EKONOMIA ECONOMICS 3(15) • 2011

ISSN 2080-5977

Grażyna Wrzeszcz-Kamińska
Wrocław University of Economics

INSTITUTIONS AND TRANSACTION COSTS OF PUBLIC PROCUREMENTS

Summary: The economic transformation in Poland required the creation of a public procurement system from the very beginning. The process of establishing new institutions, modifying and replacing the existing ones should result in decreasing transaction costs. The paper discusses certain public procurement institutions (the principle of open proceedings, the criteria of selecting the best tender, tender security, list of contractors excluded from the public procurement market) in the context of transaction costs.

Key words: public procurement, institutions, transaction costs.

1. Introduction

Public procurements play a significant role in the economy as to the creation of the market demand for supplies, services and construction works, and the stimulation of supply thereof. The value of the Polish public procurement market increased from *circa* PLN 12 billion in 1996, PLN 23 billion in 2000 to over PLN 167 billion in 2010 [*Report on the Operation*... 1997, 2001, 2011]. The estimated value of the public procurement market constituted over 11.8% of GDP,[1] while in the EU the expenditure incurred as public procurements amounted to approximately 16-20% of GDP [*Report on the Operation*... 2009, p. 22]. In European countries the level of public expenditure proves its constant growing trend. The dynamics of the state's expenses is characterized by a well-confirmed regularity, which was discovered in 1892 by A. Wagner, a German economist, in the form of regular growth of public expenditure. The measure of public expenditure level is its share in GDP [Brol (ed.) 2010, p. 19]. According to A. Wagner [Moździerz 2009, p. 110], a long-term growth trend of such expenditure results from the broadly defined progress of civilisation and an increase in the significance of the public sector.[2]

[1] According to CSO, the gross domestic product (GDP) in 2010 (in current prices) amounted to the level of PLN 1,412.8bn [*Statistical Bulletin* 2011].

[2] From the subjective point of view, the largest group of awarding entities in public procurements in 2009 was the local government administration (42.29% of awarding entities), independent public health care institutions (6.25%), and field government administration (4.83%). Approximately 4.38%

The complexity of the phenomena and processes characteristic for public procurements create a need for observation, explanation, and search for methods to analyse them. The public procurement system reflects the changes in the broadly defined environment, characterised by the variability of legal, economic, social, political, and technological considerations. The transformation, integration processes, and globalisation require the establishment of new institutions as well as the modification and/or elimination of the existing ones not only in relation to public procurements as such, but also to other system components which significantly influence the efficiency and effectiveness of the public procurement system. Economists presently agree that the analysis of institutions as well as the dynamics and nature of changes therein is not merely advisable but even necessary in examining the activity and effectiveness of economic entities. The thesis regarding the substantial impact of institutions on the effectiveness of awarding entities and contractors is generally accepted; however, there is no research which would test this thesis against the public procurement system in Poland. Taking advantage of the possibilities created by the research programme of new institutional economics, the aim of this paper is to analyse certain public procurement institutions and their impact on transaction costs. The nature of institutions and transaction costs is discussed first and what follows is the analysis of the changes in selected public procurement institutions and their impact on transaction costs.

2. The significance of institutions in public procurements

The neoclassical economics focuses on balance processes, idealised markets, explaining development on the basis of variables which are accepted as *ceteris paribus*. The institutional approach provided by the research programme of new institutional economics allows for the identification and analysis of the institutions characteristic for a given economy. The selection of specific operations depends on the institutional context, the specific rules of the game in a specific system, in which every unit tries to manipulate in order to reach its goals [Neale 1987, p. 1181]. Economists define institutions differently and, consequently, specify their meaning in a variety of manners. In the light of institutional economics, institutions are norms of social life which enable solving conflicts of interests resulting from the shortage of goods and other restrictions. Institutions are the rules of the game, whereas organisations are players. The aim of the rules is to determine the type of the game, while the aim of players (organisations) is to combine skills, strategies, and co-ordination. Developing strategies and skills of players (a team) is a process separated from the rule creation

