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## CONFLICT OF INTERESTS AND DIRECT CONTRACTING PRACTICES IN ROAD TRANSPORT INFRASTRUCTURE DEVELOPMENT: A LEGAL ANALYSIS AND POLICY RECOMMENDATIONS

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**Abstract.** The article analyzes practical issues in establishing effective governance and a healthy competitive environment in the development of road-transport infrastructure in Uzbekistan. It demonstrates that the merging of regulatory and operational functions, along with privileges granted to certain entities, leads to conflicts of interest and inequality. Specifically, the Road Committee serves as both customer and contractor, and government agencies are permitted to sign direct contracts with their affiliated organizations without tenders. The legislative framework is examined, and legal recommendations to improve competition are proposed. The article provides a comprehensive analysis of effective anti-corruption measures in the transport and road infrastructure sector. The study highlights corruption-related risks in this field and their negative impact on economic development and social stability. The research examines the current legal framework in Uzbekistan, focusing on ensuring transparency in tender processes, preventing conflicts of interest, and strengthening accountability mechanisms. In addition, international practices, including those of the World Bank, OECD, European countries, and the United States, are analyzed to explore the potential for adapting these experiences to national legislation. The paper emphasizes modern approaches to combating corruption, such as the introduction of digital technologies, the establishment of open data platforms, and the improvement of monitoring and liability systems. The findings aim to promote transparency and competition in the sector, enhance the efficiency of public spending, and improve the investment climate. This study is of significant theoretical and practical value and can serve as a scientific basis for improving the national anti-corruption strategy in the field of transport infrastructure.

**Keywords:** road infrastructure, regulatory and operational functions, conflict of interest, tender transparency, direct contracts, anti-corruption measures, road infrastructure, public procurement, transparency, conflict of interest, open tenders, digital platforms, OECD standards, World Bank practices



## Introduction

Road transport infrastructure projects play a critical role in economic growth, social stability, and regional connectivity, particularly in developing countries. However, when government agencies manage projects through direct contracting without competitive bidding or in the presence of conflicts of interest, the risk of corruption significantly increases. According to the OECD, 30–50% of infrastructure investment may be lost to corruption and inefficiency [1]. Similarly, global estimates suggest that 10–30% of construction project costs are lost due to corruption and mismanagement, resulting in an annual financial loss of up to USD 2.5 trillion [2].

The OECD's Infrastructure Anti-Corruption Toolbox initiative highlights the need for transparency and integrity in infrastructure procurement as a global standard, promoting "best practices" to reduce corruption risks in both developed and developing economies. Furthermore, reports from the IMF identify the procurement stage as one of the most corruption-prone phases in infrastructure projects, particularly when oversight is weak and contracting processes lack transparency [3].

The IMF emphasizes that inadequate control over conflicts of interest in public procurement creates opportunities for self-dealing and inflated costs, undermining efficiency and quality [4]. Similarly, the World Bank has concluded that non-competitive and non-transparent procurement practices are strongly correlated with higher corruption risks and poor project outcomes [3].

Government procurement represents the largest category of public expenditure, amounting to approximately 12% of GDP in OECD countries and up to 15% globally in 2019 [5]. Analysis of World Bank-financed projects shows that:

- 52% of contracts are awarded through competitive bidding,
- 30% involve limited competition,

- 18–20% are direct awards without competition.

In the European Union, direct contracting above 10% of total procurement volume is considered a "red flag" for corruption risk [6].

The OECD and G20 recommend using Integrity Pacts as an effective anti-corruption mechanism in public procurement. These are formal agreements ensuring that all parties involved in a bidding process commit to transparency and abstain from corrupt practices, monitored by an independent civil society organization [7].

In Uzbekistan, the development of road transport infrastructure is considered a priority direction of state policy. In this context, establishing an effective management system and creating a healthy competitive environment are regarded as crucial factors. However, the existing system exhibits issues such as the merging of oversight and economic functions and the granting of certain privileges to specific entities, which hinder the formation of fair competition in the sector. This article analyzes these challenges and proposes legal recommendations to address them.

This paper examines the legal and institutional challenges related to conflicts of interest and direct contracting practices in road transport infrastructure projects. By analyzing international standards, legal frameworks, and statistical evidence, it highlights the urgency of addressing these issues and proposes legal reforms and policy recommendations aimed at fostering transparency, integrity, and fair competition.

## Materials and methods

The study uses a comparative analysis of international best practices and national legislation, a legal analysis of existing norms and regulatory frameworks, and a systematic review of anti-corruption mechanisms in infrastructure projects. Additionally, the research applies content analysis of government documents, the case study method for examining identified

corruption cases, and an analytical approach to evaluate the effectiveness of proposed reforms. Specifically, the Law “On Highways,” relevant presidential decrees and resolutions, legislation on public procurement, and corresponding sectoral regulatory documents were analyzed.

