

BOOK REVIEW

Public Procurement, by Sue Arrowsmith and Keith Hartley (Eds.) (Northampton, Massachusetts: Edward Edgar Publishing Limited, 2002, hardcover, ISBN 1 84064 096 0 (2 volume set), 1,416 pages, \$450.00).

Public Procurement is a two-volume set, consisting of 52 reprints from edited books and academic journals such as *European Journal of Purchasing and Supply Management*, *Fiscal Studies*, *International Journal of Public Sector Management*, *Journal of Law and Economics*, *Journal of World Trade*, *New York Law School Law Review*, *Public Procurement Law Review*, etc. Each volume is divided into “parts,” each covering a different theme, issue or problem in public procurement. Volume I (572 pages long, excluding 19 pages of “Introduction,” two pages of table of contents, and two pages of acknowledgements) consists of the four following parts:

- **Part 1. Outsourcing versus Internal Provision.** This part has five reprints covering transaction cost economics of contracts, and competitive tendering and contracting as follows:
 - Oliver E. Williamson (1979), “Transaction Cost Economics: The Governance of Contractual Relations, Journal of Law and Economics;
 - Simon Domberger, and Stephen Rimmer (1994), “Competitive Tendering and Contracting in the Public Sector: A Survey,” International Journal of Economics of Business;
 - George A. Boyne (1998), “Competitive Tendering in Local Government: A Review of Theory and Evidence,” Public Administration;

- Robin Milme, and Magnus McGee (1992), “Compulsory Competitive Tendering in the NHS: A New Look at Some Old Estimates,” Fiscal Studies;
- Stephan Szymanski, and Sean Wilkins (1993), “Cheap Rubbish? Competitive Tendering and Contracting Out in Refuse Collection—1981-88,” Fiscal Studies.
- **Part 2. *The Approach to Procurement in the Public Sector: Competition and Transparency.*** This part covers such issues as counter-speculation, auctions, and competitive sealed tenders; franchise bidding for natural monopolies; the United Nations procurement law model, the Japanese public procurement system, the economics of partnership sourcing; and purchase cards and micro-purchases in six following reprints:
 - William Vickrey (1961), “Counterspeculation, Auctions, and Competitive Sealed Tenders,” Journal of Finance;
 - Oliver E. Williamson (1976), “Franchise Bidding for natural Monopolies—in General and with Respect to CATV,” Bell Journal of Economics;
 - Robert Hunja (1998), “The UNCITRAL Model Law on Procurement of Goods, Construction and Services and its Impact on Procurement Reform,” in Sue Arrowsmith and Arned Davies (Eds.), Public procurement: Global Revolution;
 - Jean Heilman Grier (1998), “An overview of the Japanese Government Procurement System,” Public Procurement Law Review;
 - David Parker, and Keith Hartley (1997), “The Economics of Partnership Sourcing Versus Adversarial Competition; A Critique,” European Journal of Purchasing and Supply Management, and
 - Steven L. schooner, and Neil S. Whiteman (2000), Purchase Cards and Micro-Purchases: Sacrificing Traditional United States Procurement Policies at the Alta of Efficiency,” Public Procurement Law Review.
- **Part 3. *Corruption.*** This part has four reprints covering approaches to fighting corruption, including the following:

- Frederick Stapenhurst, and Petter Langseth (1997), "The Role of the Public Administration in Fighting Corruption," International Journal of Public Sector Management;
 - Frank Anechiarico, and James B. Jacobs (1995), "Purging Corruption from Public Contracting: The 'Solutions' Are Now Part of the Problem," New York Law School Law Review;
 - William E. Kovacic (1998), "The Civil False Claims Act as a Deterrent to Participation in Government Procurement Markets," Supreme Court Economic Review; and
 - Rex J. Zedalis (1997), "Internationalizing Prohibitions on Foreign Corrupt Practices: The OAS Convention and the OECD Revised Recommendations," Journal of World Trade.
- ***Part 4. Public Procurement as a Tool of Industrial, Social and Environmental Policy.*** This part explores public procurement as a tool of industrial policy, an instrument of poverty alleviation and job creation, and the pursuit of human rights in the following six reprints:
- P.A. Geroski (1990), "Procurement Policy as a Tool of Industrial Policy," International Review of Applied Economics;
 - P.E. Morris (1990), "Legal Regulation of Contract Compliance: An Anglo-American Comparison," Anglo-American Law Review;
 - Ron Watermeyer (2000), "The Use of Targeted Procurement as an Instrument of Poverty Alleviation and Job Creation in Infrastructure Projects," Public Procurement Law Review;
 - Sue Arrowsmith (1995), "Public Procurement as an Instrument of Policy and the Impact of Market Liberalisation," Law Quarterly Review;
 - Jose Maria Fernandez Martin, and Oliver Stehmann (1991), "Product Market Integration Versus Regional Cohesion in the Community," European Law Review; and
 - Christopher McCrudden (1999), "International Economic Law and the Pursuit of Human Rights: A Framework for Discussion of the Legality of 'Selective Purchasing' Laws Under the WTO

Government Procurement Agreement, Journal of International Economic Law.

Although the heading of this part indicates public procurement as an “environmental policy,” no reprint specifically addresses this issue.

In addition to the above parts, Volume I has an introduction chapter that provides a brief summary of all reprints and explains how the book is organized. Each part follows broadly the same pattern: first one or more articles providing an overview of the topic (normally dealing with theory and policy); then articles that illustrate the practical response to the issue in particular jurisdictions or systems, including the legal or administrative rules that have been applied; and finally, where available, articles describing key empirical work that has been conducted to test the effectiveness of the theories and practices discussed in the other articles. Moreover, the articles are arranged chronologically, except articles providing an overview of the topic. The editors note that some of the articles deal with two or even all three of these aspects.

Volume II (784-page long, excluding three pages of table contents and three pages of acknowledgements) consists of the six following parts:

- ***Part I. Public Procurement as a Barrier to Trade and Its Regulation under International Trade Agreements.*** This part covers public procurement in the European Community, and public procurement under international trade agreements.
- Federico Trionfetti (2000), “Discriminatory Public Procurement and International Trade,” World Economy.
- Andrew Cox (1992), “Implementing 1992 Public Procurement Policy: Public and Private Obstacles to the Creation of the Single European Market,” Public Procurement Law Review.
- Aaditya Mattoo (1996), “The Government Procurement Agreement: Implications of Economic Theory,” World Economy.
- Arie Reich (1997), “The New GATT Agreement on Government Procurement: The Pitfalls of Plurilateralism and Strict Reciprocity,” Journal of World Trade.

- Harvey Gordon, Shane Rimmer, and Sue Arrowsmith (1998), "The Economic Impact of the European Union Regime on Public Procurement: Lessons for the WTO," World Economy.
- Stephen Martin, and Keith Hartley (1997), "Public Procurement in the European Union: Issues and Policies," Public Procurement Law Review.
- N. Bohan, and D. Redonnet (1997), "E.U. Procurement Legislation: Does the Emperor Have Clothes? An Examination of the New Empirical Evidence," Public Procurement Law Review.
- Sue Aerosmith (1998), "Towards a Multilateral Agreement on Transparency in Government Procurement," International and Comparative Law Quarterly.
- **Part II. Enforcing Public Procurement Rules.** This part has five reprints covering issues of bid protests and remedies:
 - Robert C. Marshall, Michael J. Meurer, and Jean-Francois Richard (1994), "Curbing Agency Problems in the Procurement Process by Protest Oversight," RAND Journal of Economics.
 - William E. Kovacic (1995), "Procurement Reform and the Chocie of Forum in Bid Protest Disputes," Administrative Law Journal of the American University.
 - Sue Arrowsmith (1996), "Public Procurement: Example of a Developed Field of National Remedies Established by Community Law," in Hans-W. Micklitz and Norbert Reich (Eds.), Public Interest Litigation Before European Courts.
 - Jose M. Fernandez Martin (1993), "The European Commission's Centralised Enforcement of Public Procurement Rules: A Critical View," Public Procurement Law Review.
 - Mary Footer (1995), "Remedies Under the New GATT Agreement on Government Procurement," Public Procurement Law Review.
- **Part III. Defense Procurement.** This part has seven reprints addressing the issues of defense procurement's economic incentives, maintenance contracting options, procurement nexus, procurement protests, and defense procurement in Germany, the United Kingdom, and the United States:

- William B. Burnett, and William E. Kovacic (1989), "Reform of United States Weapons Acquisition Policy: Competition, Teaming Agreements, and Dual-Sourcing," Yale Journal on Regulation.
- Keith J. Crocker and Kenneth J. Reynolds (1993), "The Efficiency of Incomplete Contracts: An Empirical Analysis of Air Force Engine Procurement," RAND Journal of Economics.
- P.G. Pugh (1993), "The Procurement Nexus," Defence Economics.
- William P. Rogerson (1994), "Economic Incentives and the Defense Procurement Process," Journal of Economic Perspectives.
- Martin Trybus (1996), "An Overview of Defence Procurement in the Federal Republic of Germany," Public Procurement Law Review.
- Keith Hartley (1998), "Defence Procurement in the UK," Defence and Peace Economics.
- Edward G. Keating (1999), "Government Contracting Options: A Model and Application," Defence and Peace Economics.
- **Part IV. Contracting.** This part has three reprints, which include defense contracting and extensions to price caps, incentives in government procurement contracts, and advanced technology projects and international procurement:
 - William E. Kovacic (1991), "Commitment in Regulation: Defense Contracting and Extensions to Price Caps," Journal of Regulatory Economics.
 - W.A. Peeters (1993), "Incentives in Government Procurement Contracts," Public Procurement Law Review.
 - Stephen Kahn (1993), "Advanced Technology Projects and International Procurement: The Case of the European Space Agency," Public Procurement Law Review.
- **Part V. Defence Industry Profits.** This part has five reprints covering various issues such as profit formula, risk and return in the defence market, and negotiations.

- Review Board for Government Contract (1974), Report on the General Review of the Profit Formula for Non-Competitive Government Contracts, London: Her Majesty's Stationary Office;
 - Willis R. Greer, Jr., and Shu S. Liao (1986), "Analysis of Risk and Return in the Defence Market: Its Impact on Weapon System Competition," Management Science;
 - Steven W. Feldman (1988), "The Truth in Negotiations Act: A Primer," National Contract Management Journal,
 - Jeffrey A. Sorenson (1989), "Are Defense Industry Profits Excessive? A Capital Market Perspective," National Contract Management Journal; and
 - Frank R. Lichtenburg (1992), "A Perspective on Accounting for Defense Contracts," Accounting Review.
- ***Part VI. Liberalization of Defense Markets in Europe.*** This final part covers defense procurement in Europe in three reprints as follows:
- Andrew Cox (1994), "The Future of European Defence Policy: The Case for a Centralised Procurement Agency," Public Procurement Law Review;
 - Martin Trybus (1998), European Defence Procurement: Toward a Comprehensive Approach," European Public Law; and
 - Stephen Martin, Keith Hartley, and Andrew Cox (1999), Defence Procurement of Dual-Use Goods: Is There a Single Market in the European Union?" Defence and Peace Economics.

Public procurement is important for two major reasons: in many countries, it represents a significant proportion of economic activity, and it has become an effective tool that government entities use to achieve socio-economic policies (Arrowsmith & Hartley, 2002; Callender & Mathews, 2000; Thai, 2001; Thai & Grimm, 2000). However, public procurement as a function of government has been a neglected area of research and education (Arrowsmith & Hartley, 2002; Carter & Grimm, 2001, Thai & Grimm, 2000; Thai, 2001). Thus, there are not many scholarly publications in public procurement (Thai & Grimm, 2000).