---

of the total number of awarding entities are public law entities, and 2.59% – state inspection authorities or agencies of legal protection, court or a tribunal. Approximately 1.54% of the awarding entities were state-owned higher education institutions, 1.18% central government administration, and *circa* 0.09% – social and health insurance institutions.

and evolution process [North 1990, p. 5]. A definition by Elinor Ostrom is particularly useful from the point of view of the examination of public procurements. According to the aforementioned definition, institutions may be defined as systems of rules of conduct which specify who is entitled to make a decision in a particular situation, which actions are permitted and which are prohibited, which aggregation principles will be applied, which procedures have to be observed, which information needs to be provided and which has to remain confidential as well as what remuneration units will receive depending on their operations. All the rules impose conditions which specify what is permitted and what is prohibited, or which actions or effects are required [Godłów-Legiędź 2009, p. 14].

Institutions are perceived as structures consisting of related and complementary formal and informal principles and rules which determine the frameworks of transactions and the mechanisms of their observance. A transformation is a long-term process of changes in formal institutions, in particular property rights and contracts as well as informal institutions, such as moral standards, customs, religious beliefs, and mentality of individuals [Godłów-Legiędź 2005, p. 176]. A significant aspect of economic reforms in the transformation period were institutional changes, including those concerned with establishing the public procurement system, which is described as a set of institutions governing the operation of entities related to disposing of and disbursing public funds. In the institutional dimension, the public procurement system specifies the entities of the system, rules, modes, and procedures of disbursing public funds, with a substantial reservation that not all of the expenses which are financed from public funds are public procurements.[3] The rules of the public procurement system are determined by the basic institutions describing their assets, such as: goals, terms and conditions of operation, rights and obligations as well as sanctions. The public procurement system consists of the following institutional components: sets of organisations (Public Procurement Office, institutions and organisations of the European Union, public finance sector entities, courts, supervising institutions in the public finance sector, etc.), formal institutions (Constitution of the Republic of Poland, public procurement law, EU directives, the law governing the access to public information, competition law, banking law, tax law, public finance law, etc.), and informal institutions (trust, contact and agreement networks at the national and European levels). By creating its new institutional structure, the state influences, among others, the quality of the public sector, which, in turn is determined by the quality of the existing institutions and/or the lack thereof. Both, the system transformation and the process of institutionalisation of public procurements in Poland are characterised by graduality. Given the fact that no institutional continuity as to public procurements is observable in Poland

[3] A public procurement means payable contracts concluded between an awarding entity and a contractor, the object of which is services, supplies or construction works whose value exceeds the equivalent of EUR 14,000 expressed in PLN [*Public Procurement Law* 2004, Art. 2].

(the pre-war normative acts were not applied in the command-and-quota economy [*Act on Supplies*... 1993; *Ordinance of the Parliament*... 1937]), it is significant that the process was launched at the beginning of the second[4] stage of the system transformation. The criterion for distinguishing institutionalisation stages of public procurements is the changes in formal institutions. The first stage of the process of establishing the public procurement system falls within the years 1991-1994. At that time, an independent Public Procurement Team was appointed at the Office of the Council of Ministers, which prepared a draft of the public procurement act. In 1994 the Sejm passed the public procurement act [*Act on Public Procurements* 1994], the President of the Public Procurement Office was appointed, and on 15 December 1994 the Public Procurement Office officially started its organisational operation. The second stage of institutionalization was the period from 1 January 1995, that is, from the moment the *Act on Public*... came into force, to 30 April 2004. The third stage (since 1 May 2004) is related to two substantial events. The new *Public Procurement Law* came into force and on 1 May 2004 Poland became a member of the European Union [consider *Public Procurement Law* 2004]. The market economy does not have one "institutional matrix": institutions are subject to permanent change – new formal ones are established as an effect of fulfilling its constitutional obligations by the state. The institutions to date, in turn, both the formal and informal ones, are subject to modifications under the influence of legal, technological, social, and cultural changes. The changes regarding the institutions, among others, forced the awarding entity to place the announcement on the institution of a procedure on its website, regulated the legal protection system, introduced the institution of tender committee, and regulated the tender appraisal process by prohibiting the application of subjective criteria when selecting the contractor. The extension of the openness of the procedure to the public was a crucial change. Since then a potential contractor has had an insight into all tender documents, including the report, the tenders submitted by competitors, and the concluded contracts. This provides the possibility to control the awarding entity and leaves less room for abuse. The position of the contractor in the Polish public procurement system has significantly increased with respect to the awarding entity. The implementation of the institutions balancing the positions of the awarding entity and the contractor on the public procurement market facilitates cooperation and results in the reduction on transaction costs.

