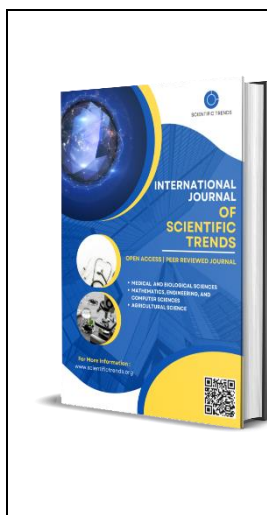


# Auction as a Method of Privatization of State Property

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## Abstract

At the heart of the privatization issue is the need for transparency. Auctions naturally provide this transparency. Unlike direct sales, where prices can be negotiated behind closed doors, auctions are open and competitive. This openness ensures maximum financial return to the government by securing the highest possible price for its assets. When considering the privatization of public property through auctions, it is important to choose an auction format that ensures transparency, maximizes revenue, and is fair to all participants. There are several auction formats available, each with its own advantages and potential disadvantages. From this point of view, this article discusses the features of auction sales, their types, advantages and some disadvantages.

**Keywords:** State property, privatization, auction, tender, transparency, English auction format, Dutch auction, electronic auction, cybersecurity, transactions.

## Introduction

The privatization of state property by auction sale has a number of features. Unlike methods of privatizing state property through direct sales or tenders or transfer of state-owned enterprises to limited liability companies, auction sales are usually transparent. Thus, the conditions offered by candidates are open to other participants in the auction and, at the same time, to other persons.

Statistics show that as of December 6, 2023 alone, 790 state properties were put up for electronic auctions and competitions, of which 146 lots were privatized through auctions<sup>1</sup>.

Today there are various ways of privatization through auction. Specifically, English auction format (open ascending price), Dutch auction (open descending price), closed first price auction, two-stage auction, hybrid auction, electronic auction, etc.

An English auction, also known as an open raise auction, starts with an initial bid<sup>2</sup>. Bidders compete openly with each other and offer ever higher bids. The dynamic nature of this format allows participants to adjust their bets in real time based on the bets of others. Auctioneers typically announce each bid, and bidding continues until no one offers a higher bid. At the end of the process, the highest bidder guarantees the item and is expected to pay the amount he bid.

<sup>1</sup> <https://davaktiv.uz/uz/news/6-dekabr-sanasida-tkazilgan-onlajn-savdolar-natizhalari>

<sup>2</sup> Milgrom, P. (2004). Putting Auction Theory to Work (Churchill Lectures in Economics). Cambridge: Cambridge University Press. doi:10.1017/CBO9780511813825

N. Malekovich noted that the English auction format has such advantages as transparency, dynamism and maximum profitability<sup>3</sup>. In particular, open trade ensures that all participants are aware of offers and instills a sense of trust and fairness. It also allows participants to react to competitors' offers and change their strategy accordingly.

Commenting on another advantage of this auction, W. Samuelson states: "Because bidders can increase their bids, this often results in a higher final bid and thus maximizes the seller's profit"<sup>4</sup>. I cannot completely agree with the above opinions. In our opinion, this advantage can also be considered one of the disadvantages of the English auction format. For example, once an auction has begun, bidders may offer more than originally expected or the actual value of the item being auctioned during a very busy period. As a result, the auction winner will not be able to achieve his goal, and this will inevitably create a situation where government property cannot be used effectively. This, in turn, may contradict the essence of privatization of state property. Because the state does not always strive to obtain high revenues from privatization. Indeed, high incomes are beneficial to the state budget, but the state sees not only profits from the privatization of its own assets, but also the formation of competitive market relations and its goals in the social sphere. Given its generally transparent nature and potential for maximizing revenues, an English auction is often the preferred choice for privatizing public assets. This format ensures that all potential buyers have an equal opportunity to participate in this auction, especially if the asset being privatized is of high interest. An open pricing format for real estate, mineral rights or other government property ensures prices are clear, fair and competitive, making it particularly suitable for the privatization of government property.

A Dutch auction, often referred to as an "Open Descending Price" auction, is a unique method in which the auctioneer begins bidding at the highest asking price and gradually increases the price until the bidder is ready to purchase the auction item or a predetermined reserve price<sup>5</sup>. Although this method has historical roots in Dutch flower auctions, it has been adopted throughout the world in various forms.

The working mechanism of this auction method can be explained as follows. Unlike the English auction format, the Dutch auction is based on a descending price system. In this case, the auction organizer sets a maximum estimated price for the auction item, and the price is systematically reduced until the bidder agrees to buy it at the current price. The lot is won by the participant who first agrees to reduce the price. A special feature of this auction is that reserve prices are allowed. The reserve price is the minimum amount that the seller is willing to accept. If the auction does not reach this price, the seller is not legally obligated to sell.

Robert A. Feldman puts forward a number of ideas about the benefits of the Dutch auction. Dutch auctions can be faster than traditional methods because they don't require multiple bids and counter-bids, he said<sup>6</sup>. The mechanism helps determine the actual market price of an item or other asset put up for auction.

