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THE INTERACTION BETWEEN PROCUREMENT POLICIES AND UZBEKISTAN'S PUBLIC PROCUREMENT LEGISLATION: NORMATIVE CONFLICTS AND THEIR RESOLUTION IN DEBT-FINANCED PROJECTS

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Abstract. This article examines the interaction between procurement policies established by international financial institutions and Uzbekistan's public procurement legislation in projects financed through loans and other forms of borrowed funds. Particular attention is paid to potential normative conflicts arising from differences in procurement procedures, eligibility requirements, evaluation criteria, complaint mechanisms, transparency standards, and contractual arrangements. The study analyzes the legal and institutional challenges associated with reconciling domestic procurement requirements with financing agreements and the procurement rules applicable to externally financed projects. It argues that effective coordination requires a clear hierarchy of applicable rules, systematic legal review, harmonized procurement documentation, and institutional mechanisms for resolving inconsistencies before procurement procedures commence. The article proposes practical measures to improve legal certainty, accountability, competition, and the efficient use of borrowed public resources in Uzbekistan.

Keywords: public procurement, procurement policy, Uzbekistan, public procurement legislation, debt-financed projects, international financial institutions, normative conflict, procurement procedures, legal harmonization, public finance, transparency, accountability.

INTRODUCTION

Public procurement is a fundamental instrument of public financial management, infrastructure development, and the delivery of public services. Through procurement, public authorities and project implementing agencies acquire construction works, goods, consulting services, and other resources required to implement national development priorities. The effectiveness of procurement therefore has direct implications for fiscal discipline, competition, transparency, project implementation, and the achievement of public policy objectives.

In Uzbekistan, public procurement has become increasingly important in the context of economic modernization, infrastructure expansion, administrative reform, and the growing use of external financing. Projects supported by international financial institutions, foreign governments, and other creditors frequently involve substantial financial resources and complex implementation arrangements. Such projects may be subject to domestic legislation, international financing agreements, and procurement policies established by the financing institution.

The interaction between these regulatory frameworks creates important legal questions. Uzbekistan's public procurement legislation establishes general principles and procedures for the

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expenditure of public resources, while financing institutions may require particular procurement methods, eligibility conditions, evaluation systems, disclosure practices, and contractual arrangements. Although these requirements often pursue common objectives, differences in their legal formulation and implementation can create uncertainty for contracting authorities, project implementation units, suppliers, and contractors.

A normative conflict may arise when two applicable rules prescribe different procedures for the same procurement situation, when the financing agreement incorporates requirements that are not fully reflected in domestic implementing documents, or when project personnel interpret the relationship between domestic law and financing conditions inconsistently. Such conflicts can delay tender announcements, require the revision of procurement documents, complicate bid evaluation, or create uncertainty regarding the validity of procurement decisions.

The problem is particularly significant in debt-financed projects because procurement irregularities may affect not only the legality of administrative decisions but also the disbursement of loan proceeds, the achievement of project milestones, and the financial obligations of the borrower. Consequently, the relationship between procurement policy and national legislation should be addressed as a substantive issue of legal governance rather than merely a technical matter of tender administration.

The purpose of this article is to examine the interaction between international procurement policies and Uzbekistan's public procurement legislation in debt-financed projects, identify the principal areas in which normative conflicts may arise, and develop legal and institutional recommendations for their prevention and resolution.

The study addresses three research questions:

1. What legal and institutional factors create inconsistencies between procurement policies and Uzbekistan's public procurement legislation?
2. How can such inconsistencies affect the implementation of projects financed through borrowed funds?
3. What legal mechanisms can improve coordination between domestic procurement requirements and the rules applicable under international financing arrangements?

The central argument is that effective procurement governance requires the coordinated application of national legislation, international obligations, and project-specific financing conditions through a transparent, legally reviewed, and institutionally consistent framework.

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The relationship between national public procurement legislation and the procurement policies of international financial institutions can be examined through three complementary theoretical perspectives: the hierarchy of legal norms, institutional coordination, and good governance in public expenditure.

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The first perspective concerns the hierarchy and applicability of legal rules. In projects financed through external borrowing, procurement procedures may be governed by national legislation, international agreements, financing agreements, and procurement regulations incorporated into project documentation. These instruments do not necessarily have identical legal status. Consequently, determining the applicable rule requires an assessment of the instrument's legal nature, scope, parties, and relationship to domestic legislation.