3. Transaction costs in public procurements

It is possible to examine public procurements within the category of transaction costs with a special consideration given to opportunistic behaviours of entities in the conditions of limited rationality with the use of application properties of new

[4] In Poland, the first stage of transformation is a shock therapy carried out from 1989 to 1993; the second stage of gradual institutional changes is dated from 1994 on.

institutional economics. The concept of transaction costs was proposed by Ronald H. Coase in the 1930s and developed by Olivier E. Williamson [Williamson 1998, p. 15], and it constitutes one of the theories of the contractual direction. In their essence, transaction costs are costs of the functioning of an economic process where economic effectiveness is contingent upon obtaining, processing, and using information. The economics of transaction costs assumes that the major aim and effect of the operations of institutions is saving transaction costs. Institutions condition the effectiveness of the functioning of both the market mechanism and the state by influencing the mechanisms of resource allocation, among others, through transaction costs.

In contemporary market economies, the level of complexity and complication of contracts (transactions) results in the growth of transaction costs, which depends, among others, on the following:

– the number of entities involved in the demand and supply which conclude transactions (the number of contractors participating in the tendering procedure, public procurement contracts),
– the market structure (imperfect competition and/or monopoly in classic procurements, whereas only monopoly in sector procurements),
– the specificity of the object of a transaction (resources and assets) means no alternative applications for the object of the transaction,
– frequency,
– type of contracts concluded,
– uncertainty and opportunism of the parties to the contract (public procurement).

The more irregular transactions and the more specific the object of the transaction are, the higher the transaction costs are. The transaction costs in public procurements are the costs of seeking alternative tenders with the object of the procurement being specified in detail, as well as costs of clearance, costs of property rights constitution, and costs of concluding contracts. The unreliability of the market mechanism on the public procurement market results, among others, from a different approach to the demand and supply sides, which is reflected in the absolute principle of obligatoriness imposed on the awarding entity and the principle of optionality which refers to contractors. The principle of obligatoriness is secured by the system of fines and legal sanctions stipulated, among others, in the following acts: *Public Procurement Law*, *Criminal Code*, *Act on Public Finance*, etc. Informal institutions, mainly the following: trust, modes of conduct, creating chains of contacts, conflict resolution skills (protests, appeals) are particularly significant from the point of view of executing the principle of optionality. The awarding entity selects the contractor which submitted the best tender, but only from among those which managed to submit a valid tender in a given tendering procedure. It is highly probable that there are contractors on the market which do not apply for a contract, but if they did, their tenders would be better. In relation to public procurements there are no "forcing" institutions in the market economy which would "force" contractors to submit a tender

through a system of stimuli. Active participation in the public procurement market on the side of supply – contractor – means the necessity to incur transaction costs. If there are other alternative applications of the resources held at lower transaction costs on the market, entities do not apply for public contracts. Each change of the legal and economic situation in individual sectors or on individual markets, e.g., geographical ones, is reflected in the number of tenders which are a response to the signalled demand.

The nature of the aforementioned changes is multidirectional and depending on the number of entities on the side of the demand and supply the selection of the best tender is related to a given procedure and not to the rationality of the public resources spent. Significant factors which influence the behaviour of the transaction costs are the period of completion of the contract and of the public procurement procedure. The period of completion of the contract is determined by the tasks assigned to public entities and funds allocated to carry them out. The period of completion of the public procurement procedure results from legal considerations, human resources of the awarding entity (competences, diligence of employees) and so-called "regular factors" of any decision-making process which determine its ineffectiveness, including: information asymmetry, uncertainty, opportunism and temptation of abuse.

