Investigating the Corruption Method in Procurement Process within the Sub-District Administrative Organizations in Maha Sarakham Province

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บทคัดย่อ

การวิจัยครั้งนี้มีวัตถุประสงค์เพื่อ 1) ศึกษาวิธีการทุจริตในกระบวนการจัดซื้อจัดจ้างขององค์การบริหารส่วนตำบล ในจังหวัดมหาสารคาม 2) ศึกษาความคิดเห็นของผู้ประกอบการและผู้บริหารท้องถิ่นต่อวิธีการทุจริตในกระบวนการจัดซื้อจัดจ้าง ขององค์การบริหารส่วนตำบลในจังหวัดมหาสารคาม และ 3) ศึกษาข้อเสนอแนะในการแก้ปัญหาการทุจริตในกระบวนการจัดซื้อ จัดจ้างขององค์การบริหารส่วนตำบลในจังหวัดมหาสารคาม กลุ่มตัวอย่างส่วนใหญ่เป็นผู้ประกอบการ รองลงมาเป็นผู้บริหาร ท้องถิ่น ซึ่งเป็นการศึกษาวิจัยแบบบูรณาการเชิงปริมาณ (Quantitative Research) และเชิงคุณภาพ (Qualitative Research) เครื่องมือที่ใช้ในการเก็บรวบรวมข้อมูล คือ แบบสอบถาม และแบบสัมภาษณ์แบบมีโครงสร้าง สถิติที่ใช้วิเคราะห์ข้อมูล ได้แก่ ร้อยละ ค่าเฉลี่ย ส่วนเบี่ยงเบนมาตรฐาน และการพรรณความ (Content Analysis)

ผลการวิจัยพบว่า 1) วิธีการที่ทุจริตมากที่สุด เป็นวิธีตกลงราคา รองลงมาวิธีกรณีพิเศษ 2) ผู้ประกอบการและผู้บริหาร ท้องถิ่นมีความคิดเห็นโดยรวมต่อวิธีการทุจริตในกระบวนการจัดซื้อจัดจ้างขององค์การบริหารส่วนตำบลในจังหวัดมหาสารคาม อยู่ในระดับน้อย เมื่อพิจารณาเป็นรายด้านมีความคิดเห็นอยู่ในระดับมาก 1 ด้าน ได้แก่ การสมยอมเสนอราคาหรือการฮั้ว อยู่ใน ระดับปานกลาง 1 ด้าน ได้แก่ การมีผลประโยชน์ร่วมในกิจการบางประเภทที่สามารถใช้อำนาจหน้าที่ของตนบันดาลผลประโยชน์ 3) ข้อเสนอแนะได้แก่ (1) รัฐควรเขียนกฎหมายและบังคับใช้กับผู้ประกอบการที่จำหน่ายสินค้าทุกชนิดให้มีการเปิดเผยราคาขาย สินค้าทุกชนิดขึ้นเว็บไซต์ และส่งไปยังกรมบัญชีกลางเพื่อกำหนดเป็นราคากลาง (2) ควรปรับปรุงกฎหมาย ระเบียบว่าด้วยการพัสดุ โดยไม่ควรให้ใช้ดุลยพินิจของผู้บริหารเพียงคนเดียว แต่ควรใช้คำว่าให้เป็นดุลยพินิจของคณะกรรมการในการพิจารณาสั่งซื้อสั่งจ้าง (3) ควรกำหนดระเบียบพัสดุห้ามมิให้มีการเปิดเผยรายชื่อผู้ซื้อแบบแปลนเพื่อตัดการรับรู้รายชื่อผู้มาขอรับเอกสารหรือยื่นเสนอราคา เพื่อแก้ปัญหาการสมยอมเสนอราคาหรือการฮั้ว

คำสำคัญ : วิธีการทุจริต ; กระบวนการจัดซื้อจัดจ้าง

Abstract

This study was conducted with three typical purposes to: 1) investigate the corruption method in the procurement process within the sub-district administrative organizations in Maha Sarakham province; 2) understand the attitude of the business owners and the local organization leaders toward the corrupted procurement within the province; and 3) look for proper solutions to prevent the corrupted procurement. Particularly in this study, most of the participants were the business owners and the rest was the local organization leaders and the methodology was mixed between qualitative and quantitative researching techniques. The research tools consisted of the questionnaire and structured interview form; meanwhile, the data was statistically analyzed to define percentage, mean score, standard deviation. Content analysis was also applied.

