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INTRODUCTION TO THE BIBLIOGRAPHY

1. General introduction and acknowledgements

Original introduction

This bibliography is a document that aims to list in a comprehensive manner reading in the English language on public procurement law and regulation.

The bibliography was initially produced by the EU-Asia Inter University Network for Teaching and Research in Public Procurement Regulation (2008-2011), under the supervision of Professor Sue Arrowsmith, Achilles Professor of Public Procurement Law and Policy at the University of Nottingham. The Network was led by University of Nottingham and the other consortium members were Copenhagen Business School, the University of Copenhagen, the Central University of Finance and Economics (Beijing), Xinjiang University, and the University of Malaya. The project was undertaken with the financial assistance of the EU. However, the contents of the material is the sole responsibility of the members of the consortium involved in the EU Asia Inter University Network for Teaching and Research in Public Procurement Regulation and can under no circumstances be regarded as reflecting the position of the European Union.

Very significant assistance with the original bibliography was provided by Professor Geo Quinot and Professor Phoebe Bolton of Stellenbosch University (for initial compilation of the section on Africa) and Kenneth Rudolf, Young Lee and John Linarelli of University of Laverne (including for providing extensive lists of materials on the United States of America). We are most grateful for their assistance, but all errors and omissions are the responsibility of the consortium.

We would also like gratefully to thank Sandeep Verma, Derek Leschinsky and Derrick McKoy who have assisted by providing materials, and to express our appreciation to those within the University of Nottingham who worked so efficiently providing research and technical assistance, namely Susan Russell (the main research assistant), Pedro Telles, Elly Aspey, Gabor Soos, Debbie Yu and Richard Craven.

Introduction to the 2019 revisions

From 2011 the bibliography has been maintained by the University of Nottingham using financial resources provided by Achilles Information, sponsors of the Public Procurement Research Group at the University of Nottingham, under the supervision of Professor Sue Arrowsmith QC (Hon). In 2019 the bibliography was revised to bring it up to date to the end of 2018, other than for the USA for which updates are still pending. We would like to thank Serban Filipon for his extensive and very efficient work on this project. The section on Africa
was again updated under the supervision of Geo Quinot at the African Procurement Law Unit at Stellenbosch University, for whose assistance we are again very grateful.

### 2. Updating, improvement and correspondence on the bibliography

From 2011 the bibliography has been maintained, improved and updated under the supervision of the University of Nottingham using financial resources kindly provided by Achilles Information.

It is inevitable that with a comprehensive bibliography of this kind (as opposed to bibliography compilations of a limited nature that focus on, for example, a few specific journals) it will constantly be a work in progress. We recognize that the bibliography is unlikely to be fully complete and, in particular, that some sections will be more comprehensive than others. The work will be updated regularly and we will seek to expand and correct the content of the bibliography in these updates, as appropriate.

With that in mind, we would like positively to encourage others to contact us with information on further works that should be included, on relevant works published in the future and on any errors in the current work. Such information should be notified by email to: public.procurement.bibliography@nottingham.ac.uk

We would be grateful if your email could please provide any relevant references in the exact house style of the bibliography. Please also ensure that all proposed entries comply with the eligibility criteria as set out later below – in particular, note that in general we include only books, book chapters and articles in refereed journals or equivalent, and not case notes or similar.

Unfortunately, because of limited resources we cannot undertake to reply to all correspondence or information sent to us (e.g. to provide individual explanations of why we consider certain works do or do not meet the criteria for inclusion). However, we will endeavour to consider all points that come to our attention and to take them into account to make appropriate corrections/additions.

### 3. Use and reproduction of the bibliography

This material may be reproduced in whole or in part in hard copy provided that the whole of this Introductory section (Introduction to the Bibliography, sections 1-8) are included in that reproduction and provided that any reproduction is made only from the most up to date version existing at the time of reproduction (available at the time of publication at www.nottingham.ac.uk/law/pprg).

The bibliography may not be reproduced in electronic form but instead a link or reference should be given to the website address just stated.
4. Scope of the bibliography: the concept of regulation of public procurement

For the purpose of this bibliography the concept of public procurement is used in its broadest possible sense. First, it refers all the government’s activity of acquiring the goods, construction and services that it needs to carry out its functions. This includes activity that is not necessarily classified as procurement in some legal systems (for example, the award of concession contracts that have the purpose of providing public services or infrastructure, which are sometimes considered a separate category of transaction from ordinary procurement). Secondly, it refers to all phases of the procurement process, namely planning, contract award and execution of the contract. Most English language works on public procurement regulation are concerned with the second phase, not least because it is the one subject to the most regulatory controls, but works on the other phases are also included in the bibliography where they exist.

The bibliography does not include all works on public procurement, but only those that are concerned with, or affect, regulation of this activity (whether through hard law or soft law instruments). However, it adopts a very broad approach in applying this principle. It is not limited to works concerned with the content of legal rules but includes also, for example, works that consider the economic impact of regulatory rules; works which explain, or have implications for, the design of regulatory policy; and works which set regulatory systems in context. It is by no means confined to the work of legal or socio-legal scholars but includes works by those from many other relevant disciplines.

5. Language

This bibliography covers only works in the English language.

6. Approach to the organisation of material

The bibliography is divided into several sections.

Part I of the bibliography contains a section on works of a general nature that is not concerned with specific regimes or instruments.

Part II contains sections on various international instruments on public procurement that are not tied to specific regions. These include, for example, the UNCITRAL Model Law on Public Procurement and rules of Development Banks.

Part III contains sections on specific regional and national regimes. It is divided up on a continent-by-continent basis, commencing with sections of works on a cross-country basis (including, where applicable, a section on any regional instruments on procurement) and then providing sections on various individual countries within the continent in question.
Part IV contains works on the procurement processes of various international organizations themselves.

The general section and sections on each system are in many cases divided into further sub-sections for the purpose of listing material in books and major articles. These use a number of headings which are common to all or many of the systems covered e.g. Procuring Entities Covered, Methods of Procurement, and Remedies and Enforcement.

In certain cases the sub-sections have further sub-divisions to reflect the volume of specialist material. These sub-headings are sometimes used only for particular systems for which they are relevant and/or are warranted by the volume or nature of material.