According to the theory of limited rationality by H. Simon, due to natural cognitive limitations the choices made within the public procurement procedure (at the individual stages of executing the procedure) are not fully rational. The reason for this is two types of limitations: objective ones and subjective ones. The objective limitations result from the fact that the choice is made in conditions of uncertainty, which include also the effects of the choice. When selecting the best tender based on the tender appraisal criteria, the awarding entity cannot be certain as to the effects of its choice, that is, whether a public procurement contract will be concluded and performed as a result of the conducted procedure. The second group of limitations is the subjective ones resulting from the limited knowledge of the awarding entity and not fully specified goals. The rationality of the awarding entity and the contractor is intentional. A particularly significant factor of limited rationality of the "homo contractor" is the awareness of the risk related to the motives of cooperation between entities [Lissowska 2008, p. 35]. The cooperation between the awarding entity and contractors, despite the fact that it is regulated by a rigid model, is burdened with a type of information asymmetry. The information included in the Terms of Reference (ToR) is available to all interested entities on the same principles. The awarding entity provides contractors with all the information on equal principles, while contractors provide the awarding entity with information, and the awarding entity provides other contractors with the information (e.g., on the possibility to join an appeal). There is a group of information which is subject to legal protection and is not disclosed in the course of the public procurement procedure. Such information is available exclusively to the awarding entity, while being unavailable to the other contractors, e.g., secrecy of the contractor's enterprise.

The nature of transaction costs in public procurements varies and their amount is diverse. Giving consideration to the timeframes within public procurements, one may distinguish the following transaction costs: *ex ante* and *ex post* (see Table 1).

Table 1. Transaction costs of using the public procurement market (*ex ante* and *ex post*)

Type of costs	Awarding entity	Contractor
	1. *EX ANTE* COSTS	
1.1. Costs of seeking	Publishing announcements on the planned public procurement Publishing announcements on the public procurement	Seeking an awarding entity
1.2. Costs of Terms of reference – ToR	Preparing ToR Preparing a contract	Preparing a tender.
1.3. Costs of information collection	Verifying the information provided by contractors Tender security	Documenting and confirming that the terms and conditions of participating in a procedure are satisfied Tender security
1.4. Costs of the tendering procedure	Selecting the best tender Signing the contract	Submitting a competitive tender Signing the contract
1.5. Costs of security	Prolonging the completion of the procedure	Performance bond
1.6. Costs of legal protection: an appeal, a complaint	Cancelling the procedure	Excluding the contractor
	2. EX POST COSTS	
2.1. Cost of supervising the completion of the public procurement	Enforcing the unexecuted titles to ownership and claiming rights arising from warranty	Contractual warranty and statutory warranty Court, international arbitration court

Source: author's own work.

The diversity of the amounts of transaction costs of using the market in the case of public procurements is conditioned by the existing information limitations and the phenomenon of information asymmetry. The transaction costs theory assumes that the better quality of information and the less information limitations, the lower the transaction costs are. On the one hand, the dynamics of the public procurement system reflects the process of establishing formal and informal institutions which are supposed to eliminate information limitations and information asymmetry

and, consequently minimise transaction costs. Examples of such solutions are the introduction of the electronic auction as a mode of public procurement or ensuring legal and technological possibilities to use electronic auctions as an instrument of public procurements. On the other hand, the regulations concerning the obligation, deadline, manner of publishing information on public procurements, and the determination of minimal standards as to the sharing of information do not eliminate information limitations or constitute sufficient security of information asymmetry, and consequently they do not minimise transaction costs; on the contrary, as a result of the opportunism of the parties, the asymmetry and transaction costs increase.

