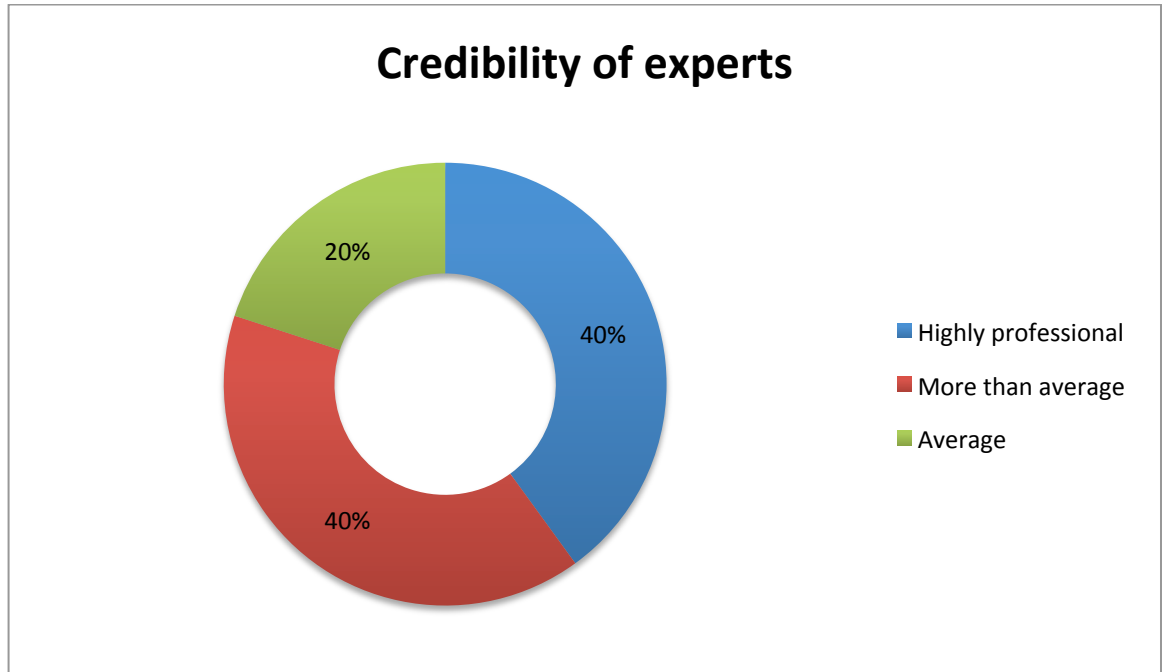


Figure 7. Credibility of experts

The next group of questions was dedicated to identify views of experts concerning new Federal Law №44, its process of evolution, flaws and drawbacks. The respondents expressed their opinion about specific elements and articles, which every either organizer or participant of procurement procedure have to pay attention to. Specifically, some of the experts told that it is crucial to pay attention to fines and penalties from non-execution of contract. This article in the federal law is important, from the experts' point of view, as some of outcomes could be inclusion of tender's participant to "The list of unscrupulous suppliers" which means that supplier cannot take part in any tender procedure within two years, in addition, data of his/ her unfair trade deal is kept in open registry.

From an organizer's point of view, one of the respondents advised to trust composing of the first part of the application for tender proposal, where it is necessary to provide specific characteristics of materials and product itself, primarily to a very considerate person, preferably, to a man of mathematical turn of mind and with engineering edu-

cation. Afterwards, the expert advised to carefully review the instructions for the application as it necessary to satisfy all the requirements precisely as organizer claimed.

Expert of RosPil suggested to carefully review all documentation, technical requirements and proposed contract of implementation in advance. Moreover, the expert recommended to pay special attention to studying of several chapters of Federal Law №44, such as Chapter 3 “Determination of the supplier (contractor, executor) through quotation request” and Chapter 6 ”Implementation of procurement with a single supplier (contractor, executor)” as these chapters include main nuances of procurement procedure and its flaws.

Table 3. Analysis of Federal Law №44 from the experts’ point of view

	Commis- sioner	RosPil	Udalikhin	Respondent №1	Respondent №2
What level is public procurement at?	New Federal law №44 has a lot of flaws, amendments are needed	In phase of reforming	In phase of reforming and there are a lot of positive changes	More than 5 amendments were executed since 2013	In phase of reforming as it is relatively new law and was passed in hurry due to desire of the president of Russian Federation
What significant changes in Federal law №44 are?	The law is absolutely new and it needs a lot of changes to work properly. Since 2013, there were only minor amendments	According to statistics, there are more changes in Federal law 44-2013.05.04 than in Federal law 93 - 2005.21.07	Most changes were destined to eliminate flaws and contradictions. The same situation was with Federal law 94.	There are only minor changes to eliminate flaws of new federal law	Comparing to federal law 94, it includes introduction of new institutions for monitoring and controlling procurement procedures. However, since federal law was passed, it had a lot of changes, mostly, to obviate draw-

					backs.
Quantity of doubtful tenders since new Federal Law №44 passed	No precise figure	No precise figure	70% of quantity, but 80% of governmental budget is spent on bribery or kickbacks	80% of public procurements	No precise figure, but in personal opinion the figure would be around 65-70%

According to Table 3, most experts stated that corruption in governmental procurement is on unbelievably high level and some of experts even asserted a figure up to 80%. This data correlates with Figure 5 “Correlation of doubtful tender to normal” from TenderAnalytics, which was presented before in chapter 1.9 “Cleptocracy in governmental procurement”. The expert of RosPil assumed that every tender procedure, which cost around 10 million roubles or more, is designed for specific supplier or participant of public procurement, which means a doubtful or unfair tender procedure. Concerning the new Federal Law №44, all the experts concurred that it suffers the saturated period of changes and amendments due to its novelty. One of experts assumed the reason of immaturity of Federal Law №44, stating that the President of Russian Federation was pushing and hurrying the Duma of Russian Federation to pass it through. Probably, there was no malice in thoughts of the President and the only interest of introduction federal law in not ready condition was presentation it to the public in time.