In addition, some sections have headings which are relevant only for that section or for one or two other sections. This may be because of the nature of the system in question (e.g. the heading Accessions is only relevant for international agreements on procurement, such as the World Trade Organization’s Agreement on Government Procurement, to which the concept of accession applies) or because of the specific concepts developed in that system which are not found elsewhere.

In some cases works are listed in more than one section – for example, works that involve a comparison of two specific systems, or cover more than one of the headings.

General authored/co-authored books or articles that cover several or all of the sub-sections under each heading are listed at the start of each heading under the heading “General works” and NOT under each sub-heading. However, readers should note that these general works sometimes contain very detailed analysis of certain topics under the sub-headings.

Where one or a few chapters of an authored/co-authored book is/are relevant (while the book overall falls outside the scope of the bibliography), only that/those chapters are listed, and not the book as a stand-alone item. In such cases chapters are listed under relevant ‘books’ sub-headings.

For collections of essays by different authors, chapters specific to particular sub-headings are listed under the sub-headings concerned. A collection is also listed as a stand-alone item where relevant for the bibliography.

### 7. Terminology and conceptual divisions

An on-going problem for public procurement scholarship is, of course, the use of different terminology by different procurement systems to describe the same concept(s) or problem, and the use of different conceptual divisions.

The approach that we have adopted has been to use as the primary terminology and concepts those used in the English-language versions of the UNCITRAL Model Law on Public Procurement and in the UNCITRAL model provisions on procurement of privately financed
infrastructure. We consider that this is appropriate because of the fact that these are instruments of the United Nations, because they are the product of broad and diverse input, because of their significant influence in practice, and because of the fact that translations exist in several other widely-understood languages. Where there is no appropriate UNCITRAL terminology we have used the terminology that we consider most widely used in the law and legal/regulatory literature. In this approach we follow that of the pioneering work on procurement regulation from an international and comparative perspective, S. Arrowsmith, J. Linarelli and D. Wallace, *Regulating Public Procurement: National and International Perspectives* (Kluwer Law International, 2000). We have used this terminology even for systems that do not themselves use it in their own laws, as a primary purpose of the bibliography is to make all material accessible to those from all jurisdictions.

One exception to the above is that the single word “supplier” has been used to denote a firm or consortium interested in obtaining a contract or who has obtained a contract (UNCITRAL refers to “supplier or contractor”, but this is considered rather unwieldy).

In addition, however, we have listed in brackets for each heading other terminology which is used in the English language in one or more systems to express the same concept, or to refer to some of the subject matter falling within that concept. In some cases we have provided notes on the terminology at the start of the bibliography.

8. Eligibility of works

The bibliography lists published books, chapters by separate authors in published collections, and major articles. So far as articles are concerned, it is generally confined to works published in the main articles section of academic journals that use a peer review process. We have also, however, included in the main list works from some recognized journals that do not apply a formal peer review process but which contain articles that are in general of an appropriate academic standard.

We have not generally included, on the other hand, book reviews, most non-peer reviewed articles, case notes and other pieces contained in news/note sections of journals. We recognize that these are valuable and useful in many cases. However, to include all these in the main part of the bibliography would result in much repetition, since often cases are the subject of notes in many different journals, and would make it more difficult for those using the bibliography to identify the more significant works in the field. An ideal approach would be to undertake an item-by-item review of notes etc and include in the main part under relevant sub-headings those identified as being particularly useful. However, resource constraints mean that this is simply not possible.

The bibliography does not include papers or reports of governments themselves or of international institutions where these take the form of policy papers or guidance (regulatory material). However, it includes books published by those institutions where these take the form of general information or critique.
This Part lists work on public procurement regulation that are not tied to any specific national or international instrument(s) or regime(s), but which are general in nature and/or involve comparison of a range of regimes.

Works that focus on one or two regimes only, or on regimes within a specific region, are not included in this section but in the relevant system-specific Parts (Part II-IV) below.
This heading covers books and articles that range across several parts or all of the subject matter of the heading.

Many of these general works cover in detail the various section headings set out below. Authored works that constitute coherent texts will not be listed again under those headings, but later headings will include separate chapters from edited collections that contain distinct contributions on different topics.

**Books**


S. Arrowsmith (ed.), *Public Procurement Regulation: an Introduction*, available at www.nottingham.ac.uk


M. Audit and S.W. Schill (eds), *Transnational Law of Public Contracts* (Bruylant, 2016)


D. Campbell (ed.), *International Public Procurement* (Looseleaf), *Center for International Legal Studies* (Thomson Reuters, 2014)


G. Piga and T. Tátrai (eds), *Law and Economics of Public Procurement Reforms* (The Economics of Legal Relationships) (Routledge, 2018)

G. Piga and T. Tatrai (eds), *Public Procurement Policy (The Economics of Legal Relationships)* (London and New York: Routledge, 2015)


K.V. Thai (ed.), *International Handbook of Public Procurement* (CRC Press, 2008)


**Articles and Essays in Edited Collections**


G. Rosenberg, "International construction procurement—the developing regulatory framework" (1997) 14 International Construction Law Review 168

G.I. Seidman and E. Ifargan, “Public and International Procurement: A Comparative Approach”, ch.3 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 45

A. Sementelli, “Public Procurement: Political Spectacles and Ritual” in K.V. Thai (ed.), Towards New Horizons in Public Procurement (Florida: PRAcademics Press, 2010) 42


K.V. Thai, “Public Procurement Reexamined” (2001) 1 Journal of Public Procurement 9


D. Wallace, Jr., “World Trading System, the WTO and Dispute Settlement, and Arab and Islamic Countries” in Strengthening Relations with Arab and Islamic Countries through International Law: E-Commerce, the WTO Dispute Settlement Mechanism, and Foreign Investment (The Hague: Kluwer Law International, 2002) 251


This sub-section contains works dealing with the objectives of public procurement regulation and the general principles for achieving those objectives (e.g. transparency).

2.1 Objectives of public procurement regulation

Articles and Essays in Edited Collections


2.2 Transparency and competition as principles for achieving public procurement objectives

**Articles and Essays in Edited Collections**


P. Trepte, *Transparency and Accountability as Tools for Promoting Integrity and Preventing Corruption in Public Procurement* (2005) (OECD)

This contains works on the organization of public procurement systems and their regulation e.g. centralized and decentralized approaches; and on human resources issues.