4. Some public procurement system institutions

One of the consequences of information asymmetry is the occurrence of the temptation of abuse. In order to reduce the temptation of abuse, it is necessary to establish effective protective institutions included in legal solutions related exclusively to public procurements. An example of such an institutional change is the temporary exclusion of a contractor from the public procurement market. As specified in Art. 154, Point 5a of PPL [2004], the President of the Public Procurement Office maintains a public list of contractors which have been temporarily excluded from the public procurement market. Contractors are excluded as a consequence of damage they inflicted by failing to perform the contract or performing it improperly, provided that the damage was ascertained by a final and unappealable court decision within a period of three years prior to the institution of the contract award procedure. The introduction of the temporary exclusion institution to the public procurement system results in multidirectional changes in transaction costs. In the case of a public procurement where the contractor failed to perform the contract or performed it improperly, transaction costs increase. The temporary elimination of an unreliable contractor from the market results, in turn, in saving transaction costs.

The contractor and other persons are entitled to remedies in the form of an appeal or a complaint to the court if their interest suffered or may suffer as a result of the awarding entity's actions. Both the contractor and the awarding entity are entitled to lodge a complaint to court. Other remedies which are aimed at reducing the temptation of abuse is the liability of the awarding entity for the breach of the following: the public procurement law act (fines), public finance act, act on the breach of public finances discipline. Entities of the public procurement market are also subject to other sanctions provided for in Polish law.

The rules of the public procurement system evolve like other institutions of this system [*Public Procurement Law* 2004, Art. 7-10]. Their significance results, among others, from the fact that they guide the process of interpretation of legal regulations, and, above all, they determine the rights and obligations assigned to the entities of the broadly-defined public procurement system. The public procurement principles are not only the basic institutions of the system but also a component

of the institutional environment of the economy. Awarding entities and contractors have to respect the following rules at every stage of the public procurement award procedure: fair competition, openness, written form and Polish language, procurement award modes. The awarding entity is obliged to prepare and conduct the public procurement procedure in the manner assuring fair competition. This means that not only the awarding entity has to accurately describe the object of the contract, select the procurement mode, specify the terms and conditions of participation in the procedure, carry out the procedure, select the best tender, but also it is obliged to reject the tenders which are acts of unfair competition.[5]

Another principle applicable when awarding contracts is the openness of the procedure. Presently, the openness principle means openness of the report, openness of tenders, openness of contracts regarding public procurements. Public procurement contracts are not subject to business secret. Both the awarding entity and the contractor have to observe Art. 139 of *Public Procurement Law* [2004], according to which "contracts regarding public procurements shall be open and subject to disclosure under terms and conditions stipulated in the provisions regarding access to public information"[6]. The institution of openness in public procurements was enhanced[7] by extending the scope of the information which has to be disclosed while opening tenders and creating the opportunity to participate in the opening thereof all interested persons. It needs to be emphasised that a failure to observe the principles is a flagrant infringement of the act, which may result in the final invalidity of the public procurement contract by operation of law. Breaching the public procurement principles by any of the parties to the public procurement market results in the growth of transaction costs of both the awarding entity and the contractor.

The criteria of appraising and selecting the best tender arouse much controversy among awarding entities, contractors, and public perception. The public procurement law authorised the awarding entity to determine the criteria for appraising tenders and selecting the best tender. The appraisal criteria have to be stipulated in the Terms of Reference and they may not concern the properties of the contractor, above all, its economic as well as technical or financial credibility [*Public Procurement Law* 2004, Art. 91, Point 3]. It needs to be emphasised that the awarding entity is obliged to enable the participation in the procedure to only such contractors that meet the terms and conditions related to know-how and experience, and which have technical potential at their disposal, and the economic and financial situation of which enables the execution of the contract. The awarding entity may use [*Public Procurement Law* 2004, Art. 91, Point 2]:

---

[5] An act of unfair competition is an illegal act or act violating good practices, if it threatens or violates an interest of another entrepreneur or client. *Act on Prevention of Unfair Competition* (Journal of Acts, 2003, No. 153, Item 1503, as amended). *Act on Protection of Competition and Consumers* (Journal of Acts, 2007, No. 50, Item 331, as amended).

