

# Bill on Tenders 'Legalizes Corruption'

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Anti-corruption crusader Alexei Navalny described the bill that was rejected by the anti-monopoly watchdog this week as "direct lobbying for corruption." **Alexey S. Yushenkov**

One trillion rubles. Enough to foot the bill for the 2014 Winter Olympics in Sochi. The amount the federal government hopes to raise over three years from privatizations aimed at plugging a budget deficit.

Or the sum that the government loses every year through rigged state tenders, according to the Kremlin's own [estimates](#).

Outrage over the tenders system is growing, fueled by whistleblowers such as blogger Alexei Navalny, who browse online announcements for state tenders to find scandalous requests for luxury sedans and gold-plated furniture.

But it appears the system is fighting back. A draft of a new law on tenders, drawn up at the Kremlin's request, will de facto legalize corruption in this area instead of reining it in, analysts say.

The Federal Anti-Monopoly Service refused to approve the draft this week, with senior official Mikhail Yevrayev telling The Moscow Times by telephone Wednesday that the bill "proposed to introduce the worst corruption practices in existence in state companies and natural monopolies."

The draft, penned jointly by the Economic Development Ministry and the Higher School of Economics, was to have been submitted for the government's approval by next month and then passed to the State Duma, Gazeta.ru [said](#).

But now it appears stuck in legal limbo.

## **A Bed of Gold**

President Dmitry Medvedev ordered a shakeup of the tenders system in October after Konstantin Chuichenko, head of the Kremlin's control department, informed him that more than 1 trillion rubles (\$35 billion) per year had been lost to tender-related corruption.

"We now understand that an enormous amount of money is going to bureaucrats and unscrupulous businessmen," an angry Medvedev told Chuichenko at the Oct. 29 meeting.

Medvedev and Chuichenko offered no specific examples of corruption, but bloggers have criticized tenders for some time. Most recently, Dagestani Finance Minister Abdusamad Gamidov announced a tender earlier this month for an Audi sedan worth 8.5 million rubles (\$290,000). His request was promptly withdrawn after Navalny inquired on his LiveJournal blog why taxpayers should finance the purchase of a luxury automobile for a senior official in one of the country's poorest regions.

Corruption in the tenders system first took the spotlight in 2009 when an Interior Ministry request for a bedroom suite decorated with pure gold for one of its guesthouses made national headlines. The ministry defended the 24 million ruble order as necessary to ensure the comfort of visiting police dignitaries.

In all fairness, other ministries have also acquired elegant furniture, including the Finance Ministry, which last June took bids for a gilded negotiating table with matching chairs for 2.5 million rubles.

The Health and Social Development Ministry last fall announced a 55 million ruble contract for a social networking web site for doctors, and the tender's terms required that the winning bidder complete the project in a seemingly impossible two weeks. Bloggers said the contract could only be fulfilled by an insider already working on the project.

The web site tender was eventually canceled, and the ministry official behind it resigned.

## **Guidelines Galore**

The authors of the new legislation on tenders, which was published on the Economic

Development Ministry's web site this month, said the reform would tighten regulations and leave fewer loopholes for corrupt officials.

State agencies would receive guidelines on how to assess the "rationality" of a tender, something the current legislation, introduced in 2005, does not require them to do, said Olga Anchishkina, an adviser to Economic Development Minister Elvira Nabiullina.

Currently, assessing the necessity of a purchase is "solely a customer's responsibility and depends on his honesty, decency and professionalism," Anchishkina said in a telephone interview.

Guidelines for creating a long-term plan for tenders — a previously absent measure that will spare businesses from uncertainty — are also included, she said.

But critics said the bill actually gives bureaucrats more control over contract terms — which means the very people accused of rigging tenders will get more opportunities to fiddle with them.

State tenders now are open to all who wish to participate, but the new bill allows a state agency to eliminate or pre-select suppliers on murky grounds, bypassing the tender.

Suppliers of "innovative" or "technically complex" goods — which could feasibly include nothing more complex than an alarm clock — could be chosen through "preliminary qualification" or "competitive negotiations," the draft says, without elaborating on either of those concepts.

The lack of details would allow an official to show bias in choosing suppliers and possibly hand a contract to a firm he has connections with instead of the best contender, said Anna Zolotaryova, head of the legal department at Yegor Gaidar's Economic Policy Institute.

"Why would the buyer show an interest in state interests when he can show an interest in pocketing the money?" Zolotaryova said by telephone.

The elimination of competitive practices would unavoidably lead to corruption, said Yevrayev of the anti-monopoly watchdog. His agency has created an alternative bill that also proposes clearer guidelines and long-term planning for tenders but without giving greater say to the officials who award contracts.

Anti-corruption crusader Navalny described the bill that was rejected by the anti-monopoly watchdog this week as "direct lobbying for corruption."

"In Russia, no person in their right mind would believe in a buyer's presumption of innocence when 1 trillion rubles is stolen every year," Navalny said by telephone.

Navalny, whose blog has almost 40,000 followers, created a web site called Rospil in December to track corruption in state orders, and quickly raised 4 million rubles for its operations through a donation drive. As of Wednesday, the web site claimed to have identified shady or outright rigged tenders worth a combined 291 million rubles.

The rector of the Higher School of Economics, Yaroslav Kuzminov, dismissed Navalny's

criticism on the school's web site and invited him for a public debate Friday, a challenge Navalny accepted.

## **Supply & Deceit**

Andrei Yakovlev, deputy rector of the Higher School of Economics, acknowledged that the legislation would give bureaucrats more power in awarding contracts, but said this was needed to weed out fraudulent businesses looking to cheat tender organizers.

Currently, suppliers are selected on the sole criteria of the lowest price. This allows swindlers to offer huge discounts to win contracts and then make off with advance payments, Yakovlev said.

He did not specify how much money is lost this way.

The 2005 law allows officials to take deposits from suppliers to ensure the suppliers do their work properly, but this is not mandatory for smaller-scale contracts, which leaves room for corruption, said Zolotaryova of the Economic Policy Institute.

"Preliminary qualification" includes the supplier's experience in fulfilling similar orders, technical capacities and business reputation, Yakovlev said.

On paper, this measure might sound logical, critics said, but in reality, it would allow corrupt officials to continue the already widespread practice of setting tender requirements that can only be met by select suppliers — which, in turn, express their gratitude through kickbacks.

Besides, the experience criterion would discriminate against young businesses that may be qualified to fulfill orders but will not be able to prove it, said Vladimir Golubev, a researcher at the Institute for Information of Freedom Development.

## **Tender Watch**

The new bill proposes to cut through all transparency issues by appointing an all-powerful watchdog to oversee the tenders. But, again, it provides little detail about the watchdog.

Officials would have to account for each purchase with the watchdog, Yakovlev said, adding that the Economic Development Ministry could handle the job.

All state agencies already have to spell out their spending plans to the Finance Ministry, but they do not have to account for every tender separately, he said.

Checking tenders is currently the job of the Federal Anti-Monopoly Service, which has the authority to cancel them — and often does so.

Moreover, law enforcement agencies currently can charge officials with unfair competition, abuse of authority or plain bribery, all punishable with lengthy prison terms.

Zolotaryova said that under the new system — which would give the officials announcing tenders the legal right to draw up tender rules — "the Federal Anti-Monopoly Service won't be able to do anything."

The bill's authors have not said whether the anti-monopoly agency or the Finance Ministry would keep their monitoring duties or split them with the new watchdog. It also remains unclear who would watch the watchmen.

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