Given the current status of public procurement publication, Public Procurement (hereafter “the books,” a sizable publication consisting of two volumes and 52 reprints, excluding “Introduction”) is an excellent selection of published articles and chapters covering many areas of public procurement. The introduction chapter provides a comprehensive overview of this complex function of government. The books cover major areas of the public procurement field, including transparency, corruption, defense, public procurement as a socio-economic policy, and procurement under trade agreements, with particular focus on European trade agreements. Absent a good “introduction to public procurement” text, this two-volume set is a useful source of reference for researchers, an excellent publication for those readers who want to gain knowledge in public procurement, and even a potentially valuable textbook for a college course in public procurement.

However, those who read these two volumes need to be aware of several shortcomings. As mentioned, Part 4 of Volume 1 does not have a reprint that addresses the issue of green procurement as indicated in its heading. First, in practice, many government entities require green procurement and public procurement officers have tried to implement this requirement and deal with hard choice between cost and green procurement. The editors should drop “Environment Policy” from “Public Procurement as a Tool of Industrial, Social and Environmental Policy” in Part 4 or add at least one of the numerous publications or reports on this issue.

Second, too much attention is given to defense procurement, particularly in Volume 2. Although defense procurement spending is sizable, non-defense procurement spending is much larger, at least twice the size of defense procurement spending. Non-defense procurement, particularly information procurement, is not any less complex than defense procurement.

Third, the book editors (p. ix) state: “Despite the scale and complexity of government purchases, the field of public procurement has remained a relatively under researched area amongst economists, lawyers and other social scientists.” In reality, public procurement law has been a major area of research: there are many publications in this area, including two relatively old journals, Public Contract Law Journal (published almost 30 years ago by the Section of Public Contract Law of

the American Bar Association) and Public Procurement Law Review (published in the United Kingdom, about a decade ago).

Finally, public procurement practitioners in the United States may be bothered by the fact that the editors ignore their role in the public procurement functions. Arrowsmith and Hartley (x) state: “Economists are fond of formulating policy rules and guidelines for efficient public procurement and government contracting.” As public procurement has become a recognized profession (Callender & Mathews, 2000), procurement professionals are the ones who play the most important role in formulating procurement rules and guidelines. Economists do not possess the type of knowledge and skills for this role.

In summary, despite the above shortcomings, Public Procurement is one of the most comprehensive publications in this underdeveloped field of study.

Xuan H. Thai,* Esq.

NOTE

* *Xuan H. Thai, J.D., George Mason University School of Law, is an attorney, Office of General Counsel, Pension Benefit Guaranty Corporation. The views expressed in this article are solely those of Xuan H. Thai and do not reflect the views of the Pension Benefit Guaranty Corporation.*

REFERENCES

- Arrowsmith, S. & Hartley, K. (2002). “Introduction.” In S. Arrowsmith and K. Hartley (Eds.). Public Procurement. Cheltenham, UK: Edward Edgar, pp. ix-xxvii.
- Callender, G. & Mathews, D. (2000). “Government Purchasing: An Evolving Profession?” Journal of Public Budgeting, Accounting & Financial Management, 12(2): 272-290.
- Carter, R. Y. & Grimm, R. (2001). “Journal of Public Procurement under the FAU-NIGP Partnership.” Journal of Public Procurement, 1(1): 3-8.
- Thai, K. V. & Grimm, R. (2000). “Government Procurement: Past and Current Developments.” Journal of Public Budgeting, Accounting & Financial Management, 12(2): 231-247.

Thai, K. V. (2001). "Public Procurement Reexamined." Journal of Public Procurement, 1(1): 9-50.