Books

Articles and Essays in Edited Collections


E. Prier and C.P. McCue, “The Implications of a Muddled Definition of Public Procurement” (2009) 9 *Journal of Public Procurement* 326


4 Reform of regulatory systems in public procurement

This sub-section contains general articles on issues relating to the reform of regulatory systems in public procurement. It also includes reference to case studies of specific countries or regions that elaborate lessons of wider relevance (which will also be included, where appropriate, in the country-specific sections of the bibliography).
Books


Articles and Essays in Edited Collections

E. Agaba and N. Shipman, “Public Procurement Reform in Developing Countries: the Uganda Experience”, ch.16 in G. Piga and K. Thai (eds), Advancing Public Procurement: practices, Innovation and Knowledge-sharing (Boca Raton: PRAcademics Press, 2007)


C. Herbert, “Public Procurement Law Reform: Some design issues for small island States – a perspective from Trinidad and Tobago” (2003) 29 Commonwealth Law Bulletin 552


D. Jones, “Public Procurement in South East Asia: Challenge and Reform” (2007) 7 Journal of Public Procurement 3


W. Kumorotomo, “Undisbursed Local Budgets: The Dilemma of Public Procurement Reform and Anti-Corruption Initiatives in Indonesia” in K.V. Thai (ed.), Towards new Horizons in Public Procurement (Florida: PRAcademics Press, 2010) 170


Towards new Horizons in Public Procurement (Florida: PRAcademics Press, 2010) 498


C.M. Savoy and C. Richardson-Barlow, “Procurement: Procurement System Modernization”, Ch. 3 in S. Miller and D.F. Runde (principal authors) and C.M. Savoy and C. Richardson-Barlow (contributing authors), A New Development Agenda: Trade, Development, and Procurement (CSIS Reports) (Rowman & Littlefield/Center for Strategic & International Studies, 2014) 21


Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement and on the influence of different national and international systems on this.

Articles and Essays in Edited Collections


J-B. Auby, “Comparative approaches to the rise of contract in the public sphere” [2007] Public Law 40


L. Folliot Lalliot, “From the Internationalization of Rules to the Internationalization of Public Contracts: How International Instruments Are Reshaping Domestic Procurement Systems”, ch.2 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 23

E. Morlino, “Development Aid and the Europenization of Public Procurement in Non-EU States”, ch.26 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 689


6 The interplay between public and private law in public procurement

Books

S. Arrowsmith, Civil Liability and Public Authorities, (Earlsgate, 1992)

S. Arrowsmith, Government Procurement and Judicial Review (Carswell, 1988)


G. Quinot, State Commercial Activity: a Legal Framework (Juta, 2009)

Articles and Essays in Edited Collections


F.A. Mann, “The Theoretical Approach towards the Law Governing Contracts between States and Private Persons” (1975) 11 Revue Belge de Droit International 562


7 Procuring entities covered

This sub-section deals with the entity coverage of public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules. It also covers joint and centralised procurement.
7.1 General

7.2 Joint and centralised procurement

**Articles and Essays in Edited Collections**


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### 8 Contracts covered: classifications

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, distinction adopted in some systems between procurement and concessions for determining whether contracts are regulated at all, scope of exclusions e.g. of defence contracts etc). It also covers material on the divide between contract and other supply mechanisms.

### 9 Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc).

**Articles and Essays in Edited Collections**


10 The conduct of procurement proceedings

**Articles and Essays in Edited Collections**


J. de Brux and C. Desrieux, “To allot or not to allot public services? An incomplete contract approach” 2014 (3) (37) *European Journal of Law and Economics* 455


F. Roodhoft and A. van den Abbeele, "Public procurement of consulting services - Evidence and comparison with private companies" (2006) 19 IJPSM 490


11 Specifications

12 Qualification of suppliers/contractors (responsibility)

12.1 General

**Articles and Essays in Edited Collections**


12.2 Supplier lists (approved lists, qualification lists)

12.3 Exclusion and debarment for criminal offences and other misconduct

**Books**

H. Puender, H-J. Priess and S. Arrowsmith (eds), *Self-Cleaning in Public Procurement Law* (Carl Heymanns, 2009)


**Articles and Essays in Edited Collections**


13 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

Books


Articles and Essays in Edited Collections


14.1 Electronic communications and tendering

Books


R.K. Shakya, *e-Procurement for Good Governance in Public Procurement* (Scholars’ Press, 2015)


N. Pomazalová (ed.), *Public Sector Transformation Processes and Internet Public Procurement: Decision Support Systems* (USA: IGI Global (Idea Group), 2013)

Articles and Essays in Edited Collections


N. Dorasamy, “Conditions Determining the Success of Public E-Procurement”, ch.9 in N. Pomazalová (ed.), *Public Sector Transformation Processes and Internet Public Procurement: Decision Support Systems* (USA: IGI Global (Idea Group), 2013) 185


P. Schapper, “The impact of e-procurement on corruption: The potential of e-procurement for curbing corruption risks” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 113


14.2 Electronic reverse auctions

Articles and Essays in Edited Collections


Debriefing, freedom of information rules and other information requirements

**Articles and Essays in Edited Collections**


Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

### 16.1 General

This section includes articles that range across several of the policies below or which deal with general themes.

**Books**


S. Valaguza, *Sustainable Development in Public Contracts, an Example of Strategic Regulation* (Editoriale Scientifica, 2016)

**Articles and Essays in Edited Collections**


16.2 Industrial development policies

**Books**


M.A. Yülek and T.K. Taylor (eds), *Designing Public Procurement Policy in Developing Countries: How to Foster Technology Transfer and Industrialization in the Global Economy* (New York: Springer-Verlag, 2012)

**Articles and Essays in Edited Collections**


R. Kattel and V. Lember, “Public Procurement as an Industrial Policy Tool: an Option for Developing Countries?” (2010) 3 Journal of Public Procurement 368


M.A. Yülek, “Public Expenditures on Machinery and Equipment in Developing Countries: A Potential Driver of Technological Development and Industrialization”, ch.1 in M.A. Yülek and T.K. Taylor (eds), Designing Public Procurement Policy in Developing Countries: How to Foster Technology Transfer and Industrialization in the Global Economy (New York: Springer-Verlag, 2012) 3