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The study outcome was found that 1) the mostly corrupted method was found in "Price dealing" and next was "Privileged path"; 2) the attitude of the business owners and the local leaders toward the corrupted procurement was surprisingly low in which the highest score was rated on "Bid rigging" or collusion and the mediate score was given to "Mutual benefit" on some business that the officers may misuse their authority to gain their personal advantage; 3) the suggestions were given that (1) the government needs to legally force those product providers to show the price of their products on websites and the cost estimate should be settled by the Comptroller General's Department; (2) the office supply regulation should be revised that the inventory purchase should not be performed only by a sole leader's consideration but to be approved by the rightly assigned commission; and (3) the office supply regulation should not ask for the presence of the buyer's list so that the name of the document dealer or bidders will be unknown to the public in order to prevent bid rigging or collusion.

Keyword: Corruption method, Procurement

Introduction

Historically, the Constitution of Kingdom of Thailand (B.E.2540- 2550) has particularly set its Intendment on encouraging the people's participation in both national and local governance following the democratic system. Similarly, the emphasis has been put on the power decentralization to local administrative organizations as apparently mentioned in Chapter 5 in the Basic Policy of Government (Part 10) and Policy Guideline for People's Participation (Section 28) clearly states that a government is obliged to provide the policy that encourages the people to participate in the making of the national social and economic development plan as well as motivates them to partake in political decision making and social and economic development plan. The public services should be necessarily provided. The policy should allow the people to attend in the investigation on how the government manages their power in all levels (Constitution of Kingdom of Thailand B.E. 2550; p.39).

Indeed, the government's power decentralization is the key to the national governance scheme by fairly transiting the power to the local administrative organization so that they are able to independently manage their activities under the laws. Practically, the power decentralization helps clear up the administrative orders within the local communities and the sub-district administrative organization can be an explicit sample sector that was legally assigned with the government's power with an aim to promote the effective local governance. As a consequence, the power decentralization plan allows the people to join in the making of policy under the local administrative organization (Wuttisarn Tanchai, 2005: p.12). At mean time, the government system should be managed under a solely determined vision where the strategy should be settled on the power decentralization toward the local community and encourage the community to demonstrate their ultimate competency in planning, finance, treasury, investment, and operation as well as to get well-prepared for the performance improvement plan (Office of the National Economic and Social Development Board, 2012).

At the beginning, the sub-district administrative organization (SAO) is a local organization purposively founded under the Councils and Sub-district Administration Organization Act BE 2537 in order to strengthen the local governance and to correspond to the government power decentralization to the local communities. This SAO has been founded long before the power decentralization was clearly addressed. That is, the governance organization system was seriously reconstructed and becomes more explicit with an official reinforcement of the Government Power Decentralization Plan and

Procedure B.E.2542 where Section 4 defines that a local administrative organization is referred to a provincial administrative organization (PAO), municipality, sub-district administrative organization (SAO), Bangkok, Pattaya, and any local organizations that were regally founded. Accordingly, the SAO has been assigned with more explicit duty and more staffs so that 35% of the national's revenue is spent yearly on these local organizations and it a huge amount of money compared to the budget spent on other organizations. This unfortunately becomes an allurement that convinces the people to commit their corruption and unfavorable act (Thirayuth Boonmee, 1998: p.25).

According to the organizational structure, the SAOs in Maha Sarakham province manage their power and duty as strictly defined in Section 66, Section 67, and Section 68 of the Councils and Sub-district Administration Organization Act BE 2537 (5th Revision B.E.2546) specifically states that the SAO is in charged in managing the local economic, social, and cultural issues concerned with the management of a number of staffs and lots of budget, especially those located in the economic zone and/or in a province with high population density and high-performing economic, as well as a 1 - 3 leveled administrative organization. These local organizations are basically provided with much more budget from the government. Plus their annual revenue, it is indeed a huge amount of money. This money often lures a person to begin their corruption and misconducted act by reason of money so that it is undeniable that the SAO is one of the frequently corrupted organizations. This can be obviously witnessed from the statistics report in last 5 year showing that approximately 6,260 complaints has been presented to the Office of National Anti-Corruption Commission (NACC). These complaints sent from different organizations consists of 1) the SAO with 3,376 complaints; 2) Municipal districts with 1,809 complaints; 3) the PAO with 430 complaints; 4) Provincial municipality with 387 complaints; 5) Bangkok with 207 complaints; 6) City