[6] Author's own translation.

[7] Amendment to *Public Procurement Law* (Journal of Acts, 2003, No. 2, Item 16).

– the single-criterion model of tender appraisal: price – 100%,
– the multi-criteria model of tender appraisal: the price and other criteria regarding the object of the contract; particularly, the quality, functionality, technical parameters, use of the best technologies in terms of the impact on the environment, maintenance and operation costs, technical support, and completion dates.

The application of the single-criterion model of tender appraisal means that the awarding entity selects the tender with the lowest price. The common application[8] of the lowest price as a criterion results in the phenomenon of negative selection, which must be considered as a negative aspect of the operation of the public procurement market. This common practice is against Art. 2, Point 5 of *Public Procurement Law* [2004], which explains the terms used in PPL; "whenever the act refers to: […] the best tender – it means a tender which presents a balance of the price and other criteria related to the object of the public procurement […]". The phenomenon of the domination of the single-criterion model of tender appraisal must be judged negatively since the system enables the use of the multi-criteria appraisal model. It seems that one of the reasons for the domination of the lowest price when selecting the best tender is questioning the legitimacy and correctness of the multi-criteria appraisal structure by the external supervising entities. Consequently, it results in opportunism of awarding entities which select the criterion of the lowest price which cannot be questioned by supervisors and, at the same time, protects the awarding entity against sanctions and penalties.

Tender security is an institution which has been functioning within the public procurement system since its beginning. Numerous amendments to the previous act and passing a new one (2004) have not fundamentally changed the provisions regulating this issue. Since the public procurement law itself does not define tender security, the definition provided in the Polish Civil Code in terms of regulations regarding the tendering procedure mode of concluding a contract is used. Art. 70, Point1 of *The Civil Code* provides that "[…] the right of the entity organising the tendering procedure to make a reservation that in order that an entity interested in participating in the tendering procedure it must contribute tender security by paying a specified amount or establishing appropriate security therefor".[9] As defined by PPL [2004], tender security constitutes a guarantee of fulfilling the obligations arising from the content of the submitted tender and secures against the contractor's evasion to conclude the public procurement contract, otherwise the amount of the tender security will be forfeited. It needs to be emphasised that in order to execute the principle of competition and of equal treatment of contractors, the Terms of Reference – as one of the basic documents of the public procurement award procedure – have to include the information regarding the date of contributing the tender security, the amount of

[8] In 2010 the lowest price was the selection criterion when choosing the best tender in 88.1% of cases.

[9] Author's own translation.

the tender security, the information on the manner the tender security is contributed in money, the information on the manner of contributing the tender security in other forms specified in Art. 45, Point 6 of *Public Procurement Law* [2004], the principles of depositing the tender security by the awarding entity, the principles on which the tender security is returned, the principles on which the tender security is forfeited. The legislator determined the range within which the awarding entity independently establishes the amount of the tender security – up to 3% of the estimated net value of the procurement. The awarding entity's decision obligates contractors to contribute the tender security even in the case of procedures whose value does not exceed the thresholds referred to in Art. 11, Point 8 of *Public Procurement Law* [2004]. The sanction for failing to observe the aforementioned requirements by the awarding entity is the necessity to cancel the procedure or invalidate the concluded public procurement contract. In any case, it results in the increase in transaction cots (*ex ante* and *ex post*) incurred by both the awarding entity and the contractor.