16.3 Innovation

Books

V. Lember, R. Kattel and T. Kalvet (eds), Public Procurement, Innovation and Policy: International Perspectives (Springer, 2014)


Articles and Essays in Edited Collections


V. Lember, R. Kattel and T. Kalvet, “Introduction”, ch.1 in V. Lember, R. Kattel and T. Kalvet (eds), Public Procurement, Innovation and Policy: International Perspectives (Springer, 2014) 1


V. Lember, R. Kattel and T. Kalvet, “Quo vadis public procurement of innovation?” (2015) 28 Innovation: The European Journal of Social Science Research (Special Issue: Public Procurement) 403


16.4 Regional policy

Articles and Essays in Edited Collections

16.5 Small and medium-sized enterprises in public procurement

Books


Articles and Essays in Edited Collections


16.6 Social policies (including equality, labour policies and human rights)

Books


Articles and Essays in Edited Collections


S. Griller, “International economic law as a means to further human rights? Selective purchasing under the WTO Agreement on Government Procurement” in S. Griller (ed.),


P. Morris, "Legal Regulation of Contract Compliance: an Anglo-American Comparison" (1990) 19 Anglo-Am. L. Rev. 87


16.7 Environmental policies (green procurement)

**Books**

C. Erdmenger (ed.), *Buying into the Environment* (Sheffield: Greenleaf Publishing 2003)


**Articles and Essays in Edited Collections**


L.W. Ho, N.M. Dickinson and G.Y. Chan, “Green Procurement in the Asian Public Sector and the Hong Kong Private Sector” (2010) 34 *Natural Resources Forum* 24


17 Remedies and enforcement

The sub-section on remedies and enforcement is sub-divided into two parts – one on mechanisms which are mainly focused on, and controlled by, individual supplies, and the other on other enforcement mechanisms.

17.1 Supplier review

17.1.1 General

Books

L. Folliot-Lalliot and S. Torricelli (eds), Contrôles et contentieux des contrats publics – Oversight and Challenges of public contracts (Brussels: Bruylant, 2018)

Articles and Essays in Edited Collections


17.2 Other enforcement mechanisms

Books

L. Folliot-Lalliot and S. Torricelli (eds), Contrôles et contentieux des contrats publics – Oversight and Challenges of public contracts (Brussels: Bruylant, 2018)

Articles and Essays in Edited Collections


P. Pease, “What makes a good procurement oversight body?—Lessons from recent experience” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 95

18 Conflicts of interest

Books


Articles and Essays in Edited Collections


19 Bribery and other corruption in public procurement

See also the sub-heading “Exclusion and debarment for criminal offences and other misconduct”.

19.1 General

Books


A. Graycar and T. Prenzler, “Preventing Corruption in Public Sector Procurement”, ch.7 in A. Graycar and T. Prenzler, Understanding and Preventing Corruption (Palgrave Macmillan, 2013) 100


P. Gottschalk and P. Stanislas (eds), Public Corruption: Regional and National Perspectives on Procurement Fraud (CRC Press, Taylor & Francis Group, 2017)


International Trade Centre, A Framework for Balancing Business and Accountability within a Public Procurement System (UNCTAD/WTO)


OECD, Bribery in Public Procurement: Methods, Actors and Counter-measures (OECD Publishing, 2007)


J. Pickworth and D. Williams (eds), *Bribery & Corruption*, 2nd edition (Global Legal Insights, 2014)


A.K. Tansel, *Corruption in Public Procurement* (GRIN Verlag, 2018)

P. Tickner, *Fraud and Corruption in Public Services* (Gower Publishing/Routledge, 2015)


**Articles and Essays in Edited Collections**


L.B. Arrieta, “Attacking Bribery at Its Core: Shifting focus to the demand side of the bribery equation” (2016) 45 Public Contract Law Journal 587


57


R. Malik, “The role of civil society in monitoring public procurement: The Indonesian experience” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 201


G.M. Racca and R.C. Perin, “Corruption as a violation of fundamental rights: reputation risk as a deterrent against the lack of loyalty”, in G.M. Racca and C. Yukins (eds), Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally (Bruxelles: Bruylant, 2014) 23

G.M. Racca, R.C. Perin and G.L. Albano, “Public Contracts and International Public Policy Against Corruption”, ch.31 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 845


B. Raganelli and I. Mauro, “Renegotiation and anti-corruption measures in public procurement”, ch.12 in G. Piga and T. Tátrai (eds), Law and Economics of Public Procurement Reforms (The Economics of Legal Relationships) (Routledge, 2018) 225

C. Rees, “Bribery concerns for international businesses” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 191


P. Schapper, “The impact of e-procurement on corruption: The potential of e-procurement for curbing corruption risks” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank 2008) 113


S.Z.S. Tabish and K.N. Jha "Analyses and Evaluation of Irregularities in Public Procurement in India" (2011) 29 Construction Management and Economics 261

P. Trepte, “Transparency and Accountability as Tools for Promoting Integrity and Preventing Corruption in Public Procurement” (paper to OECD Expert Group meeting on Integrity in Public Procurement) (2005)


19.2 International conventions on bribery

Books


Articles and Essays in Edited Collections


C. Rees, “Bribery concerns for international businesses” in Fighting Bribery in Public Procurement in Asia and the Pacific (Asian Development Bank, 2008) 191


K. Surjadinata, “Revisiting Corrupt Practices from a Market Perspective” 12 Emory International Law Review 1021


19.3 The role of the international development banks

Articles and Essays in Edited Collections


20 Collusion by suppliers (bid rigging)

Books

C.E. Piper, Contract and Procurement Fraud Investigation Guidebook (Routledge, 2017)

G.M. Racca and C. Yukins (eds), Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally (Bruxelles: Bruylant, 2014)

S.E. Weishaar, Cartels, Competition and Public Procurement – Law and Economics Approaches to Bid Rigging (Cheltenham UK and Northampton MA USA: Edward Elgar, 2013)

Articles and Essays in Edited Collections


G.M. Racca and R.C. Perin, “Corruption as a violation of fundamental rights: reputation risk as a deterrent against the lack of loyalty”, in G.M. Racca and C. Yukins (eds), Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally (Bruxelles: Bruylant, 2014) 23