### Research results

In the public administration system of the Republic of Uzbekistan, several challenges hinder the creation of a competitive environment in the road sector and the attraction of investments to this area. In particular, the overlapping of regulatory and economic functions creates barriers that are incompatible with the establishment of an effective management system and the development of a healthy competitive environment in the road maintenance market.

The Consolidation of Regulatory and Economic Functions. According to Article 15 of the Law “On Automobile Roads,” the repair and maintenance of automobile roads may be carried out by specialized organizations (hereinafter referred to as road organizations) established or engaged by the legal entities or individuals that own these roads. In other words, the owners of the roads may establish or engage organizations responsible for repair and maintenance. Public-use automobile roads are managed by a specially authorized body—the Committee for Automobile Roads.

According to Paragraph 3 of the Decree of the President of the Republic of Uzbekistan No. PP-2776, dated February 14, 2017, “On the Organization of the Activities of the State Committee for Automobile Roads of the Republic of Uzbekistan,” the State Committee for Automobile Roads is designated as the founder of enterprises within its organizational structure [8].

The responsibilities of the general contracting authority for the design, construction, reconstruction, and maintenance of public highways have been

entrusted to the State Unitary Enterprise “Directorate for the Construction and Reconstruction of Public Highways.”

It is established that “Yul-Loyiha Bureau” LLC and “Boshtransloyiha” JSC are design organizations for the construction, reconstruction, and repair of public and regional highways, and that enterprises under the structure of the State Committee for Automobile Roads of the Republic of Uzbekistan are contractor organizations for the construction, reconstruction, and repair of public and regional highways.

The Committee for Automobile Roads acts as the sole contracting authority responsible for the design, construction, reconstruction, repair, and operation of public automobile roads. The performance of repair works by entities established by the Committee gives rise to a conflict of interest and affords such entities an undue advantage over other business entities engaged in road repair activities.

In practice, the Committee for Automobile Roads functions both as the contracting authority and the executor. This arrangement effectively creates a situation where the sole contracting authority for roads – the Committee – also acts as the contractor, resulting in a conflict of interest and the absence of fair competition.

Direct Contracts in Public Procurement. By Presidential Decree No. PD-3953, dated September 27, 2018, “On Measures to Implement the Law of the Republic of Uzbekistan ‘On Public Procurement,’” a list of goods (works, services) to be procured by state customers through direct contracts was approved. According to item 9 of this list, procurement of goods (works, services) with a value of up to three thousand five hundred times the base calculation amount between a ministry (agency, institution) and an organization (institution) within its structure may be carried out through direct contracts. In other words, agencies are allowed to conclude contracts without tender procedures with organizations under

their jurisdiction, which undermines fair competition.

Furthermore, Paragraph 18 of Presidential Decree No. PD-330, dated October 10, 2023, “On Measures for Further Improvement of the Road Sector,” stipulates that transactions involving the sale, procurement, and delivery of goods, the provision of services, and the performance of works among enterprises and organizations under the jurisdiction of the Committee for Automobile Roads shall be carried out without conducting competitive bidding or tender procedures (except for contracts related to the performance of ordering functions).

Article 71 of the Law of the Republic of Uzbekistan “On Public Procurement” No. LRU-684, dated April 22, 2021, stipulates that public procurement of goods (works, services) carried out on the basis of decrees and resolutions of the President of the Republic of Uzbekistan and resolutions of the Cabinet of Ministers of the Republic of Uzbekistan may be executed through direct contracts.

Entering into direct contracts with organizations under the structure of state bodies hinders the transparency of the tender process. In the field of designing and constructing road infrastructure facilities, the practice of direct appointment of design and contracting entities based on government decisions should be discontinued, and selection must be carried out exclusively through competitive bidding via online platforms such as “Shaffof yul” and “Shaffof qurilish.”

The above-mentioned norms and decisions may create conditions for conflicts of interest in the implementation of road construction projects.

Furthermore, they hinder the achievement of Goal 56 of Presidential Decree No. PD-158, dated September 11, 2023, “On the Strategy ‘Uzbekistan – 2030,’” which aims to ensure the consistent transition of monopolized sectors to market principles, increase the share of the private

sector in the economy, and create the most favorable conditions for entrepreneurs to operate freely.

#### *Exclusive Rights Granted to Organizations in a Monopolistic Position.*

Appendix No. 12 to Resolution of the President of the Republic of Uzbekistan No. PD-330, dated October 10, 2023, approved the organizational structure of the Committee for Automobile Roads under the Ministry of Transport of the Republic of Uzbekistan.

Resolution No. PD-2776, dated February 14, 2017, stipulates that certain organizations – including “Yo‘l-loyiha byurosi” LLC and “Boshtransloyiha” JSC –are granted exclusive rights to carry out design works for the construction, reconstruction, and repair of public and regional automobile roads. Similarly, the exclusive right to manufacture road signs granted to the State Unitary Enterprise “O‘zavtoyo‘lbelgi” creates a monopolistic situation.