Further, experts were asked a question about possible ways to improve the federal law or procurement sphere in overall in regard of corruption and cleptocracy. Respondent 1 advised a list of possible enhancements in order to avoid corruptive tenders:

- Empowerment of municipalities to monitor procurement procedures from the beginning till the end
- Expansion of FAS’s power to penalize violators of unfair tender procedures
- Tightening of liability for violation of law
- Enhancement of the system of ranking the applications for auctions and proposal tenders, by using more precise and accurate standards.

Respondents 1 offered several ways to improve the procurement procedure by eliminating flaws of the federal law or loopholes for some of organizers. For instance, according to narrative inquiries, most of experts mentioned some of drawbacks of the federal law, which could be used in favor of unscrupulous suppliers or customers. One of such loopholes is a ranking system, scheme of counting the scores for selection of the most suitable supplier, as it is nothing precise said in the federal law concerning this issue, it leads to certain circumstances when organizers can create their own system of ranking to choose predetermined supplier.

Empowerment municipalities and expansion of FAS's power might have an impact as those institutions do not have enough power to penalize violators of the federal law because Ministry of internal affairs is the only one who can punish perpetrators. In case of expansion of FAS's power and empowerment municipalities with such rights, there would be more institutions, which could not only monitor violations of the federal law in public procurement but penalize perpetrators as well.

Udalikhin Aleksandr, the expert of OOO "Independent specialized organization", proposed to develop a new system of E-procurement not only for auctions but also for every type of governmental procurement procedure, as it will make the whole process of tender accessible and more transparent to check and monitor for everyone. Further, the expert suggested developing explicit standard requirements concerning technical aspects in the federal law for participants of tenders to exclude organizer's loophole. Another reasonable advice was development of articles or chapters of the federal law to mandatory declaration of officials' expenditures, members of the procurement commission because members of commission often have a personal interest in form of monetary funds from side of organizers, what pushes them to choose certain suppliers, desired by organizer of governmental procurements.

Expert of RosPil demonstrated creativity and novelty concerning the issue of kleptocracy, proposing to get in use a polygraph, or a lie detector in other words, to identify dishonest members of commission or participants. The expert cited a Moscow example of polygraph usage, mentioning statistics that 40% of staff was fired due to their malice and personal interest in some of procurement procedures. However, it is crucial not to take into account any ranks or colonelcies of suspects and follow the law. In addition, the expert mentioned some weaknesses and flaws of the federal law

where improvements and revisions are needed, such as articles concerning offshores or the definition of excessive requirements for goods and works article does not exist at all. Nevertheless, kleptocracy is inevitable in the sphere of governmental procurement; from expert's of RosPil opinion, and any law could be violated if there is intention and interest to do so.

Beside suggestions for improvement of the federal law and ways to impede corruption, the experts provided a list of specific criteria of doubtful tenders. The next chapter 5.2.1 "Strategies to avoid kleptocratic tender" will present an algorithm of actions how to determine whether there is malicious intent, based on reliable assumptions of the experts and their suggestions.

5.2.1. Strategies to avoid kleptocratic tenders

This chapter is the Crown of Creation of the carried out research and of the study overall. The experts compiled a list of criteria, which have to be paid special attention to during period of selection of suitable and fair tender procedure. There were both expected assumptions and interesting remarks; the list of criteria will help to improve efficiency and productiveness while operating on market on public procurement. Some of experts named anticipated criteria:

- Technical requirements for goods or services are defined overly detailed
- Too short and even impossible terms of contract implementation
- The initial maximum price is extremely high
- Determined penalties in contract are too strict and overvalued
- Placement of the text of the document of copy-protected format

Delving into the explanations of these criteria, it could be claimed that these criteria are the most obvious and even inexperienced employees could notice tendencies of unfair collaboration in tender procedures with such criteria. For instance, technical requirements for goods or services could be overly detailed and even a small mistake in participant's application will give a legal right to decline it to organizer of tender proposal. According to Respondent 1 cases, there were a lot of such occasions in Ivanovo region, where the expert works in OOO "United center of Bidding". The expert provided two protocols of review of applications for participation in the electronic auc-

tion to implement the municipal contract for “Overhaul of the soft roof, located at Ivanovo region, g. Zavolzhsk Street. World, d.29a” with registered number №0833300002915000001 from 16.03.2015 and “Overhaul of the rooms over 2 floors in the educational building №1 VPO Ivanovo State Agricultural Academy named after academician DK Belyaeva at Ivanovo g st. Sovetskaya d.45” with registered number № 0333100002515000004 from 27.01.2015. Using these registered numbers, any person can get access to documentation, protocols of changes or protocols of results on the <http://zakupki.gov.ru/> website. According to the given data by Respondent 1, technical requirements were overly detailed and members of commission had intention to accept only one application of predetermined supplier. In the above procedure contractor has been defined in advance, who took contract without reducing the initial maximum price and budget savings.

Approximately 98% of unwanted deviations of participants happens while considering the first parts of the applications, where only technical requirements of suppliers’ goods or services are taken into account, and the deviation can be quite absurd, but at the same time legitimate. Sometimes participant does not exclude a range of words such as "or", "more", "less than", "should" etc., which organizers specified in documentation. All this is due to the fact that the defaulting organizer composes more than two hundred pages of requirements for materials or services and even the smallest inattention to the text will be a legitimate reason for rejection.

The copy-protected format of documentation correlates with above mentioned examples, as sometimes there is excessive amount of information in technical requirements on two hundred paged documentation of tender procedure and participant faces such obstacle as copy-protected format and it is necessary to type every technical characteristic manually what may lead to human factor and mistakes are inevitable.

Another trap in documentation could be contradictions between technical requirements stated by organizer and GOST, a set of technical standards maintained by State Standards of the Russian Federation. It may lead participant to confusion, what requirements participant needs to follow, as if he does not follow the requirements of organizer, his application will be rejected, but if he will provide product not meeting GOST standards, it may lead to rejection as well.