21 Competition law and public procurement (other than bid rigging)

Books


Articles and Essays in Edited Collections


### 22 Pricing of public procurement contracts

#### Books


#### Articles and Essays in Edited Collections


W.A. Peeters, "Incentives in Government Procurement Contracts" (1993) 2 Public Procurement Law Review 197

L.S. Pheng, "Comparative Study of the Price-quality Method in Singapore, Hong Kong, the United Kingdom and New Zealand" (2007) 24 International Construction Law Review 318


23 Contract execution

Books

L. Folliot-Lalliot and S. Torricelli (eds), Contrôles et contentieux des contrats publics – Oversight and Challenges of public contracts (Brussels: Bruylant, 2018)

M.A.M. Ismail, Globalization and New International Public Works Agreements in Developing Countries: An Analytical Perspective (Burlington: Ashgate, 2011)

Articles and Essays in Edited Collections


65


P. Dunham, ”Balancing Sovereignty and the Contractor’s Rights in International Construction Arbitrations Involving State Entities” (2006) 23 International Construction Law Review 130


J.L. Guasch, “Procurement and renegotiation of Public Private Partnerships in infrastructure: evidence, typology and tendencies”, ch.11 in G. Piga and T. Tátrai (eds), Law and Economics of Public Procurement Reforms (The Economics of Legal Relationships) (Routledge, 2018) 199


B. Raganelli and I. Mauro, “Renegotiation and anti-corruption measures in public procurement”, ch.12 in G. Piga and T. Tátrai (eds), Law and Economics of Public Procurement Reforms (The Economics of Legal Relationships) (Routledge, 2018) 225
24 Foreign aid and public procurement

Books


Articles and Essays in Edited Collections

S. Khan, “Unwritten Ground Rules (UGRs) in Public Procurement in Developing Countries” (2013) 13 *Journal of Public Procurement* 176


25 Outsourcing of public services

Books

S. Arrowsmith, *Civil Liability and Public Authorities* (Earlsgate, 1992)


Articles and Essays in Edited Collections


The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-private partnerships, Build-Operate-Transfer (BOT), concessions)

Books


M.A.M. Ismail, Globalization and New International Public Works Agreements in Developing Countries: An Analytical Perspective (Burlington: Ashgate, 2011)


**Articles and Essays in Edited Collections**


P. Burger and I. Hawkesworth, "How to Attain Value for Money: Comparing PPP and Traditional Infrastructure Public Procurement" (2011) 11 *OECD Journal on Budgeting* 91


C. Nicholas, “Devising Transparent and Efficient Concession Award Procedures” (2012) 17 Uniform Law Review 97


C. Queiroz and A. Lopez Martinez, “Legal frameworks for successful public-private partnerships”, ch.4 in P. de Vries, E.B. Yehoue (eds), The Routledge Companion to Public-Private Partnerships (Routledge, 2013) 75

G. Rausser and H. Ameden, “Incomplete contracts and public-private partnerships” ch.6 in P. de Vries, E.B. Yehoue (eds), The Routledge Companion to Public-Private Partnerships (Routledge, 2013) 127


27 Defence procurement

Books
S. Martin (ed.), The Economics of Offsets – Defence Procurement and Countertrade (Paperback) (Routledge, 2014)

Articles and Essays in Edited Collections

S. Markowski, P. Hall and R. Wylie, “Demand: military products, user requirements, and the organisation of procurement”, ch.2 in S. Markowski, P. Hall and R. Wylie (eds), Defence Procurement and Industry Policy – A small country perspective (Hardback) (London and New York: Routledge, 2010) 45


28 International trade agreements and public procurement

Books


Articles and Essays in Edited Collections
**Government Procurement: Challenge and Reform** (Cambridge: Cambridge University Press, 2011) 561


A. Semple, “Socially Responsible Public Procurement (SRPP) under the EU Law and International Agreements: The GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area” (2017) 12 European Procurement & Public Private Partnership Law Review 293


PART II: INTERNATIONAL INSTRUMENTS RELEVANT TO THE REGULATION OF PUBLIC PROCUREMENT
### Section 1: UNCITRAL INSTRUMENTS ON PUBLIC PROCUREMENT

#### 1 General works

This section covers works that range across several subjects under the UNCITRAL instruments.

These general works may cover many of the various section headings set out below. These books will not be listed again under those headings, except for the case of collections that involve contributions by different authors on discrete subjects.

**Books**

- K.V. Thai (ed.), *International Handbook of Public Procurement* (Florida: CRC Press, 2009)

**Articles and Essays in Edited Collections**


J. Myers, "UNCITRAL Model Law on Procurement" (1993) 21 International Business Lawyer 179


S.A. Sahaydachny, “Model procurement legislation” (“Loi-type sur la passation de marchés publics”; “Mustergesetz über die öffentliche Auftragsvergabe”) (1995) 5 EU public contract law (Droit européen des marchés publics; Europäisches Vergaberecht) in English, French and German, 116, 118 and 120 respectively

S.A. Sahaydachny, “UNCITRAL adopts Model Law on Procurement” (“UNCITRAL přijímá vzorový zákon o zadávání verejných zakázek”) (1995) 4 Evropské a mezinárodní právo 22 (in Czech and English)


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2 Objectives of regulation and general principles

This sub-section contains works dealing with the objectives of the UNCITRAL procurement instruments and the general principles for achieving those objectives (e.g. transparency).

Articles and Essays in Edited Collections


3 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement and on the influence of different national and international systems on this, from the perspective of UNCITRAL instruments

Articles and Essays in Edited Collections


C. Nicholas, “Negotiations and the Development of International Standards in Public Procurement: Let the Best Team Win?” (2015) 7 Trade, Law and Development 64


4 Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc)

5 The conduct of procurement proceedings

6 Specifications

7 Qualification of suppliers/contractors (responsibility)

8 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

Articles and Essays in Edited Collections


9 Electronic procurement

9.1 Electronic communications and tendering

**Articles and Essays in Edited Collections**


9.2 Electronic reverse auctions

**Articles and Essays in Edited Collections**


C. Yukins and D. Wallace Jr., “UNCITRAL Considers Electronic Reverse Auctions, as Comparative Public Procurement Comes of Age in the United States” (2005) 14 *Public Procurement Law Review* 183

10 Debriefing, freedom of information rules and other information requirements
11 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

Articles and Essays in Edited Collections


12 Remedies and enforcement

Articles and Essays in Edited Collections


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**Articles and Essays in Edited Collections**


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**Books**


**Articles and Essays in Edited Collections**

B. de Cazalet and J. Crothers, “Presentation of the UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects” (2001) 6 RDAI/IBLJ 699

J.A. Estrella Faria, “UNCITRAL model legislative provisions on privately financed infrastructure projects; an introductory note” (“Dispositions types de la CNUDCI sur les projets d’infrastructure à financement privé; note introductive”) (2003-4) 8 Uniform law review/Revue de droit uniforme 890


| 16 | Defence procurement |
Section 2: WORLD TRADE ORGANIZATION (WTO)

1 General works

This heading covers books and articles that range across several parts or all of the subject matter of the WTO’s provisions on government procurement.