5. Conclusions

In the light of the presented analysis of public procurement institutions in terms of transaction costs, it is possible to formulate the following conclusions. Firstly, the fluctuation of formal public procurement institutions resulting from the state's activity in the realm of law-making and execution led to "jurisdictional chaos" and an increase in transactional costs.The system of security and execution of contracts in public procurement was especially ineffective. Secondly, creation, modification, and liquidation of existing institutions relating to public procurement were aimed at the creation of permanent and routine behaviour patterns of both the awarding entities and the contractors, which was particularly characteristic of the first and second stage of public procurement institutionalization and caused an increase in transactional costs. After 2004 an increase in stability and better quality of legislation can be observed, which contributes to the reduction of costs of this category. Thirdly, the level of inchoateness of public procurement contracts was lowered and secured by institutions, which improved the market and lowered transaction costs on the one hand, and on the other hand opportunism of the awarding entities and/or of contractors encouraged them to seek more "subtle" ways of tender acquisition (like tender fixing), and this leads to an increase in transaction costs. The application of the institutional approach to researching public procurements makes it possible to analyze changes and create public and private institutions in a way that reduces the "institutional defect" and lowers transactional costs.

References

Act on Public Procurements (Journal of Acts, No. 76, Item 334, as amended, dated on 10.06.1994).
Act on Supplies and Works Carried out to the Benefit of the Treasury, Self-Governments, and Public Law Institutions (Journal of Acts, No. 19, Item 127, dated on 15.02.1993).
Brol M. (ed.), *Zarys ekonomii sektora publicznego* [Outline of the public sector economy], Wydawnictwo Uniwersytetu Ekonomicznego we Wrocławiu, Wrocław 2010.
Godłów-Legiędź J., *Transformacja ustrojowa z perspektywy nowej ekonomii* [System transformation from perspective of a new economy], Ekonomista 2005, No. 2.
Godłów-Legiędź J., *Instytucje i transformacja* [Institutions and transformation], A. Marszałek, Toruń 2009.
Lissowska M., *Instytucje gospodarki rynkowej* [Institutions of a market economy], C.H.Beck, Warszawa 2008.
Martens B., *The Cognitive Mechanisms of Economic Development and Institutional Change*, Routledge, London 2004.
Moździerz A., *Nierównowaga finansów publicznych* [Imbalance in public finance system], PWE, Warszawa 2009.
Neale W.C., *Institutions*, Journal of Economic Issues 1987, No. 3.
North D.C., *Institutions, Institutional Change and Economic Performance*, Cambridge University Press, Cambridge 1990.
Ordinance of the Parliament on Supplies and Works Carried out to the Benefit of the Treasury, Self--governments, and Public Law Institutions (Journal of Acts, No. 13, Item 92, dated on 29.01.1937).
Public Procurement Law (Journal of Acts, No. 19, Item 177, as amended, dated on 29.01.2004).
Report on the Operation of the Public Procurement System in 1996, Public Procurement Office, Warsaw 1997.
Report on the Operation of the Public Procurement System in 2000, Public Procurement Office, Warsaw 2001.
Report on the Operation of the Public Procurement System in 2009, www.uzp.gov.pl.
Report on the Operation of the Public Procurement System in 2010, Public Procurement Office, Warsaw 2011
Statistical Bulletin 2011, No. 2.
Williamson O.E., *Ekonomiczne instytucje kapitalizmu* [Economic institutions of capitalism. Enterprises, markets, contractual relations], PWN, Warszawa 1998.
Wilkin J. (ed.), *Teoria wyboru publicznego* [Theory of public choice], Scholar, Warszawa 2005.
Wojtyna A. (ed.), *Instytucjonalne problemy transformacji gospodarki w świetle teorii agencji* [Institutional problems of transformation of economy in the light of agency theory], AE, Kraków 2005.

KOSZTY TRANSAKCYJNE W ZAMÓWIENIACH PUBLICZNYCH

Streszczenie: Transformacja gospodarcza w Polsce wymagała stworzenia od podstaw systemu zamówień publicznych. Proces tworzenia nowych instytucji, modyfikacji i zastępowania istniejących powinien powodować zmniejszenie kosztów transakcyjnych. Artykuł zawiera omówienie niektórych instytucji zamówień publicznych (zasady jawności, kryteriów oceny i wyboru oferty najkorzystniejszej, wadium, wykazu wykonawców wykluczonych z rynku zamówień publicznych) w kontekście kosztów transakcyjnych.

Słowa kluczowe: zamówienia publiczne, instytucje, koszty transakcyjne.