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<sup>3</sup> Malekovic, N., Goutas, L., Sutanto, J. et al. Regret under different auction designs: the case of English and Dutch auctions. *Electron Markets* 30, 151–161 (2020). <https://doi.org/10.1007/s12525-019-00355-w>

<sup>4</sup> Samuelson, W. (2014). Auctions: Advances in Theory and Practice. In: Chatterjee, K., Samuelson, W. (eds) *Game Theory and Business Applications*. International Series in Operations Research & Management Science, vol 194. Springer, Boston, MA. [https://doi.org/10.1007/978-1-4614-7095-3\\_13](https://doi.org/10.1007/978-1-4614-7095-3_13)

<sup>5</sup> Cheema, A., Chakravarti, D., & Sinha, A. R. (2012). Bidding Behavior in Descending and Ascending Auctions. *Marketing Science*, 31(5), 779–800. <http://www.jstor.org/stable/41687967>

<sup>6</sup> <https://www.elibrary.imf.org/view/journals/024/1993/002/article-A001-en.xml>

Although the Dutch auction system offers a unique approach to the valuation and sale of assets, it is important to know the legal framework under which it operates. Ensuring transparency, fairness, and compliance with regulatory standards can make this type of auction a valuable tool in certain circumstances.

A closed first-price auction is one of the simplest and most widely used types of auctions.<sup>7</sup> In this auction format, bidders submit their bids in sealed form, meaning no bidder knows the other bidder's bid. The highest bidder wins and pays the bid amount.

Another type of auction is hybrid auctions, which incorporate the best features of previous types of auctions and allow participants to participate both physically and virtually simultaneously<sup>8</sup>.

Today's age of digital transformation has created a need for the traditional auction concept. The transition from traditional auctions (with physical participation) to online platforms has not only changed the way products are traded, but also created the opportunity to enter the global market. One of the unique features of e-auctions is the unprecedented accessibility they offer. That is, the participation of bidders is not limited by geographical restrictions. Anyone with an Internet connection can take part in the auction. The expanded reach not only expanded the pool of potential buyers, but also brought a new level of diversity to the market. Products that were once only available to local audiences now have the opportunity to gain international attention, radically changing the dynamics of supply and demand.

Electronic auctions make it possible to speed up the previously unimaginable sales process. In real-time auctions, bidders can watch bids, which creates a sense of urgency and competition that can lead to unexpected price increases. According to F.S. Erofeev, such transparency is two-way and allows both buyers and sellers to clearly see the dynamics of the market<sup>9</sup>. This author's opinion can be understood as follows. This process, while encouraging trust and fair competition, requires participants to quickly adapt to changing conditions and requires a more strategic and flexible approach to trading.

Compared to traditional auction methods, electronic auctions significantly reduce costs and increase efficiency. Physical auctions often include costs associated with venue rental, security and transport logistics<sup>10</sup>. In fact, electronic auctions reduce such costs and as a result, there may be an opportunity to benefit from the asset privatization process. However, we cannot completely agree with these thoughts of the author. After all, electronic auction sites generate cybersecurity-related costs. We will discuss this in detail later.

In addition, the online format simplifies administrative tasks, reduces the time for preparing documents and completing transactions. Ensuring compliance with paperwork and regulatory requirements is an important aspect of privatization. E-auction platforms automate these

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<sup>7</sup> Jeroen Hinloopen, Sander Onderstal, Leonard Treuren. Cartel stability in experimental first-price sealed-bid and English auctions. *International Journal of Industrial Organization* Volume 71, July 2020, 102642.

<https://www.sciencedirect.com/science/article/pii/S0167718720300655>

<sup>8</sup> [https://questacademy.org/quest-news/what-is-a-hybrid-](https://questacademy.org/quest-news/what-is-a-hybrid-auction/#:~:text=A%20hybrid%20auction%20combines%20the,physically%20and%20via%20the%20Internet.)

[auction/#:~:text=A%20hybrid%20auction%20combines%20the,physically%20and%20via%20the%20Internet.](https://questacademy.org/quest-news/what-is-a-hybrid-auction/#:~:text=A%20hybrid%20auction%20combines%20the,physically%20and%20via%20the%20Internet.)

<sup>9</sup> Ерофеев Филипп Станиславович (2015). Проведение электронных аукционов в рамках контрактной системы. Пробелы в российском законодательстве. *Юридический журнал*, (2), 69-73.

<sup>10</sup> *Methods of Privatization: Auctions, Bargaining, and Give-Aways*. Klaus M. Schmidt. Monika Schnitzer.

<https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=d332cdd054770ed2d20bbbd342d8d7b4a421d34>

processes, reduce the likelihood of errors and ensure that all necessary documents are processed correctly. This simplified approach helps make the setup process smoother and more compatible. We can say that the electronic form of organizing auctions and its legal foundations are laid down in our national legal system. In particular, by decision of the President of the Republic of Uzbekistan dated July 27, 2017 No. "E-AUKSION", an electronic trading platform was created.