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

Books


A. Gelbrich, Regulation of Government Procurement within the WTO - Procurement Policies And Multilateral Trade Rules (Vdm Verlag Dr. Mueller, 2008)


Articles and Essays in Edited Collections


A. Amerjee, “(Are) Government(s) Pro-‘Cure’(ment)? The WTO and Beyond” (2015) 7 Trade, Law and Development 1


H. Kahl, “Trade law constraints to regional renewable energy support schemes”, ch.3 in M. Peeters and T. Schomerus (eds), Renewable Energy Law in the EU – Legal Perspectives on Bottom-up Approaches (Cheltenham, UK and Northampton, MA, USA: Edward Elgar, 2014) 35


J. Linarelli, “Global Procurement Law in Times of Crisis: New Buy American Policies and


M. Steinicke, “Government procurement - can the WTO learn from the EU regime?”, ch.14 in S.E. Gaines, B. Egelund Olsen and K. Engsig Sørensen (eds), Liberalising Trade in the EU and the WTO: A Legal Comparison (Cambridge University Press, 2012) 360


D.J. Walker, “Government Procurement: A Small Open Economy”, ch.9 in B.M Hoekman and P.C. Mavroidis (eds), Law and Policy in Public Purchasing: the WTO Agreement on
Government Procurement (University of Michigan Press, 1997) 171

D. Wallace, Jr., “World Trading System, the WTO and Dispute Settlement, and Arab and Islamic Countries” in Strengthening Relations with Arab and Islamic Countries through International Law: E-Commerce, the WTO Dispute Settlement Mechanism, and Foreign Investment (The Hague: Kluwer Law International, 2002) 251

2 Objectives of regulation and general principles

This sub-section contains works dealing with the objectives of public procurement regulation in the specific context of the WTO procurement rules.

Articles and Essays in Edited Collections


3 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement from the perspective of the WTO.

Articles and Essays in Edited Collections


4.1 General

**Articles and Essays in Edited Collections**


A. Reich, “The New GATT Agreement on Government Procurement: the Pitfalls of Plurilateralism and Strict Reciprocity” (1997) 31 *Journal of World Trade* 125

4.2 Application to state enterprises

**Books**


**Articles and Essays in Edited Collections**


5 The Agreement on Government Procurement

5.1 General

Books


Articles and Essays in Edited Collections


WTO’s Agreement on Government Procurement” [1995] Intl.Tr.L.R. 69


Agreement on Government Procurement (University of Michigan Press, 1997) 93


A. Shingal, “Services procurement under the WTO's Agreement on Government Procurement: whither market access” (2011) 10 World Trade Review 527


5.2 Accession to the Agreement

Books

P.K. Basu and Y.M.W.Y. Bandara (eds), WTO Accession and Socio-economic development in China (Oxford: Chandos, 2009)
Articles and Essays in Edited Collections


S. Chakravarthy and K. Dawar, “India’s Possible Accession to the Agreement on Government Procurement: What are the Pros and Cons?”, ch.4 in S. Arrowsmith and R.D. Anderson (eds), The WTO Regime on Government Procurement: Challenge and Reform (Cambridge: Cambridge University Press, 2011) 117


### 5.3 Procuring entities covered

**Articles and Essays in Edited Collections**


P. Olivera, “Defining the Scope of Covered Entities under the WTO Agreement on Government Procurement” (1997) 6 *Public Procurement Law Review* 1


5.4  **Contracts covered**

**Articles and Essays in Edited Collections**


A. La Chimia, “Cui bono? Scope, rationales and consequences of the exemption for development procurement in the revised text of GPA” (2015) 7 Trade, Law and Development 156


P. Telles, “Public Procurement Financial Thresholds in the EU and their Relationship with the GPA” (2016) 11 European Procurement & Public Private Partnership Law Review 205


5.5 Methods of procurement: basic characteristics and conditions for use

5.6 The conduct of procurement proceedings

5.7 Specifications

5.8 Qualification of suppliers/contractors (responsibility)

5.9 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

5.10 Electronic procurement

5.11 Information requirements
5.12 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

Books


P. Kunzlik (ed.), *The Environmental Performance of Public Procurement* (OECD, 2003)


Articles and Essays in Edited Collections


5.13 Remedies and enforcement

5.13.1 Supplier review

Articles and Essays in Edited Collections


J. Dalby, “Remedies for Infringement of the Government Procurement Agreement” in A. Tyrell and B. Bedford (eds), Public Procurement in Europe: Enforcement and Remedies (London: Butterworths, 1997) 239

A. Davies, “Remedies for Enforcing the WTO Agreement on Government Procurement from the Perspective of the European Community: a Critical Analysis” (1997) 20 World Competition 113


5.13.2 The inter-governmental dispute settlement mechanism

Articles and Essays in Edited Collections


A. Davies, “Remedies for Enforcing the WTO Agreement on Government Procurement from the Perspective of the European Community: a Critical Analysis” (1997) 20 World Competition 113


5.14 Conflicts of interest

5.15 Bribery and other corruption in public procurement

Articles and Essays in Edited Collections


5.16 Contract execution

5.17 Outsourcing of public services

5.18 The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-private partnerships, Build-Operate-Transfer (BOT), concessions)

Articles and Essays in Edited Collections


5.19 Defence procurement

5.20 Developing countries

Articles and Essays in Edited Collections

A. La Chimia, “Cui bono? Scope, rationales and consequences of the exemption for development procurement in the revised text of GPA” (2015) 7 Trade, Law and Development 156

