

**BOOK REVIEW**

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*Regulating Procurement*, By Peter Trepte, New York: Oxford University Press, 2004 ISBN0-19-826775-4, 411 pages.

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Peter Trepte approaches the subject of *Regulating Procurement* from two angles. His first angle is to discuss why there is regulation of public procurement. The author believes that if the “why” of public procurement is understood then how public procurement is regulated can be easily explained. The author’s second angle is to categorize the regulatory models of public purchasing and then observe and compare these models to existing regulatory systems. In short, the first angle of approach by the author explains “why” public procurement is regulated and the second angle of approach explains “how” public procurement is regulated. The author does all of this while attempting to not openly advocate or criticize any existing regulatory system.

The book opens with a relatively long Introduction that describes the dual purpose of the book and then takes the reader on a ride through regulatory models. This is a most helpful journey for a non-economist like me! The author describes in general terms what he calls the economic model, the political model and the international model for regulating procurement. The author devotes one chapter to each of these regulatory models.

The economic model refers to the classic free market theory in which competition fuels the economy and produces economic efficiency. This model clearly assumes fair competition and reacts to market failures. It is the purchaser’s role, especially the government purchaser that commands regulation. The chapter long discussion of the temptations and failings of this economic model give the reader an explanation of

why certain kinds of procurement regulations exist. For example, the author posits that public procurement agents, like most agents, are tempted to turn a public purchase into an opportunity for personal gain. Therefore, the author concludes, this temptation on the part of public purchasing agents explains why, in part, the need for a competitive bidding process that is both transparent and does not foster inefficiency.

The political model refers to the practice of government's using procurement to achieve social or political goals. The chapter focuses on how the quest by the government to use the power of purchasing regulation to further social policies does sacrifice economic efficiency and alter competition. It is almost inevitable that the desire to attain a social or political goal explains why certain kinds of procurement regulations apply. For example, if the social goal is non-discrimination in the awarding of government purchases, then this goal explains why there are non-discrimination provisions and minority contracting preferences built in to procurement regulations.

The international model, perhaps the most dynamic of the models, adds international treaties and trade agreements to the mix of public procurement. The chapter focuses on the impact of the global economy on a government's purchasing choices. From NAFTA to the EU procurement rules, the public purchaser must know what the purchasing rules applicable to international purchases. Much like the political model, many of the government's purchasing decisions will be influenced by the desire to foster a competitive advantage in the global economy. Therefore, regulation of public procurement takes on the added dimension of protecting, fostering and proactively creating a competitive advantage for domestic sellers and buyers, both public and private. For example, if a foreign country does not have a strong commitment to worker's rights or environmental safety or human rights, then these policies explain why public purchasing decisions are made or not made.

Each of these chapters follows the angle introduced by the author and accomplishes his stated purpose of explaining the "why" of "how" public purchasing is regulated.

The concluding chapters of the book then observe and explain the application of the economic, political and international models of procurement regulation. Specifically, the author chose to examine the UNCITRAL model and the World Bank and Asian Development Bank

rules for letting contracts to examine domestic procurement regulation. In addition, the chose The EC procurement rules and the GPA rules concerning procurement to examine international procurement. In both cases, it is clear from the author's investigation of both domestic and international procurement rules that all of the systems include characteristics of the economic, political and international procurement regulation models. This is hardly remarkable but does provide some specific examples of how each system impacts practical procurement regulation.

The author seems to conclude that domestic procurement regulation is broader in scope and more concerned with the practicalities of making sure the regulations work and do not unduly stifle commerce. It is the subtleties of domestic regulation of procurement that differentiates one local from another. On the other, the author seems also to conclude that international procurement regulation is much simpler in purpose, namely to insure non-discrimination and provide reciprocal access. This is not surprising considering the not so subtle differences between sovereign states.

From this review, it should be apparent that the author delivered on his stated purpose for writing the book. Frankly, he did it well! I think the book is textbook quality and can be adapted to course work. I especially enjoyed the beauty of the colloquial British syntax and expressions sprinkled consistently through the text.

As a lawyer who was intimately involved in enforcement and now a law teacher, the book left me wanting more. I kept wishing that the author had decided to lend his expertise to commenting more about the distinctions in enforcement mechanisms and how those differences impact procurement regulation and the procurement regulation models. But that is just me and my bent!

This is a high quality and very readable book...even to the person, like me, or the student that is still learning about economics, domestic and global economies and public purchasing.

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