

Opportunistic Behavior in Public Procurement

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Synonyms

Corruption; Opportunistic behavior; Procurer; Public procurement; Supplier

Definitions

Opportunistic behavior in public procurement is defined as a dishonest act or behavior violating the rights and interests of contractual counterparts.

Introduction

During the past few decades, many developing countries have initiated public procurement reforms. One of their prime objectives was to limit corruption, enhance competition, and reduce the scope of procurer opportunism. However, radical changes in regulations have resulted in the emergence of new opportunities for opportunism this time on the supplier side.

Overpricing compared to the average market prices may be used as an indicator of opportunistic behavior in public procurement. However, this approach to detect opportunism is only valid in the case of procurement of homogeneous goods. In regard to the procurement of more complicated products, overpricing may occur not only due to suppliers' opportunistic behavior but also due to suppliers' reputation or contract delivery guarantees. The imperfect regulatory environment is an additional factor impeding the identification of dishonest behavior. It complicates the principal-agent problem, as inadequate regulation forces even benevolent agents to violate the rules. As a

consequence, the principal's control and detection of dishonest agents becomes more difficult. Hence, there is a need for new approaches for the identification of potential opportunism.

This chapter offers a methodological approach for principals aimed at identifying potential opportunism by counterparts that are linked with agents through contractual relations. When the rules are inconsistent with reality and unfeasible for agents, the principal is unable to identify dishonest agents on the basis of the available information. The authors suggest employing a counterpart survey as an alternative source of information for the principal. The methodology proposes asking counterparts about attitudes toward some behaviors of agents, which are undesirable from the principal and benevolent counterpart perspective. The approach identifies the potential opportunism of counterparts based on the intensity with which they justify such behavior and provide unrealistic assessments of commonly known problems. This approach indirectly indicates the potential opportunism of the agent, which is linked with such counterparts. Further description is based on the paper Yakovlev et al. (2019).

Opportunistic Behavior in Contractual Relations

Economic actors are assumed to be characterized by bounded rationality and may behave opportunistically. In the original transaction cost economics (TCE) literature, opportunism is defined as "self-interest seeking with guile" (Williamson 1975, p. 6). In his subsequent work, Williamson (1985, p. 47) describes guile as "lying, stealing, cheating, and calculated efforts to mislead, distort, disguise, obfuscate, or otherwise confuse." This view is further extended by Bergen et al. (1992), who declare that partners seek to maximize their own benefits, which leads to self-interested and opportunistic behavior. Therefore, partners will act opportunistically when it is profitable (John 1984) leading to higher transaction costs. In practice, opportunism may take various forms and includes a wide range of different behaviors: distortion of information, including overt behaviors

such as lying, cheating, and stealing, as well as more elusive behaviors such as misrepresenting information by failing to make full disclosure (Hawkins et al. 2008).

Opportunistic behavior is typical of various forms of contractual relations: business-to-business, labor, education, insurance services, etc. This concept has a highly contextual character and should be examined under the perspective of the context which occurs. In the context of public procurement, this chapter focuses on the practice of relational contracts as an area with a wider scope for opportunism. Repeated contractual relations are characterized by a higher level of trust between partners; lower transactional costs, both at the stage of contract conclusion and at delivery; and greater opportunity for prompt problem solution compared to one-time interactions.

At the same time, repeated interactions may be a consequence of deliberate manipulation aimed at narrowing the range of potential bidders. For example, the procurer could award new contracts to suppliers with a good reputation and exclude future cooperation with those who did not execute contracts in a proper way. The procurer may also tend to prevent the emergence of new bidders due to the existence of a well-developed mechanism of interaction with an incumbent supplier and reluctance to change it. This results in less competitive pressure on the supplier, decreasing its economic incentives and, as a consequence, leading to overpricing. Repeated contracts may also produce opportunities for corruptive conduct by their parties. Various corruptive arrangements lead to even greater overpricing, as the supplier needs to compensate for the kickback paid to the procurer for concluding the contract.

These effects are particularly obvious in cases of the procurement of homogeneous products. When procurement of products with inspectional quality can be verified at the time of delivery, prices over the market average may be an indicator of opportunism. However, in the case of complex goods and services, opposing effects are possible. In the case of the procurement of goods with a quality that is not verified at the time of delivery, relative overpricing can be related to the supplier's good reputation or a contract delivery guarantee as well as to the supplier's opportunistic

behavior. Therefore, prices may be higher than the market average even with honest procurer behavior, e.g., if the supplier asks for compensation in return for the guaranteed high quality of the procured goods that has been confirmed during previous interactions.