municipal with 164; and 7) Pattaya with 10 complaints. This includes 25 cases from uncategorized sectors. Inappropriately, this numerical data handed to the NAAC significantly reflects the high rate of suspicious action lying beneath the local administration system, especially a very high rate of corruption in the procurement within the organization, so it is undoubted that this corruption badly presents the negative image of the organization and then most of the people identically does not put their trust on the government officer's act and any mission under the government organization. While the corruption often happens, number of the anti-corruption organization is insufficient. That is, the staffs and legal equipment are both not enough. Besides, some ineffective orders still leaves the gap for the corruption to commonly exist, as a persistent problem, within the SAOs. Based on the abovementioned, it evidently seems that the SAOs is mostly dealing with the corruption in the procurement process that basically is the result from the political power manipulation by the authority that has either negative or positive impact on the local government officers. Those authorities may also threaten or keep away the undesired bidders from the project concerning them (The Office of the National Anti-Corruption Commission, 2012: p.45).

As a consequence, the researcher was encouraged to investigate more on the corruption in the procurement process within the SAOs particularly in Maha Sarakham province. The purpose of the study was to understand more about the corrupted procurement and gain the useful suggestions and solution to keep away any method of corruption that may happen during a procurement process. More importantly, any notable data from this study is expected to be presented to the responsible person to define an anti-corruption guideline for the SAOs.

Objectives of Study

1. To investigate the corruption method in the procurement process within the SAOs in Maha Sarakham province.

2. To perceive the attitude of the business owners and the local organization leaders toward the corrupted procurement within the province.

3. To find proper solutions to prevent the corrupted procurement.

Scope of Study

Population and sample group

(1) Quantitative Data Source

(1.1) Population consisted of a group of 530 business owners (private sector) and another group of 124 local organization leaders from 13 districts and 124 organizations (Maha Sarakham Provincial Office of Comptroller General, 2012)

(1.2) Sample group comprised two groups of participants: a group of 228 business owners in which the sample size was defined by the Taro Yamane's formula (1973, p. 787) and chosen by proportional random sampling; and 13 organization leaders specifically selected from different 13 districts with highest number of procurement-based complaint.

(2) Qualitative Data Source

(2.1) The researcher assigned 12 business owners as the interviewees in which they were purposively selected based on their routine duty regarding the land and construction cost and the hardware cost.

(2.2) The variables used in this study were the method of corruption in the procurement process including disobedience, evasion, or traditional distortion; mutual consent and connivance; the government's property embezzlement and conversion; document falsification; mutual benefit; and bid rigging and collusion.

(2.3) Area of study covered 124 SAOs within Maha Sarakham province.

(2.4) Period of study was from October 1st, 2012 – May 31st, 2016.

Research Methodology

1. The quantitative research method was planned as follows.

(1) Goal was set to examine the attitude of the business owners and local organization leaders toward the corruption method within the procurement in the SAOs around Maha Sarakham.

(2) The population and sample – the population were purposively limited to two main groups: a group of 530 business owners whose offices were located both inside and outside Maha Sarakham province and 228 participants were finally chosen, and a group of 124 organization leaders in which 13 participants were finally chosen.

(3) The data collection and analysis – the researcher practically used the 5-level rating scale questionnaire to obtain the useful information and the data was finally analyzed by descriptive statistics to find frequency, percentage, mean, and standard deviation.

2. The qualitative research method was planned as follows.

(1) Goal – to investigate the corruption methods in the procurement process within the -district sub SAOs in Maha Sarakham province.

(2) Key informant was a group of 12 business owners (private sector) who used to deal the procurement with the SAOs in Maha Sarakham province.

(3) Data collection and analysis – the data was collected from the in-depth interview with the key informants using the structured interview form. The data was later processed by content analysis.

Research Outcome

The outcome was concluded corresponding to the research objectives as listed below.