Just as explained above, the second and the forth criteria sometimes are used together to frighten undesired participants. For instance, if the fines for breaching a contract are unexplainably high and terms overly strict, it might scare away some of undesired suppliers. However, these criteria exist apart, although, they do not have such effect. Sometimes tender is likely a formal procedure than a valid procurement process as works or services are carried out by some of organizer's contractor and the organizer launches tender procedure with extremely short terms and there is only one supplier who can satisfy these terms, the one who has already implemented contract.

The next expected criterion is an overpriced initial maximum price. If the initial maximum price is overestimated, it might mean that there is already predetermined contractor who gets contract without any price reduction and budget savings because some of funds return back as kickbacks to organizer. To sum up, the initial maximum price is overvalued because part of these funds is used as kickbacks.

The upcoming paragraph presents less common and frequent criteria, which are better to take into account if you plan to participate in tender procedures in Russia. According to Federal Law №44, all of public procurement proposals have to be published on official website of state procurements <http://zakupki.gov.ru/>, and most of suppliers use these platform to search for suitable tender ongoing procedures. Organizers use this loophole in their favor, transforming names of tender procurement announcements, utilizing two methods:

- Half-Roman/ half-Cyrillic announcement
- Overly simplified name of announcement

As the search engine of official website is not perfect, it cannot look for Cyrillic alphabet letters instead of Romans, which complicates the searching process of such announcements. For instance, if participant wants to search for an announcement "Overhaul and technical inspection of tanks" but organizer has used some of Cyrillic letters like "o", "e", "a", "c", "p" etc. Another trap could be oversimplified name of announcement, for example, instead of above-mentioned announcement organizer has written only "Overhaul". Such methods of exclusion undesired suppliers were used for a long time in Russian tender industry, however, FAS and moderators of official pro-

curement website have started to ban and warn of fines organizers of such announcements not a long time ago.

Another pitfall could be usage of unrelated goods in technical requirements, contrary to the requirements of Chapter 1 article 17 of Federal Law №135 of 26.07.2006 "On Protection of Competition". For instance, "Provision of metal detectors" announcement include such lot of products in technical requirements as "textile for the manufacture of plushy toys", what may confuse participant and make such tender impracticable due to absence of such type of product.

Further, the expert of OOO "Independent specialized organization", states that unclear and blurry ranking system of participants might be one of the criteria of defaulting public procurement procedure. Existing legislation on the contract system is imperfect in Federal Law №44, allowing customers do not include a transparent system for calculating points in the documentation for the procurement, which allows the customer arbitrarily assign, in its sole discretion, scores to participants.

Having considered all of criteria, it would be less complex to present the algorithm of actions, which is better to follow in order to save time on looking for fair and suitable tender offers. As it could be marked from Figure 8 "Algorithm of actions to identify doubtful procurement procedure", it is a graphical representation of what was said earlier about different criteria.

Starting from the first statement "Search through one of official procurement platforms or via 3rd party software like Seldon", it might be useful to explain that there are several different ways to find a tender, but the most frequently used are 6 official platforms, including zakupki.gov.ru. Another way to search for tender offers is a special software Seldon, which has easy to use interface, database of all official platforms plus hundreds of commercial platforms both Russian and foreign, intelligent searching engine, which can search not only by name of announcement but in documents' names and analyze text inside documents.

All of the criteria were discussed above except four statements, first of all, if tender is over 10 million roubles, in RosPil expert's opinion, there is a considerable chance that such procurement procedure include defaulting organizers and participants as kick-backs, in this case, amount significant sum of funds. Secondly, it is better to analyze

organizer's history of procurement operation in order to identify either certain type of product is provided by single supplier or organizer conduct fair procurement procedures and choose the most suitable and less expensive suppliers. Thirdly, the last two statements are provided as a suggestion by Respondent 1 in order to minimize risk of replacement of envelopes or bribery. For instance, the commissioner of this study told about few occasions when predetermined supplier was asking to replace envelop with official commercial offer and application after opening of envelopes of other participants.