Uzbekistan's Law No. ZRU-684 of 22 April 2021, On Public Procurement, establishes the general legal framework for public procurement. Article 3 provides that, where an international treaty of Uzbekistan establishes rules different from those contained in public procurement legislation, the rules of the international treaty apply. Article 2 also addresses procurement financed by foreign loans and certain forms of external assistance, recognizing the relevance of alternative procurement procedures where these are determined by the applicable financing or assistance conditions [1]. These provisions are particularly important for projects supported by international financial institutions.

The second perspective is institutional coordination. International financial institutions commonly establish procurement requirements to promote competition, economy, integrity, transparency, and the efficient use of financing. The World Bank's procurement framework, for example, emphasizes value for money, efficiency, fairness, transparency, and fit-for-purpose procurement. These objectives broadly correspond to the principles underlying modern national procurement systems, although the procedures used to implement them may differ [2].

The third perspective concerns public governance and accountability. Procurement is not merely a process of selecting a supplier; it is also a mechanism for protecting public resources, managing corruption risks, ensuring equal treatment of bidders, and establishing responsibility for administrative decisions. The United Nations Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement provides an internationally recognized framework for promoting competition, objectivity, transparency, and procedural safeguards in public procurement [3].

Despite these common objectives, differences may arise in the detailed implementation of procurement requirements. For example, domestic law may prescribe a particular electronic procedure, while a financing institution's rules may require international competitive procurement under a different timetable and evaluation methodology. Similarly, domestic documentation requirements may differ from those stipulated in the financing agreement or the institution's standard procurement documents.

These differences should not automatically be treated as unlawful contradictions. They may reflect legitimate variations in the scope of application of different legal instruments. A genuine normative conflict exists when two applicable rules prescribe incompatible requirements for the same legal situation and cannot be reconciled through interpretation.

Accordingly, the central theoretical proposition of this study is that procurement-related normative conflicts should be resolved through a structured assessment of legal applicability, rather than through the automatic preference for either domestic rules or financing-institution procedures.

RESEARCH METHODOLOGY

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This study employs doctrinal legal analysis, comparative analysis, and a functional approach to examine the interaction between Uzbekistan's public procurement legislation and procurement requirements applicable to debt-financed projects.

Doctrinal legal analysis is used to examine the relevant provisions of the Law of the Republic of Uzbekistan On Public Procurement, particularly the rules concerning the scope of the legislation, the applicable legal framework, and the relationship between domestic procurement rules and international treaties [1].

Comparative analysis is applied to identify potential differences between national procurement procedures and the procurement frameworks of international financial institutions. The comparison focuses on procurement methods, eligibility criteria, bid evaluation, disclosure requirements, complaint mechanisms, and contract administration.

Functional analysis is used to assess how regulatory inconsistencies may affect the practical implementation of externally financed projects. Particular attention is paid to procurement delays, uncertainty for contracting authorities, the risk of challenges to procurement decisions, and the possible consequences for loan disbursement.

The research follows four analytical stages:

1. Identification of the legal instruments applicable to a debt-financed project.
2. Classification of potential inconsistencies according to their subject matter.
3. Assessment of the legal and operational consequences of those inconsistencies.
4. Development of preventive and corrective measures.

The study is primarily qualitative and normative. It does not claim to establish the statistical frequency of procurement conflicts in Uzbekistan, nor does it quantify their financial impact. The examples discussed below represent analytical scenarios designed to illustrate recurring types of regulatory inconsistency. Their application to a particular project requires examination of the relevant financing agreement, procurement plan, applicable institutional rules, and current national legislation.

RESULTS AND DISCUSSION

The starting point for analyzing procurement in debt-financed projects is to determine which legal instruments govern the relevant transaction. The mere existence of external financing does not necessarily mean that every procurement activity must be conducted exclusively under the procedures of the financing institution. The applicable framework depends on the wording of the financing agreement, the relevant provisions of national law, the legal status of the agreement, and the scope of the procurement being undertaken.

Article 2 of Uzbekistan's Law On Public Procurement addresses procurement financed through foreign loans and specified forms of external assistance, taking account of cases in which the applicable financing conditions establish another procurement procedure. Article 3 separately

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addresses the priority of international treaties where their provisions differ from national public procurement legislation [1].

These provisions indicate the importance of distinguishing between three legal situations.