A. La Chimia, “Untying aid through the Agreement on Government Procurement: a means to encourage developing countries’ accession to the Agreement and to improve aid effectiveness?”, ch.13 in S. Arrowsmith and R.D. Anderson (eds), The WTO Regime on


5.21 Review of the Agreement

Articles and Essays in Edited Collections


Agreement on Government Procurement: what it means for the Agreement and for the world economy” (2012) 21 Public Procurement Law Review 83


6 WTO work on transparency in government procurement and other multilateral initiatives

**Books**


**Articles and Essays in Edited Collections**


S. Arrowsmith, “Towards a Multilateral Agreement on Transparency in Government Procurement”, Graduate Institute of International Studies, Geneva, PISO occasional paper series, WTO series number 9


G. Fenster, “Multilateral Talks on Transparency in Government Procurement: Concerns for Developing Countries” IDS Bulletin 34 No.2 April 2003 65


P. Low, A. Mattoo and A. Subramaniam, “Government Procurement in Services” (1996) 20 World Competition 1


Articles and Essays in Edited Collections


Section 3: THE WORLD BANK PROCEDURES ETC FOR PROCUREMENT FINANCED BY THE WORLD BANK AND OTHER ACTIVITY OF THE WORLD BANK IN PUBLIC PROCUREMENT

1 General works and works not covered by other headings

This heading covers books and articles that range across several parts or all of the World Bank’s involvement in public procurement, and also works on specific issues that are not covered by separate headings below.

Some of the general works cover the various section headings set out below but will not be listed again under those headings.

Books


M.I. Imudia with P.M. Kaindaneh and D. Baffour-Awuah, Why Projects Fail in the Public Sector (CreateSpace Independent Publishing Platform, 2013)


Articles and Essays in Edited Collections


B. Neamtu, “The Social and Environmental Safeguard Policy at the World Bank: Instance of Internationalization of Public Contracts?”, ch.33 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 905


D. Vargas and T. Reis, “National and International Pies Taste the Same: The Role of the World Bank in the Flexibilization of Public Contracts Law in Brazil”, ch.24 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 635


S. Williams-Elegbe, "The Changes to the World Bank’s Procurement Policy and the Implications for African Borrowers" (2014) 1 African Public Procurement Law Journal 22 (http://dx.doi.org/10.14803/1-1-3)


2  Procurement under the World Bank procedures

Articles and Essays in Edited Collections


3  The World Bank and corruption in public procurement

Books


Articles and Essays in Edited Collections


L. Folliot-Lalliot, “Introduction to the World Bank’s policies in the fight against corruption and conflicts of interest in public contracts”, Ch. 16 in J-B. Auby, E. Breen and T. Perroud (eds), Corruption and Conflicts of Interest: A Comparative Law Approach (Cheltenham, UK and Northampton, MA, USA: Edward Elgar, 2014) 236


N. Kulbiski, “Another Perspective on Too Big to Debar: BP, the Environmental Protection Agency, and the World Bank” (2012) 41 Public Contract Law Journal 967


Section 4: PROCUREMENT PROCEDURES FOR AID-FINANCED PROCUREMENT (EXCLUDING THE WORLD BANK)

Books


Articles and Essays in Edited Collections


M. Benedetti, How Multilateral Development Banks invest corruption in their funded projects, Ch. 15 in J-B. Aubry, E. Breen and T. Perroud (eds), Corruption and Conflicts of Interest: A Comparative Law Approach (Cheltenham, UK and Northampton, MA, USA: Edward Elgar, 2014) 215


D.D. Dingel, “Public Procurement Rules under the Phare Programme of the European Community” (1996) 5 Public Procurement Law Review 1


A. Salazar and M. López, “The Inter-American Development bank: reform to build up and increase the use of national procurement systems in Latin America and the Caribbean”, (2016) 25 Public Procurement Law Review 164

R. Sanches and D. Engel, “The Role of Regional Multilateral Development Banks in the Internationalization of Public Contacts”, ch.25 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 661


Articles and Essays in Edited Collections


Section 6: THE OECD CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

Books


Articles and Essays in Edited Collections


International Monetary Fund, “OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” (IMF Policy Development and Review Department, 2001)


K. Surjadinata, “Revisiting Corrupt Practices from a Market Perspective” 12 Emory International Law Review 1021


Section 7: UNITED NATIONS CONVENTION AGAINST CORRUPTION

Books


Articles and Essays in Edited Collections


This Part lists works that deal with regional procurement regimes and with national procurement regimes.

The Part is divided up broadly on a continent-by-continent basis.

For each continent there is first a section or sections dealing with any formal regional arrangements for the continent concerned or part of that continent. (For example, for Europe there is a section dealing with the European Union and a section dealing with the European Economic Area).

There is then a section on material that takes a continent-wide approach but is not tied to formal regional regimes.

There then follow sections on individual national regimes in alphabetical order.

For the above purpose regimes are considered as regional, rather than national one, when they cover three or more states; bilateral treaties are dealt with under the relevant national regimes. This approach helps readers to identify instruments that are of the broadest interest to those outside the countries concerned.
MATERIAL ON REGIONAL ARRANGEMENTS AND OTHER GENERAL / COMPARATIVE MATERIAL

GENERAL / COMPARATIVE

Books


S.N. Nyeck (ed.), *Public Procurement Reform and Governance in Africa* (Palgrave Macmillan, 2016)

G. Quinot and S. Arrowsmith (eds), *Public Procurement Regulation in Africa* (Cambridge University Press, 2013)


S. Williams-Elegbe and G. Quinot (eds), *Public Procurement Regulation for 21st Century Africa* (Cape Town: Juta, 2018)

Articles and Essays in Edited Collections


B. Basheka, “Public Procurement Reforms in Africa: A Tool for Effective Governance and the Public Sector and Poverty Reduction”, ch.6 in K.V. Thai, (ed.), *International Handbook of Public Procurement* (Boca Raton, FL: Taylor and Francis, 2009) 131


A. La Chimia, “Development aid procurement and the UNGPs on Business and Human Rights: Challenges and opportunities to move towards the new frontier of ‘buying justice’”, in S. Williams-Elegbe and G. Quinot (eds), *Public Procurement Regulation for 21st Century Africa* (Cape Town: Juta, 2018) 32