The following products are currently sold through this platform:

government facilities (buildings) and shares;

rent (rent of state property, lease of customer property);

real estate;

cars and special equipment;

land plots (for entrepreneurship, housing construction, privatization, agriculture and ecosystems);

the right to extract precious metals using the artisanal method;

the right to extract strategic minerals;

mining rights to Noru;

cleaning services (river bed cleaning, territory cleaning);

use of the lake system;

the right to construct and install outdoor advertising objects (construction on land plots and buildings and structures);

radar installation locations;

installation of stationary offices for measuring weight and dimensions and other property<sup>11</sup>.

According to statistics, today about 7.5 million electronic auctions are organized through this platform<sup>12</sup>, of which more than 2,000 correspond to state assets<sup>13</sup>.

Also, by Decree of the President of the Republic of Uzbekistan dated July 24, 2021 No. PQ-5197, a unified procedure for conducting electronic online auctions on the electronic trading platform "E-AUKSION" was introduced from September 1, 2021.

At the same time, in accordance with Resolution of the Cabinet of Ministers dated December 1, 2022 No. 18 "On additional measures to improve the procedure for organizing and conducting electronic online auctions and competitions," an electronic online auction and the procedure for organizing and conducting competitions have been determined.

According to these procedures, participants, including foreign citizens, will be provided with an electronic digital signature key certificate for remote participation in the auction. This, in turn, prevents unnecessary fuss and bureaucratic obstacles. It can be said that electronic auctions are an important step in ensuring transparency, speed and fairness in the privatization of state property. After all, one of the main advantages of electronic auctions during privatization is the transparency of the process. Through online platforms, all interested parties, including potential buyers and the general public, can access information about the assets for sale, auction processes and results. This transparency reduces the risk of corruption, favoritism and other practices that could undermine the integrity of the privatization process.

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<sup>11</sup> <https://e-auksion.uz/info?page=about-auction>

<sup>12</sup> <https://e-auksion.uz/home>

<sup>13</sup> <https://e-auksion.uz/lots?index=2&page=1&lt=0&at=0&datef=01.11.2023&datet=26.11.2023&order=0&q=&hashtag=&group=5>

At the same time, electronic auctions overcome geographical barriers and allow a wider range of potential buyers to participate. Such inclusivity will attract local and international investors, which will promote healthy competition. As a result, government assets are more likely to be sold at their true market value, generating maximum revenue for the government.

It should be noted that in case of dishonest actions of auction participants, this participant will be removed from the electronic trading platform. In this case, the refusal of the auction winner to pay the duty is qualified as bad faith. In this case, not only the winner, but also his immediate founders, as well as individual entrepreneurs founded by them and other business entities founded by them will be excluded from trading on the electronic trading platform as dishonest participants<sup>14</sup>.

In our opinion, it is appropriate to include unfair competition as another basis for removing a participant from an electronic trading platform. Unfair competition means unfair or unethical business practices that harm competitors or consumers and violate the principles of fair play in the marketplace. There is a possibility of damage to a number of rights and interests of other participants in this process. The most dangerous of these damages is the loss of the potential owner's chance to win the auction. In auctions organized on electronic trading platforms, identifying the above actions of participants requires taking certain measures against them. In this case, the most reasonable way is to deprive the participant who committed unfair competition, as well as other economic entities formed by the founders of this participant, of the right to participate in electronic auctions for a certain period.

In our opinion, despite many conveniences, electronic auctions are not without some disadvantages. Particularly in situations where physical inspection is often not possible, trust and verification become critical issues. Bidders must rely on digital images and descriptions of auction items, making due diligence an important aspect of online bidding. Auction platforms must develop a strong authentication system and provide detailed documentation to ensure trust in the digital marketplace. Moreover, security is the most important issue in any transaction. According to the report "Cybersecurity of the Republic of Uzbekistan - 2020", more than 94,000 dangerous incidents related to violation of confidential databases were registered<sup>15</sup>. Our opinion is confirmed by the cyberattacks that occurred last month on a number of important government websites<sup>16</sup>. Electronic auction platforms require the development and regular improvement of strong security measures, digital signatures, encryption technologies and secure payment gateways to protect sensitive information and ensure the authenticity of participants. This, in turn, requires additional costs.

However, electronic auctions have become a transformative force in the privatization of public property. The benefits of transparency, inclusiveness, cost-effectiveness, real-time monitoring, increased security, simplified documentation and shared decision-making will help make the privatization process more efficient and fair. As the government continues to explore ways to optimize its economic policies, the use of e-auctions is a progressive step towards achieving the goals of transparency, efficiency and maximum return on government assets.

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<sup>14</sup> O'zbekiston Respublikasi Prezidentining 24.07.2021 yildagi PQ-5197-son qarori. <https://lex.uz/ru/docs/-5525718>

<sup>15</sup> <https://csec.uz/uz/news/axborot-xavfsizligi-yangiliklari/uzbekiston-respublikasi-kiberkhavfsizligi-2020-yil-hisobot/>

<sup>16</sup> <https://kun.uz/uz/news/2023/10/20/misli-korilmagan-kiberhujum-hakerlar-200-mingdan-ortiq-ozbekistonlik-foydalanuvchilarning-login-parollarini-sizdirdi>

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