First, a procurement procedure may be governed by the ordinary domestic procurement framework because no applicable financing condition establishes an alternative procedure. In this case, the contracting authority must comply with the relevant national rules.

Second, a financing agreement may establish or incorporate procurement requirements applicable to the project. Their legal effect must be determined by examining the agreement and the relevant provisions of domestic law. The financing agreement's contractual or international legal character should not be assumed without examining its legal basis and form.

Third, an applicable international treaty may establish rules that differ from domestic public procurement legislation. In such circumstances, Article 3 becomes relevant to determining which rule applies.

This distinction is essential because the term procurement policy does not, by itself, establish a legal hierarchy. A policy document, an institution's procurement regulations, a financing agreement, and an international treaty may have different legal effects. Their applicability must be established individually.

A practical implication is that project implementation units should prepare a legal applicability matrix before launching procurement. This matrix should identify the applicable instruments, the procurement activities they cover, the responsible institutions, and the procedure for resolving inconsistencies.

Procurement methods. Domestic procurement legislation may establish specific procedures for different categories of public procurement, while a financing institution may require international competitive procurement, national competitive procurement, request for quotations, or other methods depending on the project's nature and estimated value. If the procurement plan and national implementation documents do not clearly identify the applicable method, project staff may face uncertainty about which procedure to follow.

The appropriate solution is not to assume that one procedure is always superior. Instead, the contracting authority should determine the applicable framework before preparing the tender documents and ensure that the selected method is legally justified.

Eligibility and qualification requirements. Differences may arise in the treatment of foreign bidders, joint ventures, subcontractors, sanctions, conflicts of interest, and financial or technical qualification. Inconsistency can emerge when domestic tender documentation contains a requirement that conflicts with an applicable financing rule, or when the project team introduces an eligibility condition that is not authorized by the governing framework.

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To prevent such situations, eligibility requirements should be reviewed against both the applicable national legislation and the relevant financing conditions. Any restriction on competition should have a clear legal basis and be reflected consistently in the procurement documents.

Bid evaluation. Evaluation is another area of potential conflict. Domestic procedures may emphasize formally prescribed evaluation criteria, whereas financing-institution frameworks may employ detailed technical and financial assessment methods or a broader value-for-money approach. Differences in evaluation methodology may lead to disputes if bidders cannot determine how their proposals will be assessed.

The central requirement is consistency between the procurement notice, bidding documents, evaluation criteria, and final award decision. Evaluation criteria should be established before bids are received and applied equally to all bidders. Any additional criteria introduced after submission may undermine transparency and create legal risk.

Transparency and disclosure. Domestic electronic procurement systems and financing institutions' procurement platforms may have different publication and reporting requirements. A project may therefore be required to publish information through more than one channel. If responsibilities are unclear, the contracting authority may satisfy one disclosure requirement while overlooking another.

A coordinated disclosure protocol should identify the information to be published, the relevant platform, the responsible official, and the applicable deadline. Such a protocol can improve traceability and reduce the risk of incomplete records.

Complaints and review procedures. A procurement dispute may involve national administrative review mechanisms, project-specific complaint procedures, or the financing institution's applicable review framework. These mechanisms should not be presumed to be interchangeable. Their legal basis, scope, deadlines, and consequences must be established before procurement begins.

The procurement documents should explain the applicable complaint procedure and the relevant institutional responsibilities to the extent required by the governing framework. This would improve predictability for bidders and reduce uncertainty for project implementing agencies.

Contract administration. Conflicts may also arise after the award of a contract, particularly in relation to contract amendments, variations, extensions of time, changes in scope, and approval requirements. A contract amendment that appears administratively convenient may nevertheless require additional authorization under the financing agreement or the applicable procurement framework.

Accordingly, project management should include legal review of significant contract amendments, not only of the original procurement procedure. This is especially important for infrastructure projects in which changes in design, construction costs, or implementation schedules can affect the total financing requirement.

Regulatory inconsistency can affect a project at different stages of its life cycle. Before procurement begins, uncertainty regarding the applicable rules may delay the approval of procurement

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plans and tender documents. During procurement, inconsistent requirements may result in bidder complaints, repeated evaluations, or the cancellation and re-announcement of a tender. After contract award, uncertainty regarding approvals and contract amendments may delay implementation.