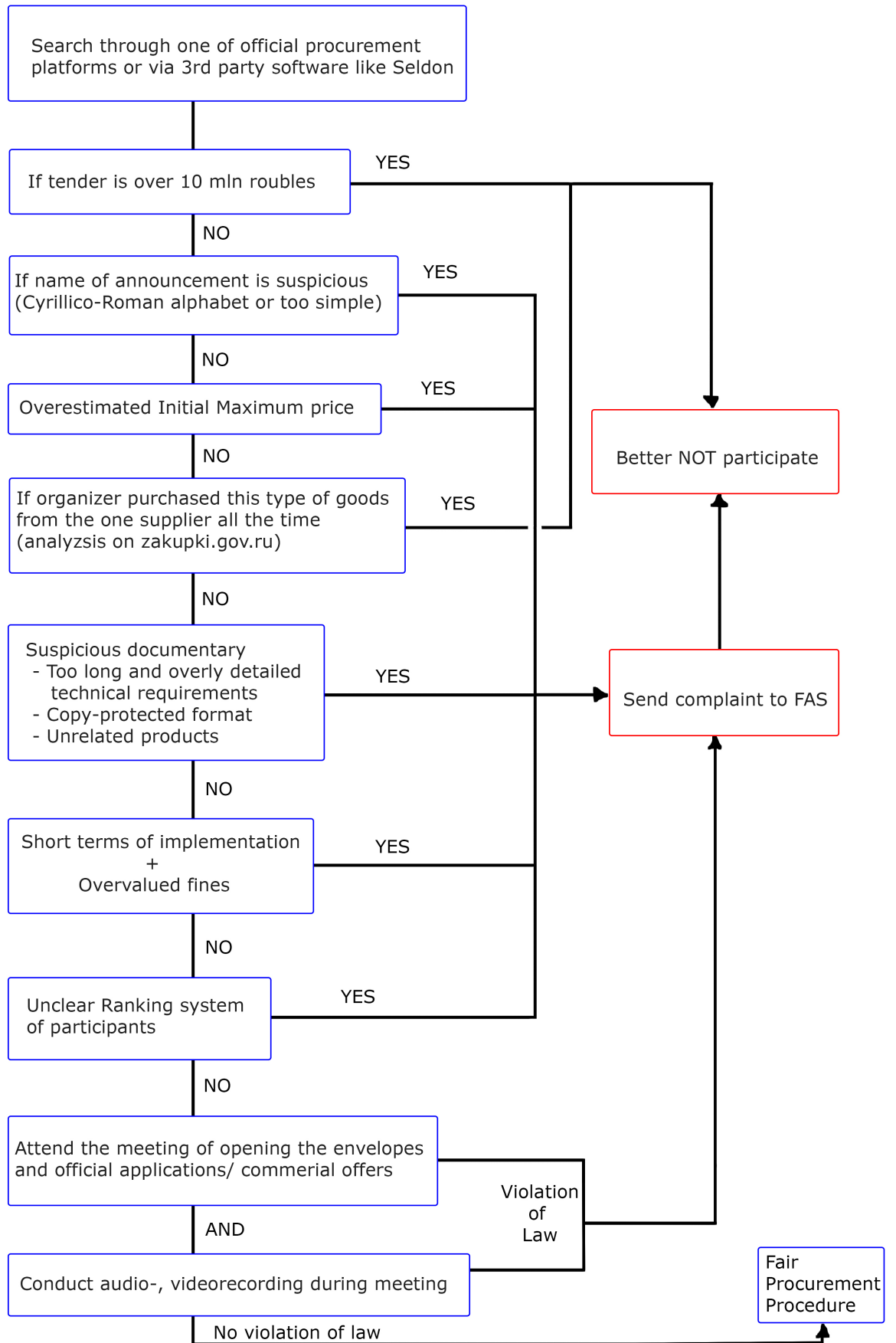


Figure 8. Algorithm of actions to identify doubtful procurement procedure

6. DISCUSSION AND ANALYSIS

The result of the study represented the actual and genuine situation in the public procurement industry in Russia. As it was claimed before in chapter 5 “Findings”, there are considerable amount doubtful tender procedures and any commercial establishment needs an applicable strategy how to operate in such circumstances, plan its commercial activities and allocate resources in order to increase efficiency of enterprise. The algorithm above describes the strategy, which is highly recommended to follow. However, there is a significant quantity of strategies that defaulting organizers and participants of tender proposals use in order to gain profit in personal interests.

6.1. Defaulting strategies

According to the interview with the expert of RosPil, there is an exploitative mechanism that defaulting organizers use to get a successful outcome of any procurement procedure to desired supplier. It is called “Battering ram” due to its straightness and hard action of participants. There have to be, at least, three participants of this scheme, where one has perfect commercial offer with perfectly prepared documentation, while two others play a scene. This scheme is applicable in e-auctions, when all of three swindlers pass first stage of procurement procedure, providing only commercial offers without any documentation about their legal entities. When re-trading stage starts in e-form on one of official procurement platforms, two swindlers, who do not have intention to win tender, decrease price of supplier works or goods to the minimum of the initial maximum price by 5% step, while other honest participants of procurement procedure watch from the sidelines, as they are scared of such price reductions. Meanwhile, the third swindler watches the auction price reduction process and sends new commercial offer, as he is confident that there is no other participant who will send another commercial offer because all of them are scared, watching diminishing of the initial maximum price. As a result, both of swindlers, who reduced price to a minimum level, are rejected by second parts of their application at second stage, providing incorrect documents about their legal establishments; and the third member of the battering ram wins the tender.

In addition, according to Federal Law №44, an organizer has a right to sign a contract with a participant, who proposed the second cost price, in case if participant with the first cost price will be rejected by the second part of his application, however, both of

possible contractors, who took two first places, are rejected in “Bettering ram” scheme. Therefore, an organizer has a right to sign a contract with any supplier, whose price is acceptable for him, in case if it does not exceed the initial maximum price of the procurement procedure. According to Federal Law №44 Chapter 6 “Implementation of procurement with a single supplier (contractor, executor)”, an organizer has such a right, thus, all of the actions seems to be legitimate, but according to the Federal law №135 “About protection of competition” article 11, both the organizer and honorable suppliers have a right to appeal to FAS using a list of documents about procurement procedure and other evidences of competition’s infringement according to Federal Law №135.

As the expert of RosPil said before, there is significant amount of flaws in the current federal law of public procurement and it needs to be revised in some of its chapters. However, if people do have an intension to delude and desire to gain profit in form of bribes or kickbacks, they will find their ways to do it. According to the statement from chapter 1.8 “Corruption and negotiated deals in Russia”, it is a social element for Russian citizens and Russian people even have a proverb “if you want to live, you have to know how to spin” what means that deception and ability to adapt to certain circumstances underlie a successful life. Perhaps, the issue of corruption and kleptocracy is deeply settled in minds of Russians as an essential element and a key to success.

Another scheme was described by Respondent 1, when both organizer and participants have an interest to work together due to their common interest in the from of monetary funds. According to recent statistics of Bezopasnoe otechestvo, Moscow is placed on 11th place and Saint Petersburg is on the 22nd place, while the most corruptive region, placed on the first step of the podium, is Chechnya region. For instance, federal budget of Saint-Petersburg has lost around 25 billion of roubles due to corruption issues (Bezopasnoe otechestvo 2015). In the interim, Ivanovo region is placed on the 53rd position in list of Bezopasnoe otechestvo, however, Respondent 1 claimed that corruption issues are actual problems and federal budget suffers significant losses. For instance, DSU-1 and Dormostroy owned by one person, won 80% of corruptive procurement procedures, about 70% of all the purchases in Ivanovo region goes through corruptive channels, moreover, in the repair of roads figure is even more impressive - around 90%. Therefore, budget savings does not occur and there is a mass theft. A customer finds a contractor for execution of works or supply of goods and negotiates

15% of contract price (the rate in the city) to give him the contract and sends him to the LLC "Ivanovo Regional Agency for tenders and auctions" in order to prepare the documentation of the ground under the contractor and the establishment of a commission for dropping out of other participants. As a result, this contractor wins contract takes the maximum price without any reduction, 10% goes into the pocket of the customer and 5% of the specialized organization for the completed work. For instance, there is a list of public procurement procedures, which were hold in a such manner and 80% of them were won by one contractor DSU-1 or Dormostroy (№0133300015614000126, №0133300012014000174, №0133300012614000070, №0133300016314000001, №0133300012614000075, №0133300025314000012, №0133300005714000002).