1. There was evidence affirming that the corruption was truly found in the process of price dealing, price comparing, and bidding but no sign of the privileged path was found. In term of the corruption method, there were 4 groups of people involved including the procurement authority, inventory officer, project manager, and supply inspector; meanwhile, the mostly found method of corruption was found in

the reinforced-concrete road, non-asphalt road, dirt road, crushed-rock road, construction project, building renovation and maintenance, officer materials, and sport hardware. Practically, the constructor (employee) secretly bribed the authority with their desired amount of money in order to exclusively take over a project. Later the project scale was reduced so the construction method did not follow the plan as mentioned in the signed contract and none of the material inspection was correctly performed. Finally, the constructor simply took 10-15% of the remained balance after reducing the material cost. However, there was none of the corrupted procurement found in some certain project such as the children's enriched milk since it was managed under the approval of the prime minister and/or the law reinforcement, and /or the cabinet resolution.

Due to the comparative study, it was found that the corruption method before and after the coup d'etat was similar but the corrupted procurement rate was notably higher. This might be the result of the office supply regulation revision that increased the financial amount for price dealing; meanwhile the corruption rate in price comparing and bidding remain the same. Indeed, this corruption policy was typically commanded by local leaders and councils whereas the operational corruption was assigned to the subordinates including deputy chief, the office supply section, the civil work section, the project supervisor, the supply examining commission, the E-auction, and business owners

2. The business owners and local leaders showed their low attitude ($\bar{x}$= 2.06) toward the corruption method in the procurement process within the SAO in which the "Bid Rigging" or "Collusion" gained the highest score ($\bar{x}$= 4.15) whereas the average score was given to "Mutual benefit" from the project that the authority may manipulate their power for personal advantage. Besides, mutual consent and connivance, ignorance or breach of statutory duty ($\bar{x}$= 2.13) and document falsification and false action ($\bar{x}$=1.66). The lowest score was given in descending

order on the violation, avoidance, and custom distortion ($\bar{x}$=1.77), the act of convincing, demanding, threatening, detaining, and defaming ($\bar{x}$=1.36), and misappropriation of the government property ($\bar{x}$= 1.14). These corruption methods were classified as follows.

1) Violation, avoidance, and custom distortion were rated with the lowest score ($\bar{x}$= 1.37) in which the first 3 methods can be put in descending order as follows: Assigning a civil work engineer to make a master plan to benefit the business owner ($\bar{x}$= 1.88), Bribing the office supply officer within the SAO for the false procurement report ($\bar{x}$=1.68), and defining the specific requirement to favor the constructor ($\bar{x}$= 1.66).

2) The act of convincing, demanding, threatening, detaining, and defaming was also rated with the lowest score and the first 3 methods can be put in descending order as follows: Misusing the local leader's power to get a quick disbursement for the constructor ($\bar{x}$=2.03), Taking or giving a bribery and threatening or convincing the office supply officers ($\bar{x}$=1.45), and demanding some kind of personal benefits from the procurement officers ($\bar{x}$= 1.19).

3) Ignorance or breach of statutory duty ($\bar{x}$= 2.13) was also rated with the lowest score and the first 3 methods can be put in descending order as follows: using personal connection with the insiders to run an indirect procurement ($\bar{x}$=3.61), hiding the necessary information regarding the procurement ($\bar{x}$=2.42), and conspiring in managing the oddly high-cost procurement for the excess money ($\bar{x}$=2.22).

4) Misappropriation of the government property was rated with the lowest score ($\bar{x}$= 1.14) and the first 3 methods can be put in descending order as follows: Falsifying the annual supply inspection report ($\bar{x}$=1.36), Receiving a gift, as personal property, from the business owners during the procurement process ($\bar{x}$=1.26), Misusing the power for misappropriation of the government property ($\bar{x}$=1.08).

5) Document falsification and false action ($\bar{x}$=1.66) in which the first 3 methods can be put in descending order as follows: Using false document from unknown person to claim for disbursement and doing forgery for personal benefits ($\bar{x}$=3.48), falsifying the full set of procurement paper for disbursement ($\bar{x}$=1.83), and luring the supply officer to change the number on the procurement paper ($\bar{x}$=1.00).