For example, by Presidential Resolution No. PD-3127, dated July 11, 2017, “On Measures to Further Improve the Road Traffic Safety System,” the State Unitary Enterprise “O‘zavtoyo‘lbelgi” was exceptionally authorized, in coordination with the Cabinet of Ministers of the Republic of Uzbekistan, to conclude contracts with domestic and foreign organizations for the purchase and supply of products and the provision of services based on this resolution without conducting competitive (tender) bidding procedures.

However, according to the Central State News Agency of Uzbekistan (UzA), during 2021–2022, officials of the State Unitary Enterprise concluded 21 contracts worth a total of 9.193 billion UZS with five local LLCs with whom they had close ties. Under these contracts, products used in the production and installation of road signs and markings were purchased at prices significantly higher than free market rates, resulting in the embezzlement of 2.701 billion UZS of budget funds [9].

To better understand the structural challenges and reform implications in Uzbekistan's road infrastructure procurement which currently suffers from conflicts of interest and anti-competitive practices, it is useful to draw upon international experience and recent academic research.

International datasets suggest that centralized procurement markets pose a significantly higher risk of corruption. In a study examining over 4 million EU contracts (2008–2016), markets that displayed core-peripheral structures – where a few buyers and suppliers dominate – were associated with concentrated corruption risk. The diagnostic framework proposed by Wachs, Fazekas, and Kertész (2019) helps map and tailor anti-corruption policies to local market structures [10]. This mirrors the Uzbek context, where institutions like *O'zavtoyo'lbelgi* and the *Committee for Automobile Roads* simultaneously act as client and contractor, creating centralized monopsonies.

Empirical evidence from Norway shows that limited early involvement of contractors in project design correlates strongly with increased conflict and inefficiency. Engaging contractors from the planning stage improves alignment, reduces rework, and enhances trust [11]. This insight can inform enhancements in Uzbek procurement by encouraging collaborative models over top-down, state-imposed selections.

Cross-national analytics indicate that machine learning and network-based methods are powerful tools for detecting corruption and irregularities in procurement:

A systematic review found these methods – especially Random Forest classifiers and network science tools – effective in flagging fraud, collusion, and favoritism [12].

In Mexico, a machine learning model successfully identified corrupt contracts by analyzing relationships between buyers and suppliers, rather than contract-level attributes alone [13].

These techniques are transferable to Uzbekistan, where transparency gaps and institutional ties obstruct open competition.

Uzbekistan's Competition Development Concept and related reforms echo global best practices for reducing exclusive state procurement power. As reported by local media, in the past five years, exclusive rights have been abolished in seven sectors, and state-owned enterprises have declined by 42%, while private enterprises grew 1.6-fold [14]. The Concept mandates reductions in direct procurement and the elimination of individual state aid, including exclusive rights, preferences, and concessions. This aligns with economic theory that monopolistic structures – by enabling a lack of competition – facilitate inflated pricing and inefficiencies.

In India, the Madras High Court identified widespread collusion between private contractors and government departments in road projects, leading to substandard materials and accelerated financial loss. The court emphasized the necessity for rigorous inspection and accountability [15]. This highlights the importance of enforcing quality standards and independent oversight, particularly when procurement is centralized or lacks transparency – issues that also emerge in Uzbekistan's system.

Furthermore, in the Gorakhpur Link Expressway, cracks developed shortly after monsoon rains, prompting allegations of corruption in construction practices. Political favoritism and compromised governance were cited as key factors in the infrastructure's poor performance [16].

Transparency International Bangladesh (TIB) analyzed over a decade of road and bridge construction and found that 23–40% of project costs were lost to corruption. The key drivers included politician–bureaucrat–contractor collusion, bribe-taking, tender manipulation, and favoritism in awarding contracts [17]. This tripartite corruption network offers a cautionary analog to Uzbekistan's system of direct contracting



and closed supply chains, where institutional relationships can likewise distort procurement.

South Africa's National Roads Agency (SANRAL) provides a successful contrast: under a corporate-style structure, it separated policymakers from operators, enhanced transparency in tendering, and improved accountability, especially during major infrastructure upgrades ahead of the 2010 FIFA World Cup [18].

Meanwhile, IMF experts note that public procurement reforms, including standardization, e-procurement tools, and open data standards, are critical. These measures reduce undue discretion, increase competition, and bolster oversight [19]. Additionally, structural issues such as politicized procurement staff, lack of accountability, and state-owned enterprise inefficiencies remain deeply embedded [20].