6.2. Evaluation of results

Cleptocracy in public procurement is an inevitable obstacle or an issue to be concerned about; hence, it is necessary to take this aspect into account in order to save working hours of employees for preparation of documentation, participation in tender procedures, stressing about results of public procurement. If commercial entities, that are going to participate in procurement procedures in Russia, analyze this algorithm and apply it in their tender department, first of all, it will unambiguously economize working time for searching appropriate tenders, secondly, it will economize resources, such as time, salaries and expendable office supplies, thirdly, it will increase efficiency while working in the industry of public procurement and improve coefficients of successfully signed contracts.

According to the results of the carried out research, the list of criteria, provided by the experts of public procurement sector, there are several ways to reduce corruption situation in public procurement sector: reforming the federal law, elimination of its flaws, delegating the power to municipalities, tightening the fines and penalties for violation of the law, nevertheless, cleptocracy is form of political and governmental corruption. Therefore, unless any of governmental officials will benefit from cleptocracy and corruption, the situation and the federal law will not be revised in an appropriate way to reduce corruption. Undoubtedly, there are officials, organizers of tenders, suppliers and contractors, who act honestly and without any malicious intension with respect to the federal law and competitiveness of the market itself, notwithstanding, those re-

spectable members of fair and competitive trade are incommensurable relatively to amount of federal budget, which was stolen, lost or “not saved”.

Corruption and kleptocracy effects the economy of the country in the most unfavorable way. This is confirmed by numerous both theoretical and empirical researches. In particular, Vito Tanzi (1998, 19) points out to the following economic and political consequences of corruption: first of all, corruption has a negative impact on the state's ability to regulate the private sector in order to counter market failures; secondly, corruption has a negative impact on the incentives of economic agents actually forcing individuals to expend resources on bribes; thirdly, corruption imposes additional business taxes paid by government regulators in the form of bribes; fourthly, corruption undermines the state's ability to carry out its functions related to the specification and protection of property rights; fifthly, corruption reduces public confidence in the market economy and democracy; sixthly, corruption stimulates income inequality and poverty of the population.

Corruption does not affect economic growth by itself, but through the above-mentioned channels. Accordingly, most modern assessments of the impact of corruption on the parameters of economic growth are evaluating the impact of corruption on the value of the investment, the index of political stability, the indicators of human capital development, etc. The study Abed and Davoodi (2000) found that reduction of corruption by 1% increases GDP growth by 1% - 1.3%. Leite and Weidmann (1999) found a correlation between corruption and GDP, by using as instrumental variables to assess the level of corruption, indicators such as the share of natural resources in the country's exports, trade openness and political instability. The authors concluded that the increase in the level of corruption by 1% reduces economic growth by 0.9% - 1.2%

However, some scientists believe that corruption could have a positive effect and even increase GDP of the country. For instance, Huntington (1968) claims, “ In terms of economic growth, the only thing worse than a society with a rigid, overcentralized, dishonest bureaucracy is one with a rigid, overcentralized, honest bureaucracy. A society which is relatively uncorrupt—a traditional society for instance where traditional norms are still powerful—may find a certain amount of corruption a welcome lubricant easing the path to modernization”, in other words, bribery acts as a lubricant,

causing to rotate rusted wheel state machine. In general, there are several arguments in favor of corruption.

First of all, if not illegal action is provided in exchange for a bribe (for example, the release from customs duties) it minimizes standby costs, if we take into account differences in the opportunity cost of spending time. For instance, the release of goods from custom duties accelerates the provision of legal services offices, as shown in the study of Lui (1985). In the study of Swaleheen and Stansel (2007) in the number of explanatory variables include the index of economic freedom. By analyzing a panel of 60 countries, researchers have come to the conclusion that in countries with low levels of economic freedom (where the range of economic opportunities for individuals is limited) corruption negatively affects growth. However, in countries with high levels of economic freedom, corruption, on the contrary, has a positive impact on growth.

According to Respondent 1, there is significant amount of corruptive occasions in Ivanovo region and the experts faced such issues. The expert stated that there was a tender for repair of school's roof when organizer has claimed to let certain supplier/contractor win the tender procedure, however, the members of commission, where the expert was one of them, decided to fairly consider all applications and select the most suitable supplier. Official representative, who claimed to let certain supplier win, was unsatisfied and threatened members of committee. As a result, the initial maximum price of tender was reduced by 49% and federal budget was partially saved, in addition, part of the saved budget was spent on new school supplies, books and desks. Otherwise, in case if kleptocracy took place in this tender, there would not be any extra supplies for pupils and teachers of the school, but extra funds for officials, who have organized this tender procedure.

7. CONCLUSION

7.1. Summary of main findings

The results of the study, which were provided in Chapter 5 "Findings", helped to accurately compose an applicable strategy in order to avoid corruptive governmental tenders. The objective of the research was to work out a strategy for efficient operations in public procurement in Russia, taking into account such crucial factor as clep-

tocracy and corruption. The strategy is represented in the form of sequence of actions which are highly recommended to follow for participants of public procurement procedures if they desire to save monetary funds, time on selection of a proper tender and increase coefficient of successfully signed contracts. The list of criteria, described in the chapter 5.2.1 “strategies to avoid cleptocratic tenders”, gives a clear understanding what nuances of public procurement procedures have to be taken into account while the process of tender market research. There are several factors that are worth to highlight, as those are the most common and frequent in public procurement of defaulting organizers:

- Overly complex and detailed documentation which could count up to 200 pages in copy-protected format
- Short terms of implementation in combination with overestimated fines and penalties
- Overvalued the initial maximum price of contract implementation
- Non-transparent and confusing ranking system of participants
- Previous contracts of organizer, as it could be a risk that all previous organizer’s contacts were awarded to one supplier.