These consequences have a direct financial dimension. Debt-financed projects involve borrowing costs, repayment obligations, implementation schedules, and, in many cases, disbursement conditions. Delays can therefore increase administrative expenses, postpone the expected benefits of infrastructure investment, and complicate financial planning.

The main risks can be classified as follows:

- Legal risk: procurement decisions may be challenged if the governing procedure has not been correctly identified or applied.
- Financial risk: delays and repeated procedures may increase project administration costs and postpone the use of loan proceeds.
- Competition risk: unclear or inconsistent requirements may discourage eligible suppliers from participating.
- Integrity risk: discretionary interpretation of conflicting rules may create opportunities for unequal treatment or improper influence.
- Implementation risk: uncertainty over contract approval and amendment procedures may delay project completion.

These risks are interconnected. For example, unclear eligibility criteria may lead to complaints, which may delay contract award and affect the disbursement schedule. A poorly coordinated contract amendment may create both legal uncertainty and additional financial costs.

The prevention of normative conflicts should therefore be treated as part of project risk management. Legal review, procurement planning, internal controls, and clear allocation of responsibilities should be integrated into the project management framework from the earliest stages.

CONCLUSION

The interaction between procurement policies and Uzbekistan's public procurement legislation is an important issue in the governance of debt-financed projects. Although domestic legislation and international procurement frameworks generally share objectives such as transparency, competition, efficiency, and accountability, differences in procedural requirements can create uncertainty during project preparation, tendering, evaluation, and contract implementation.

The analysis demonstrates that not every difference between procurement rules constitutes a genuine legal conflict. Some differences arise because legal instruments have different scopes or apply to different stages of procurement. A proper assessment must therefore establish the legal status, applicability, and relationship of each instrument before determining which rule governs a particular transaction.

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Uzbekistan's Law No. ZRU-684 of 22 April 2021 provides an important legal basis for addressing this issue. Its provisions concerning the scope of public procurement legislation and the relationship between domestic rules and international treaties are particularly relevant to projects financed through foreign loans and external assistance [1]. However, effective implementation requires contracting authorities to distinguish carefully between international treaties, financing agreements, and procurement policies incorporated into project arrangements.

The principal contribution of this study is the proposed six-stage mechanism for resolving procurement-related normative conflicts. The mechanism combines legal inventory, applicability assessment, conflict identification, legal resolution, document harmonization, and compliance monitoring. It is intended to prevent inconsistencies before they disrupt procurement procedures or affect project implementation.

The practical recommendations include clarifying the legal treatment of externally financed procurement, introducing standardized compliance matrices, strengthening coordination with financing institutions, harmonizing procurement documentation, improving professional training, and enhancing digital traceability.

In conclusion, effective coordination between national legislation and applicable financing-related procurement rules can improve legal certainty, strengthen competition, reduce administrative delays, and protect the efficient use of borrowed public resources. Further empirical research should examine actual procurement cases in Uzbekistan, compare the requirements of different financing institutions, and assess the effects of regulatory inconsistencies on tender duration, bidder participation, contract implementation, and project costs.

REFERENCES

1. Republic of Uzbekistan. (2021). Law No. ZRU-684 of 22 April 2021 on Public Procurement. National Database of Legislation. Available at: https://lex.uz/docs/5382983.
2. World Bank. (2023). The World Bank Procurement Regulations for IPF Borrowers: Procurement in Investment Project Financing—Goods, Works, Non-Consulting and Consulting Services. Washington, DC: World Bank. The applicable edition and amendments should be verified against the relevant financing agreement.
3. United Nations Commission on International Trade Law (UNCITRAL). (2011). UNCITRAL Model Law on Public Procurement. Vienna: United Nations. Available at: UNCITRAL Model Law on Public Procurement.
4. Asian Development Bank. (2017). Procurement Regulations for ADB Borrowers: Goods, Works, Nonconsulting and Consulting Services. Manila: Asian Development Bank. The applicable version should be confirmed for each project.
5. Organisation for Economic Co-operation and Development (OECD). (2015). Recommendation of the Council on Public Procurement. Paris: OECD.

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HOUGHTON STREET REVIEW JOURNAL
ISSN: 2058-5519|Impact factor-15.9
http://houghtonstreetreview.com/index.php/hsr

6. European Bank for Reconstruction and Development (EBRD). (2022). Procurement Policies and Rules. London: EBRD. The edition applicable to the relevant financing arrangement should be verified.