Researchers traditionally consider opportunism a phenomenon that emerges during interactions between private agents. The specific feature of the public sector, including public procurement, is the principal-agent problem. The principal-agent problem is less acute in the private sector, as the principal is personified. The owner of a private firm generally disposes of sufficient opportunities to efficiently organize the monitoring of agents' activities. However, such opportunities become weaker in state-owned enterprises or public sector entities, where the owner is the state acting on behalf of society.

In addition to the complex nature of the procured product, another factor complicating the identification of dishonest conduct is an imperfect regulatory environment. This factor is particularly relevant in developing markets. Under conditions of stable and functional legal institutions, the principal can effectively control the activities of her agents by controlling compliance with the rules (due to their adequacy and feasibility). However, developing markets are characterized by excessive and contradictory regulation, pushing economic actors to the shadow sector on a mass scale (De Soto 1990; Djankov et al. 2002). A solution of the principal-agent problem is more difficult under such circumstances because, under inadequate regulation, even honest agents are forced to violate the rules. Consequently, the control and detection of agents acting dishonestly becomes complicated for the principal-procurer. Hence, there is a need to develop alternative approaches for the identification of potential opportunism.

How Does One Identify Opportunistic Behavior in Repeated Interactions in the Public Procurement?

Most studies of opportunistic behavior in such repeated interactions are theoretical. A considerable

share of papers are devoted to modeling opportunism and its implications from the perspective of transaction cost theory (Chen et al. 2002) or game theory (Harbaugh and To 2014). Empirical studies of opportunistic behavior can be classified into two categories. One is based on contract data analysis (e.g., Crocker and Reynolds 1993; Lumineau and Quélin 2012). As a rule, access to such data is restricted, and analysis is complicated by the need to scrutinize the contents of contracts, conflict settlement mechanisms, etc. The second category is based on surveys and is the most commonly used method of assessing opportunistic behavior. The existing papers in the second category mainly analyze the factors of opportunism in private procurement.

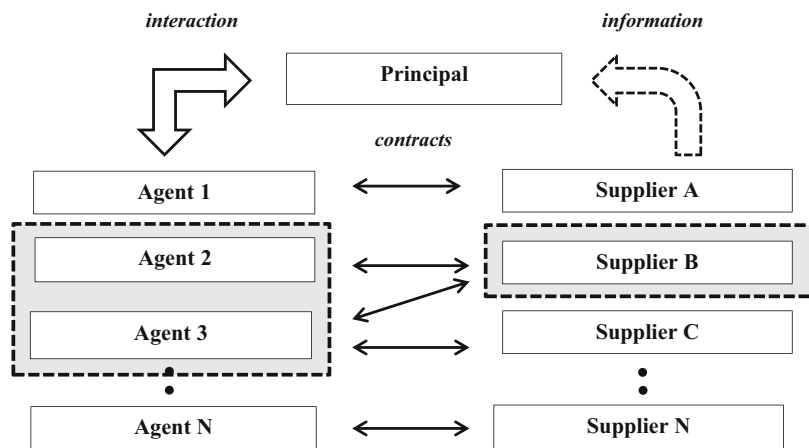
Previous research has shown that the procurers themselves regarded the suppliers' readiness to deceive their counterparts for the sake of higher profits as one of the indicators of opportunism (Wang et al. 2012; Morgan et al. 2007; Mysen et al. 2011). All authors studied opportunism on the basis of procurers' surveys presuming that their responses were credible (The only exception is (Bhattacharya et al. 2015) who used the parallel questioning of procurers and suppliers to evaluate the factors of procurer opportunism.). However, procurers can also distort their assessments or deliberately evade answering sensitive questions. This spawns doubts as to the credibility of the obtained results and constitutes one of the limitations of the approach used in previous studies.

Methodology that Identifies the Potential Opportunism

The participants in public procurement interactions include the principal, her agents, and suppliers (Fig. 1). By principal, the authors mean a high-level governmental body (for instance, a ministry); by agents, the authors mean subordinated public entities (for instance, hospitals and schools). Suppliers include different types of firms (A, B, and C), for which the authors are trying to identify differences in behavior patterns, comparing their responses to related blocks of questions of the questionnaire. Arrows between agents and suppliers show their repeated relations in public procurement (contracts).