The listed-above criterions are the most important issues which participants should be concerned about. Besides these criteria, there are different kinds of fraudulent schemes as “Bettering ram” and simple kickbacks to officials, who organize tender offers. Taking into account all of these aspects of Russian public procurement, any legal entity or individual entrepreneur increases its chances of winning fair tender procedures and not facing cleptocratic and corruptive procurement offers.

Furthermore, the experts proposed some of the suggestions that could improve public procurement sector and decrease corruption index in regard of tender offers. There were remarkable proposals such as polygraphs and empowerment of local municipalities to penalize and monitor fixedly all of procurement procedures in their regions, though, expected suggestions were inevitable such as elimination of the federal law’s drawbacks and revision of it. Polygraph would detect defaulting members of commission or organizers with malicious intentions; therefore, thanks to usage of this device percentage of dishonorable members of tenders will decrease. Secondly, delegation of power to local municipalities and other institutions will lead to better monitoring and

penalization processes, which might have a significant impact and scare away defaulting organizers due to improved monitoring, control and penalization system. Thirdly, the list of recommendation was provided by experts for improving Federal Law №44 on public procurement, including such articles as revision of offshore and declaration of expenditures by members of commission, organizers and participants in order to estimate their involvement in cleptocracy and bribery; revision of “ranking system of participants” and “technical requirement for goods and services” articles in the federal law in order to make them more precise and eliminate loopholes.

However, corruption is an essential element of any citizen of Russian Federation, and unless there is, at least, some amount people, who benefit from corruption, it will exist and no amendments or revisions of the federal law, no intimidation and threatening with penalties, no strict monitoring of procurement process and transparency of procedures will solve this issue as it is a social element of Russian culture. There is no way to eradicate cleptocracy due to the power and interest of governmental officials concerning this aspect.

In conclusion, corruption is inevitable in any sector and it can occur in any country, however, CPI is high enough in Russia to put it onto one of the first lines in agenda for legal entities or individual entrepreneurs and think about it twice how to work in such tough circumstances, what strategies to apply in order to minimize risk facing of corruption and economize resources of the enterprise. The worked out algorithm of actions of cleptocratic tender avoidance will simplify job of enterprises in public procurement sector, while the enterprises are increasing revenues, economizing time and cutting costs for selection process of fair and suitable tender proposals.

7.2. Implication for the commissioner

The final result that is handed to the commissioner of this research is the list of criteria of corruptive and cleptocratic tender procurement procedures, which are listed in the algorithm of corruptive, tender avoidance. This algorithm provides a sequence of actions that have to be followed in order to improve efficiency during tender market research and simplify process of selection for fair tender procedures.

7.2.1. Significance of the research for commissioner

Taking into account the size of the company, it is important to state that selection process is a significant element for SME enterprises, which seeks for fair-trading and honorable tender offers. As it was mentioned before in chapter 3 “Monopoly”, 40% of GDP in Russia is produced by 2% of companies, what significantly complicates free trade situation and competitiveness issues on the market. Therefore, SME have to take into account what strategies to utilize in order to increase turnover, revenues and effectiveness of their business. Concerning the corruption situation, which even more complicates the current competitiveness situation, especially in public procurement, it is necessary to follow certain strategies in order to minimize risk of facing cleptocracy. Nerkon LLC is relatively small enterprise, counting 20 employees including CEO and shareholders, in addition, tender departments consists of 2 specialists with engineering specialized education, who are willing to become specialist in NDT devices as it is one of the main channels of distribution and company products. Accordingly, employees of tender department do not specialize in jurisprudence and commercial affairs; however, they have some vital and necessary knowledge about procurement procedures and its pitfalls, as it is impossible to operate in public procurement without any knowledge about corruption, swindlers’ schemes, cleptocracy and documentation preparation.

7.2.2. Training process for commissioner

The commissioner should utilize the algorithm of cleptocratic tender avoidance further in order to improve effectiveness and productiveness of tender department. Also the commissioner should train every new employee of tender department utilizing this research in order to prevent loss of time and monetary resources and increase coefficient of successfully signed and implemented contracts from public procurement.

Figure 9 “Recommendations for commissioner” below presents the vital elements of training process for employees of tender department. It consist of three steps which have to be followed, first of all, careful study of Federal Law №44 and №223 is of the necessary components of tender market in order to be juridically prepared and knowledgeable how the procurement procedures should be done in respect to the Law, what violation might occur and what action should be taken. Secondly, reviewing the list of criteria, that can define doubtful and unfair tender procedures, is an important

element of training as it is necessary to explain schemes and loopholes of the federal law. Thirdly, utilization of the algorithm according to the Figure 8 “Algorithm of actions to identify doubtful procurement procedure” to simplify process of tender selection and market research for suitable procurement procedures is highly recommended.