6) Mutual benefit" from the project that the authority may manipulate their power for personal advantage was rated with average score ($\bar{x}$=2.63) in which the first 3 methods can be put in descending order as follows: Using the power as the sale officer to benefit other local organization's project by giving the outsourced staffs from the SAO ($\bar{x}$=4.55), Receiving a commission from the government's procurement with exclusive terms ($\bar{x}$=4.52), and Cooperating with the supply officers to manage the high-cost procurement for low-quality materials and with the accountant for window dressing ($\bar{x}$=1.59).

7) Mutual consent and connivance was rated with high score ($\bar{x}$=4.15) in which the first 3 methods can be put in descending order as follows: Joining force with partners for unfair bidding to take advantage from the government organization ($\bar{x}$=4.80), Conspiring with partners for bidding on a construction project aiming that one of the partners will surely get the project ($\bar{x}$=4.53), and Defining that a bidder who can offer the price to the SAO is required to buy bidding paper which leaves a gap for both parties to meet up and manage their mutual consent ($\bar{x}$=3.98).

3. The guide to prevent the corrupted procurement process within the SAO was listed below.

1. The cost estimate and the cost by the provincial commercial office should be updated and fairly presented and the procurement commission should be formally assigned to clearly set up the cost estimate so that the material should be purchased with the estimated price.

2. The local politician and the government officer need to be implanted with a good sense of professional ethics and morality. They should have no any sign of selfishness or personal connections since their goal of working should be the cost-effective performance based on the actual demand.

3. The local people should be well-educated about how to investigate the corruption within the SAO and the people-based organization needs to be formed and in charge of inspecting the local administrative organizations.

Conclusion, Discussion, and Suggestion

The notable findings from this study were discussed as follows.

1. The business owners and local leaders agreed that the corruption method in the procurement process within the SAO was low in which the "Bid rigging" or "Collusion" gained the highest score, whereas the average score was given to "Mutual benefit" from the project that the authority may manipulate their power for personal advantage. Also, there were 2 methods rated with low score including mutual consent and connivance, ignorance or breach of statutory duty. Additionally, the 3 methods with the lowest score in descending order consisted of the violation, avoidance, and custom distortion, the act of convincing, demanding, threatening, detaining, and defaming, and misappropriation of the government property. As a result, these findings did not match with the research hypothesis because the information from both business owners and local organization leaders did not go with the fact that says that corruption in the procurement process within the SAO was high.

However, it was evidently confirmed that Bid Rigging or Collusion was found at a high rate. This method of corruption was that the business owners together with their partners perform an unfair bidding to take advantage from the government organization as much as possible. This also happened because it was defined that a person allowed to do bidding has to buy the price comparison bidding paper and this gives both parties, the constructor and local politician, to meet up and make a mutual consent. These parties

finally joined force to offer an unfair price for the organization. This was similar to a previous study by Amorn Laohamontri (2008: p.76) who noticed that a method of corruption was the corruption in the procurement process, being irresponsible for the bidding, and being either an indirect or direct stakeholder of the signed contract. His findings also indicated that the corruption method found that most was the one in the procurement process within the local administrative organizations in which different methods were applied and found in almost every part of the process Amorn Laohamontri, 2008: p.76)

Similarly, the findings were also consistent to the research outcome found by the Department of Special investigation that discovered that the offensive act against the Government Procurement Act B.E.2542 basically began by threatening and obstructing the government bidding process as well planning on secretly meeting for the mutual consent amongst the bidders. The worst was that the government officer helped the business owners to take over the project so that they could ask for the annual budget. Particularly, these offenders could be divided into 2 groups including the private sector and the government officer that was referred to the politician with their misconducted action. This private sector managed 2 typical methods of the corruption. Namely, they tried obstructing the bidding by either destroying the bidding invitation or disturbing the process with some bidding trick. Another method was that they looked up for mutual consent with the officer e.g. sharing the benefit from the assigned project (Department of Special Investigation, 2010: p.1).

In addition to the abovementioned, the statistical report on the last 5 year corruption marks 6260 complaints were presented to the Office of National Anti-Corruption Commission (NACC) in which 3,376 complaints, the highest number, were from the SAO. This number truly guarantees a high rate of suspicious movement within the local administrative organizations, especially in the procurement process, and it also indicates that the corrupted procurement

was frequently found in the SAO. This was similar to a previous study by Saowanee Thairungroj that the SAO was one of the five mostly corrupted organizations or 7.80% (Saowanee Thairungroj, 2009: p.32).