Within the context of traditional interaction with agents, the principal, on the one hand, sets their task and, on the other hand, provides them with funding to perform their functions. At the same time, the principal is responsible for the final outputs. In addition to exercising the controlling function, the principal has direct responsibility for the agents' actions. As was already stated above, in a stable and functional regulatory environment, the principal acts on the basis of the information provided by her agents. By analyzing this information, she can detect inconsistencies and possible dishonest behavior. However, under rules that are inconsistent with reality and unfeasible for the agents, the principal cannot distinguish honest agents on the basis of available information.

Opportunistic Behavior in Public Procurement, Fig. 1 Interaction of participants in public procurement



In this context, the authors propose an alternative method of identifying potential opportunism by conducting surveys of suppliers as a source of information for the principal. A comparison of responses to different questions on the questionnaire would help identify the types of suppliers (A, B, C) with different degrees of involvement in fraudulent actions. This method of analyzing suppliers' responses to different questions would help distinguish suppliers distorting information or evading questions from those who are telling the truth.

First, this approach enables the identification of groups of suppliers with unrealistic (overstated or understated) assessments and makes a more adequate estimation of the scope of the practice of predetermining the choice of suppliers. Second, proceeding from the findings of previous studies, according to which systematic information distortion is a sign of opportunism, this approach helps identify suppliers who are prone to opportunism (dashed line on Fig. 1, to the right). By following those suppliers' repeated interactions, the principal can identify agents that may be involved in corruptive practices (dashed line on Fig. 1, to the left).

Conclusion

This chapter presents a methodological approach for detecting potential opportunism by counterparts that are linked with agents through contractual relations. Meanwhile, the chapter does not consider the situation of changing the rules by reforming the public procurement system. This is not a task for a single, even large, organization and should be addressed by the collective effort of many organizations or the government. The authors instead focus on what a principal should do in a situation in which the existing system of rules is inadequate, and she cannot change it.

In this case, the authors suggest using a counterpart survey as an alternative source of information for the principal. The methodology proposes to ask counterparts about the attitude to some undesirable behavior of the agent from the principal and benevolent counteragent perspective. The

findings of previous studies show that the systematic distortion of information is one of the indicators of opportunism. Therefore, the authors can identify the potential opportunism of counterparts based on the intensity of their justification of such behavior along with unrealistic assessments of existing problems. By following those counterparts' contractual relations, the proposed approach allows to further indirectly indicate the potential opportunism of the agent related to these counterparts.

The practical implication is that this methodological approach makes it possible to take into account the objective heterogeneity of suppliers when developing measures to improve the public procurement system. Therefore, the presented methodology may be applied in other spheres of public administration, where public bodies or large state-owned enterprises interact with counterparts on a competitive base and are vulnerable to corruption and opportunistic behavior.

Cross-References

- ▶ [Principal-Agent Theory of Organizations](#)
- ▶ [Public Purchasing and Agency Theory](#)

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Oppositional Power

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Synonyms

Opposition influence; Oppositional power; Oppositions' institutional opportunity structures; Parliamentary control power

Definition

Oppositional power refers to the degree of influence of nongoverning parties or nongoverning members of parliament on the policy-making process.

Introduction

In democracies, the focus of this entry, oppositional power refers to the degree of influence of nongoverning parties or nongoverning single members of parliament on the policy-making process. As Robert Dahl, one of the “founding fathers” of political science, noted already 50 years ago, the existence of an opposition can be regarded “as very nearly the most distinctive characteristic of democracy itself” (Dahl 1966: Preface xvi). Autocracies, in contrast, stand out by restricting, limiting, or repressing oppositions, inside and outside of parliament. Despite this crucial role of oppositions for democratic political systems, the influence of oppositions on the policy-making process, that is, oppositional power, has hardly been studied explicitly in political science and public policy.

How much power do oppositions have across the advanced democracies? This entry provides an overview on our (still relatively sparse) knowledge on the power of oppositions. It starts by theorizing on the (normative) importance of oppositions and their influence for democratic systems and then moves on to discussing existing studies, which have tried to measure oppositional power empirically. Two factors are particularly important here: the role of political institutions as opportunity structures for oppositions and the characteristics of the oppositional actors themselves. Both institutions and actor configurations affect oppositional power. The entry concludes by posing a number of hitherto unanswered questions that would deserve further scholarly attention and by discussing some important effects of oppositional power on relevant social, economic, and political phenomena such as party competition and voting behavior, satisfaction with government or democracy, or coalition formation processes.

Why Oppositions and Their Power Matter

When we switch on the television or radio news in the evening and are informed about a new policy proposal by the governing parties, we are used to