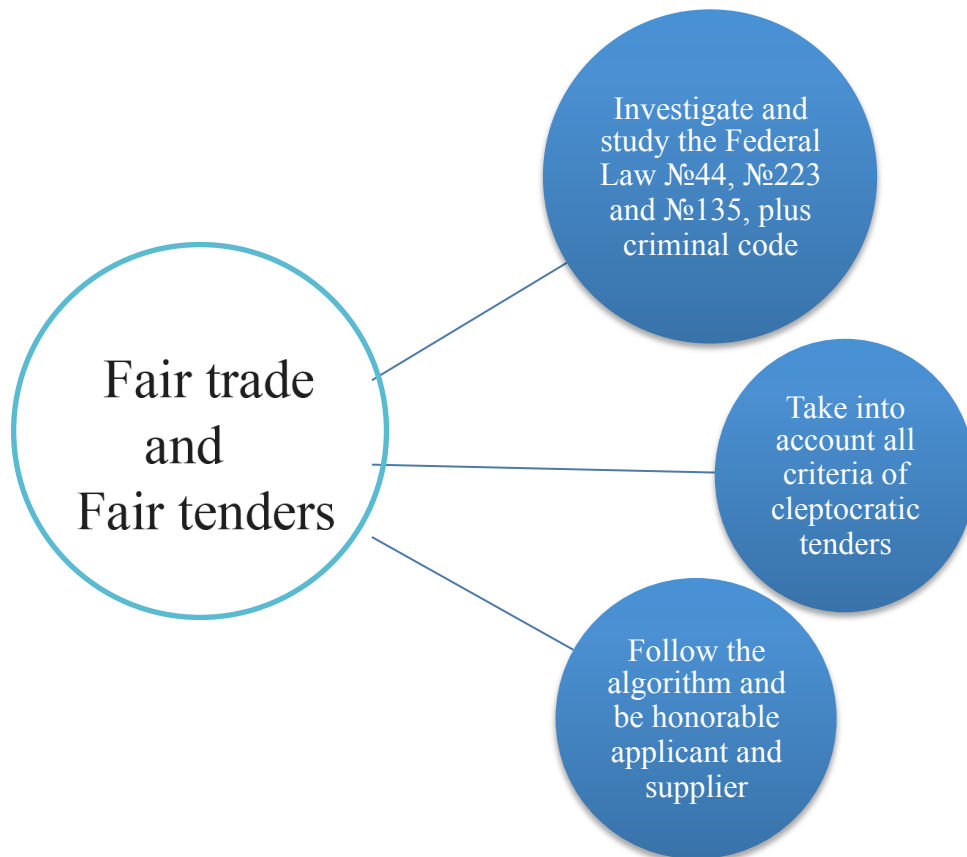


Figure 9. Recommendations for commissioner

7.2.2.1. Necessary elements of the training process

As it could be noticed from the Figure above, there are several elements of fair tender procurement procedures, which have to be respected in order to achieve effective operation in tender department. First of all, it is necessary to know Federal Law №44 “On placing orders for goods, works and services for state and municipal needs” in order to operate under this federal law as most of governmental contracts are signed under this federal law, however, there is another Federal law №223 “On procurement of goods, works and services of certain kinds of legal entities” which is applicable in certain cases for contracts that could be concluded by any legal entity and not governmental institutions. There are a lot of contracts of this type and Federal Law №223

is even more non-transparent and flexible from side of organizer that allows him to compose any suitable desired ranking system and many other terms of contract, what significantly increases percentage of corruptive and negotiated deals under this federal law.

The investigation and study of Criminal Code and the Federal Law №135 will contribute confidence and awareness to participant during process of application and selection of suitable tender procedure. The participant will be aware of what terms are crucial and have to be followed by both parties of tender procedure, what violations of the law could happen and how to avoid them, what penalties could be, thereby, it makes the participant legally well-prepared to any circumstances and prosecutions, what allows to perform commercial vigorous activity without potential risk to participant's business.

Two other elements of fair tender procurement sector are situated apart from legal aspects due to imperfection of the federal law, however, they are closely related to the legal aspects of procurement sector and it is vital to know what actions are necessary to perform in order to achieve maximum result of any tender, either win and implement a contract, or complain to FAS or Ministry of internal affairs in order to penalize a perpetrator.

7.3. Suggestions for further research and development

Cleptocracy and corruption is an ineradicable and everlasting issue in Russia, especially in sector of public procurement, therefore, there could be a lot of questions and objectives to be concerned about in order to minimize CPI and increase competitiveness on the market. This study was directed to the composition of strategy of corruption avoidance with the purpose of resource economization; however, there is a list of questions that has remained unanswered. These issues were not primary objectives of this study despite the fact of their importance, however, it is worth to explore them in order to improve procurement system and investigate some corruption aspects:

- Is corruption either an essential and necessary element for prosperity of economy or is it an adversely effect?
- What strategies and actions are necessary to execute in order to reduce index of corruption?

- How important is social aspect of corruption in person's behavior?
- How to improve public procurement system and what amendments in the federal laws could stimulate it?
- The importance of public procurement and tender offers in economy of countries and its affect on it
- Secreted expenditures from the federal budget and what are they spent on?

However, there is a possibility that this research would not be sufficient to effectively operate in the tender industry in Russia, thus, it might be useful to leave some comments and recommendation in case if it would be necessary to resume this study and work out another strategies of cleptocratic tender avoidance. This issue will be discussed in Chapter 7.3.2 "Research resumption".

7.3.1. Open questions to be resolved

The current implemented research is based on the two the most important aspects: corruption or cleptocracy and public procurement, therefore, there are significant amount of remained open questions due to incurability of corruption issue and actuality of it; and the novelty of procurement topic due to increasing significance of it in recent decades.

There is a considerable quantity of carried out researches in regard of corruption topic and it is an infinite theme to be discussed and resolved as it includes both economical and social aspects what makes it even more actual question due to recent tendency of socio-psychology studies to analyze and observe everything from social point of view. For instance, there were a lot of assumptions and hypothesis in marketing that were proved by use of socio-psychology, the science that investigates social behavior of human beings, thus, corruption could be investigated from socio-psychological side (Perner 2015). This research might help either to manipulate people by virtue of corruption or analyze why corruption is so important element of someone's life and control corruptive actions of people by usage of certain strategies or actions. Also, corruption was assumed to have a positive effect on county's economy by some of the scientists as it was stated in chapter 6.2 "Evaluation of results" by Huntington (1968), Lui (1985), Swaleheen and Stansel (2007), hence, it is worth to research if corruption may have a positive effect on country's economy and growth, what are the

positive outcomes of the corruption and how it stimulates the development of the economy, even if it sounds doubtful and improbable.

Also it would be worth to explore strategies to reduce CPI as it generally has pernicious effect on economy. This research might have specific area of investigation, as different areas need different arrangements or actions as public procurement cleptocracy issue.

Another open questions was mentioned in this study, however, it was not the main objective of it to observe significance of public procurement and strategies to improve public procurement system. As it was stated before in chapter 2.3.1 “Significance of tender procurement in Russian economy”, tender market has significant potential and considerable amount of revenues, thus, it is worth to investigate this topic more deeply and recommend some strategies of procurement system development and improvement.