Brazil's Operation Car Wash uncovered systemic corruption involving Petrobras and major construction firms. Cartel-like coordination among contractors, facilitated by official procurement exceptions, triggered widespread overpayments [21]. In municipal-level bidding, network analysis revealed supplier communities prone to manipulation and irregularities [21]. These examples underscore how exclusive rights and opacity – similar to those observed in Uzbekistan – can foster collusive behaviors in infrastructure procurement.

In Mexico, an analysis of over 1.5 million contracts (2013–2020) demonstrated that, even after government transitions and reduced spending on flagged firms, contracting patterns, such as awards to related entities, persisted, suggesting institutional inertia [22]. This reinforces the need for deep structural reforms, not mere policy shifts, to truly disrupt entrenched procurement practices.

### **Analysis of the research results**

These circumstances limit opportunities to attract foreign investors to the sector, ensure active participation of the private sector, and enhance efficiency

under conditions of fair competition. In international practice, particularly in European Union countries, road construction and maintenance works are carried out through open tenders by independent entities. Uzbekistan also needs to transition to such a system.

The OECD's guideline *"Managing Conflict of Interest in the Public Sector: A Toolkit"* (OECD, 2000) [22] recommends that the functions of an official, such as preparing, reviewing, and implementing a tender, should not be concentrated in one place and advises the separation of these powers to prevent confusion and conflicts of interest.

According to the 2005 OECD recommendation, ensuring fairness, transparency, and security in public procurement can be achieved by structurally separating roles, such as oversight/monitoring and execution functions. This approach reduces the influence of personal interests on official decision-making processes and ensures that public officials operate based on principles of integrity. The recommendation emphasizes that the openness of tenders and the publication of information about winners through computerized systems and e-procurement platforms are essential, along with the complete and transparent collection of OCI (Organizational Conflict of Interest) declarations from public officials, ensuring their regular updates and making them accessible for public oversight.

According to FAR 9.504 [23], the Contracting Officer is required to identify and assess the risk of Organizational Conflict of Interest (OCI) during the procurement stage and then eliminate this risk through measures such as avoidance, neutralization, or mitigation. This includes actions such as excluding certain consultants from the bidding process, imposing restrictions on future contracting, and preventing role conflicts and anti-competitive situations through mechanisms like firewalls and mitigation plans.

**Client vs. Contractor Roles:** An entity that has organized or acted as a consultant for a tender must not later participate in the same tender; this prevents role conflicts between the state and private parties.

**Mitigation Plans:** A written plan incorporated into the contract when an OCI is identified. For example, if a consultant later participates in the tender, they must assume appropriate responsibility or be removed from the team.

According to the analysis by Regan, Love, and Smith (2015), collaborative models such as PPPs (Public-Private Partnerships), alliances, and DBM (Design-Build-Maintain) demonstrate the following advantages in developing public infrastructure:

- Clear separation of roles and responsibilities: Each partner's functions, such as project initiation, financing, construction, and operation, are clearly defined in formal and operational records, ensuring transparency and order.

- High transparency and efficiency: Throughout the tender process and the entire project lifecycle, monitoring, as well as environmental, social, and economic outcomes, is openly discussed.

- Targeted and results-oriented approach: Compared to traditional compensation-based contracts, these models have been shown to be implemented on the principle of "value for money," emphasizing both actions and outcomes.

#### **Proposals and Legislative Amendments**

Amend Article 15 of the Law on Highways to stipulate that all road construction, reconstruction, and repair works must be carried out exclusively through open and competitive tenders.

Completely revise Presidential Decree No. PD-3953 to restrict the conclusion of direct contracts with subordinate organizations to emergency situations only and strengthen tender mechanisms.

Amend the Law on Public Procurement to ensure that entities under the Committee system are excluded from tenders and that tender plans and results are published through the Transparent Construction and Transparent Roads platforms.

Change the status of all unitary enterprises and limited liability companies under the Committee; unitary enterprises should be reorganized into independent legal entities to increase access to the competitive sector.

#### **Conclusion**

To build a fair and competitive road sector in Uzbekistan, reduce corruption, and encourage private sector involvement, several key reforms are needed. All road construction, reconstruction, and maintenance projects should be awarded through open and transparent tenders. Organizations under the Committee for Automobile Roads must be banned from participating in these tenders to avoid conflicts of interest and promote fairness. Project and tender details should be shared publicly on online platforms like "Shaffof yul" and "Shaffof qurilish" to ensure transparency. Unitary enterprises and companies under the Committee should be privatized to allow them to compete fairly in the market. New laws should include clear rules to prevent conflicts of interest, following global standards from organizations like the OECD and World Bank. These steps will help stop corruption, attract more investment from both local and foreign sources, and support the efficient growth of Uzbekistan's road infrastructure. By implementing these reforms, Uzbekistan can achieve a more transparent and competitive system, aligning with the goals of the "Uzbekistan – 2030" strategy and fostering economic progress and better connectivity.

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