2. Most of the corruption methods in the SAO in Maha Sarakham province were commonly exist in the procurement process regarding price dealing, price comparing, and bidding but none was found in the privileged path. Generally, there are 4 groups of people involved win the corrupted procurement including the procurement authority, inventory officer, project manager, and supply inspector; meanwhile, the mostly found method of corruption was found in the reinforced-concrete road, non-asphalt road, dirt road, crushed-rock road, construction project, building renovation and maintenance, officer materials, and sport hardware. The corruption begins by the constructors privately bribing the authority with their desired amount of money to solely take control over a project and in return the authority helped them get quick cash disbursement in advance. Later, the project scale was reduced and the construction method did not go the plan and correct material inspection was ignored, as well as the work load reduction and the use of low-quality materials. As a final point, the constructor simply took 10-15% of the remained balance from the cost-reduced material. However, there was none of the corrupted procurement found in some certain project such as the children's enriched milk since it was managed under the prime minister's order and/or certain law reinforcement, and /or the cabinet resolution.

This finding was also corresponding to what Grant Thornton previously found that either small- or large-scale corruption are basically involved with both high-ranking government officer and the subordinate staffs. Surely, the large-scale corruption causes a huge loss for the country meanwhile bribery for a project's signed contract was conducted by manipulating the government power to favor the parties for personal advantage. Additionally, the two types of corruption were systematically managed by

a certain group of the stakeholders and it eventually becomes so common for the local people. It can be simply concluded that the corruption is a conspiracy mission amongst the politicians, government organization leaders, religious groups, or even the justice system (Grant Thornton, 2005: p.6).

The study outcome confirmed that there were 3 parties involved in the corrupted procurement including the procurement authority, the supply officer, and supply inspection committees. Most of all, the corruption method was simply to take 10-15 % of the remained balance after the supply cost reduction as for bidding, a group of constructors will mutually the bidding papers and agree on offering different costs, compared with E-Auction price, to flavor only one construction company and later the winning constructor would return 30 – 40% of the cost estimate to other partners with their group. This is likely the mutual consent of all parties with the support from the e-market price system.

The abovementioned was consistent to the study by Theerada Lek-ngam that such a corruption existed through 3 stages including pre-procurement, mid-procurement, and post-procurement. That is, before starting procurement, most of the organizations had problem with the cost estimate and the TOR requirement whereas at the mid-procurement stage, the problem was the information and communication technology for the cost estimate. Lastly at the post-procurement stage, the problem turned to be the supply delivery time and quality (Theerada Lek-ngam, 2009: p...1-2.

In conclusion, all of the findings previously discussed confirmed that the corruption method in the procurement process within the SAOs in Maha Sarakham province is bribing the authority, project scale reduction, the misused construction plan, and taking 10-15% of the remain balance from the cost-reduced supply. This was definitely supported by Phasuk Phongpaichit and others who discovered and summarized that the certain method of corruption was to take the benefits from the favorable procurement system e.g. taking bribery from the constructor, bribing the procurement authorities at different levels, and corrupting a desired project. Actually, there were many of the corruption method but the only prominent one was collusion amongst the bidders in order to take control over the procurement with specific winner rotation system from one to another (Phongpaichit & et. al, 2001: p.76).

Suggestion

1. The useful suggestions were given below.

1.1 The government needs to legally force those product providers to show the price of their products on websites and the cost estimate should be fairly settled by the Comptroller General's Department.

1.2 The office supply regulation should be revised that the inventory purchase should not be performed only by a sole leader's consideration but to be approved by the rightly assigned commission; and

1.3 The office supply regulation should not ask for the buyer's list so that the name of the document dealer or bidders will be unknown to the public in order to prevent bid rigging or collusion.

2. Suggestion for further study

2.1 A further study should be conducted in other area together with the data analysis in order to compare the outcome to push forward the people's participation in the government's procurement process.

2.2 A further study should explore more about the problems and difficulties possibly happened to the people's participation in the government's procurement process.

2.3 There is a need for a further study on the preventive policy or action against the corruption in procurement process within the SAOs in Maha Sarakham.

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