The last open question is secreted expenditures of the federal budget. The secret part of the budget is increasing since 2008, particularly sharp growth occurred two years ago. Already in the 2011 project of the federal budget had suspiciously considerable part of secreted expenditures.. Nowadays 15 out of 43 appendices of the federal budget are classified as "secret" or "top secret". Economic Policy Institute has calculated recently, that the share of the state treasury of secret expenditures increased by almost 1.5 times from 10.5% to 14.2% in the last three years and forecasted a figure of 25% in nearest future. (Id Argumeti Nedeli 2015) It could be concluded from the statistics above, that some of the secret expenditures are spent on kickbacks, cleptocracy and bribery. Therefore, it has to be investigated how federal funds are allocated and what percentage of them is worth to be secreted indeed.

7.3.2. Research resumption

The implemented research could be resumed in case if the algorithm of corruption tender avoidance will not be sufficient for bypass of cleptocratic tenders. The general recommendations for the research resumption would be to use only reliable and credential resources and increase sample of interviewees. It could be suggested to carry out a qualitative research including different kind of methods such as interviews, focus groups and brainstorming. Also it could be suggested to utilize only non-

governmental sources as they are not allowed to provide straight pretensions concerning procurement system to journalists or publicists due to their positions and it would be senselessly to ask them for objective opinion; however, it is worth to ask them for recommendation for the federal law's improvement and development.

In addition, it would be effective to analyze more deeply different kinds of schemes that defaulting organizers and other swindlers use in order to gain personal interest. These schemes could be useful for potential participants of public procurement procedures and they could benefit from the resumed research due to applicability of information and results. Moreover, the list of questions is compiled in chapter 7.3 "Suggestions for further research and development" which could be added in the resumed research and make it even more effective.

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9. APPENDECES

Appendix I. Organizer and participant narrative inquiries



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**«Клептократия в государственных закупках. Стратегии избегания сомнительных тендерных процедур»
«Cleptocracy in public procurement. Strategies to avoid doubtful tender procedures»**

Дата (Date):	
Место (Place):	
Место работы(организация) (Workplacement):	
Должность (Position):	
Как давно вы работаете в сфере закупок (How long do you work in public procurement):	
Желаете ли вы остаться инкогнито (Would you like to stay incognito):	

Вопросы для участника торгов (Questions for participants of procurement procedures):

1. Какой процент сомнительных тендеров присутствует на рынке в вашей отрасли, по вашему мнению? Дайте примеры или недавние случаи (What percentage of dubious tenders on the market in your industry, in your opinion? Give examples or recent cases)
2. По каким признакам можно определить сомнительный тендер? Почему? (Based on what criteria you can identify doubtful tender on? Why?)
3. Какие меры вы предпринимаете по данному вопросу (What steps are you taking on this issue):
 - а. Если вы оказались жертвой недобросовестной закупки (If you were a victim of unfair purchase)

- b. Если вы увидели заметили что то сомнительное и решили не участвовать (*If you notice something suspicious and decided not to participate*)
4. Как вы считаете, на каком уровне развития сейчас находятся закупочная деятельность? Почему? (*What do you think what level of development are now purchasing activities at? Why?*)
 5. Что, по-вашему мнению, стоит предпринять чтобы уменьшить уровень коррупции в государственных закупках? (*What, in your opinion, should be taken to reduce the level of corruption in public procurement?*)
 6. Какие изменения вы видите в сфере закупок, которые произошли с начала вашей карьеры? (*What changes do you see in procurement that have occurred since the beginning of your career?*)
 7. Как вы оцените свои знания законодательства по государственным закупкам? На что стоит обратить внимание при изучении законодательства? (*How would you rate your knowledge of the legislation on public procurement? What you should pay attention to the study of law on public procurement?*)
 8. Дополнительные комментарии (*Additional comments*)



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**«Клептократия в государственных закупках. Стратегии избегания сомнительных тендерных процедур»
«Cleptocracy in public procurement. Strategies to avoid doubtful tender procedures»**

Дата (<i>Date</i>):	
Место (<i>Place</i>):	
Место работы(организация) (<i>Workplacement</i>):	
Должность (<i>Position</i>):	
Как давно вы работаете в сфере закупок (<i>How long do you work in public procurement</i>):	
Имеется ли у вас профильное образование в отрасли где вы проводите в госзакупки (<i>Do you have specialized education in public procurement</i>)	
Желаете ли вы остаться инкогнито (<i>Would you like to stay incognito</i>):	

Вопросы для организатора торгов (Questions for organizers of procurement procedures):

1. Какой процент отклоненных заявок на вашей практике? И каковы причины отклонения заявок? (*What percentage of rejected applications is usual according to you experience? And what are the reasons for rejection of applications?*)
2. Как вы считаете, по чьей вине происходят эти ошибки? По причине некомпетентности специалистов по закупкам или иное? (*Why such errors happen? Due to the incompetence of procurement specialists, or otherwise?*)

3. На что вы посоветуете обращать внимание прежде всего при оформлении заявки на участие в процедуре? Почему? (*What do you recommend to pay attention especially when you make an application for participation in the procedure? Why?*)
4. Как вы считаете, на каком уровне развития сейчас находятся закупочная деятельность? Почему? (*What do you think what level of development are now purchasing activities at? Why?*)
5. Какие изменения вы видите в сфере закупок, которые произошли с начала вашей карьеры? (*What changes do you see in procurement that have occurred since the beginning of your career?*)
6. Как вы оцените свои знания законодательства по государственным закупкам? На что стоит обратить внимание при изучении законодательства? (*How would you rate your knowledge of the legislation on public procurement? What you should pay attention to the study of law on public procurement?*)
7. Что бы вы предприняли для улучшения закупочной деятельности если бы вам предоставили подобную возможность? (*What would you do to improve procurement activities if you have provided such an opportunity?*)
8. Часто ли вам предлагали вознаграждение за «помощь» при проведении определённой закупки? Что является причиной такого поведения и какова была ваша реакция? (*How often were you offered a reward for "help" during certain purchases? What is the cause of this behavior and what was your reaction?*)
9. Дополнительные комментарии (*Additional comments*)