128
S. Narrainen, “Curbing corruption in Africa through the African Integrity Fund: A case study of firms sanctioned by the African Development Bank”, in S. Williams-Elegbe and G. Quinot (eds), Public Procurement Regulation for 21st Century Africa (Cape Town: Juta, 2018) 141

C. Nicholas, “Electronic procurement in Africa”, in S. Williams-Elegbe and G. Quinot (eds), Public Procurement Regulation for 21st Century Africa (Cape Town: Juta, 2018) 201


G. Quinot, “Promotion of social policy through public procurement in Africa”, ch.15 in G. Quinot and S. Arrowsmith (eds), Public Procurement Regulation in Africa (Cambridge University Press, 2013) 370

G. Quinot, “Public procurement law in Africa within a developmental framework”, in S. Williams-Elegbe and G. Quinot (eds), Public Procurement Regulation for 21st Century Africa (Cape Town: Juta, 2018) 15

G. Quinot and S. Arrowsmith, “Introduction”, in G. Quinot and S. Arrowsmith (eds), Public Procurement Regulation in Africa (Cambridge University Press, 2013) 1


S. Williams-Elegbe, “Bidder and contractor remedies in procurements funded by the multilateral development banks: The case of the World Bank”, in S. Williams-Elegbe and G. Quinot (eds), Public Procurement Regulation for 21st Century Africa (Cape Town: Juta, 2018) 295

S. Williams-Elegbe, “Systemic Corruption and Public Procurement in Developing Countries: Are there any solutions?” (2018) 18 Journal of Public Procurement 1


Articles and Essays in Edited Collections


Articles and Essays in Edited Collections

MATERIAL ON INDIVIDUAL COUNTRIES

ANGOLA

Articles and Essays in Edited Collections


BENIN

Articles and Essays in Edited Collections


BOTSWANA

Articles and Essays in Edited Collections


E. Botlhale, “Infusing value for money (VfM) into the public procurement system in Botswana” (2017) 17 Journal of Public Procurement 281


CAPE VERDE

Articles and Essays in Edited Collections


EGYPT

Articles and Essays in Edited Collections


M.A.M. Ismail, “Legal Globalization and PPPs in Egypt: An Analytical and Comparative Perspective on the Current Legislative and Judicial Modifications to and Enhancements of the Administrative Contractual Regime on PPP Transactions” (2010) 5 European Public Private Partnership Law 54


ETHIOPIA

Articles and Essays in Edited Collections


T.H. Bahta, “The regulatory framework for public procurement in Ethiopia”, ch. 3 in G. Quinot and S. Arrowsmith (eds), Public Procurement Regulation in Africa (Cambridge University Press, 2013) 46


GAMBIA

Articles and Essays in Edited Collections

W.A. Wittig and H. Jeng, “Challenges in Public Procurement: Comparative Views of Public Procurement Reform in Gambia” in K.V. Thai et al. (eds), Challenges in Public Procurement: an International Perspective (Volume 3) (Boca Raton, FL: PrAcademics Press, 2005) 21

GHANA

Books


Articles and Essays in Edited Collections

D.N. Dagbanja, “The public procurement complaint and administrative review mechanism in Ghana”, in S. Williams-Elegbe and G. Quinot (eds), Public Procurement Regulation for 21st Century Africa (Cape Town: Juta, 2018) 271

D.N. Dagbanja, “The regulatory framework for public procurement in Ghana”, ch.4 in G. Quinot and S. Arrowsmith (eds), Public Procurement Regulation in Africa (Cambridge University Press, 2013) 77


KENYA

Books

C. Achieng and P. Kariuki, Public Procurement and Disposal (LAP LAMBERT Academic Publishing, 2013)

J.K. Mulwa, Determinants of Implementation of Public Procurement Regulations: A case of head teachers in Migwani District, Kitui County, Kenya (Lambert, 2012)


Articles and Essays in Edited Collections


**LESOTHO**

**Articles and Essays in Edited Collections**


**LIBERIA**

**Articles and Essays in Edited Collections**


**MOZAMBIQUE**

**Articles and Essays in Edited Collections**


**NAMIBIA**

**Books**

http://repository.unam.edu.na/bitstream/handle/11070/1634/maamberua2005.pdf?sequence=1&isAllowed=y


**Articles and Essays in Edited Collections**


A. Schimdt, “The need to reform the Namibian public procurement system: A comment on the Neckartal Dam saga” (2014) 6 *Namibia Law Journal* 46

**NIGERIA**

**Books**


Articles and Essays in Edited Collections


S. Williams-Elegbe, “Systemic Corruption and Public Procurement in Developing Countries: Are there any solutions?” (2018) 18 *Journal of Public Procurement* 131

**RWANDA**

*Articles and Essays in Edited Collections*


**SÃO TOMÉ AND PRÍNCIPE**

*Articles and Essays in Edited Collections*


**SIERRA LEONE**

*Articles and Essays in Edited Collections*

This heading covers books and articles that range across several parts or all of the headings covered later below.

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

Books


Articles and Essays in Edited Collection

A. Anthony, “Construction procurement in South Africa: Capacity for procurement law or procurement law for capacity”, in S. Williams-Elegbe and G. Quinot (eds) *Public Procurement Regulation for 21st Century Africa* (Cape Town: Juta, 2018) 225


2 Objectives of regulation and general principles

Articles and Essays in Edited Collections


3 Reform of the regulatory system

Articles and Essays in Edited Collections


4 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

Articles and Essays in Edited Collections


5 Introduction to the national public procurement system and public procurement regulation within the system

Books


Articles and Essays in Edited Collections


F.S. Jenkins, “Decentralization and Accountability Challenges to Appointing Independent Bid Committees in the Public Sector”, ch.7 in S.N. Nyeck (ed.), *Public Procurement Reform and Governance in Africa* (Palgrave Macmillan, 2016) 157

J. Laing, “Deviations and (In)discretions in the Governance of South African Public Entities”, ch.6 in S.N. Nyeck (ed.), *Public Procurement Reform and Governance in Africa* (Palgrave Macmillan, 2016) 131

J.C. Sonnekus, "Procurement contracts and underlying principles of the law – no special dispensation for organs of state (part 1 – the principles)" 2014 *Journal of South African Law* 320

J.C. Sonnekus, "Procurement contracts and underlying principles of the law – no special dispensation for organs of state (part 2 – developing the common law, consequences and remedies)" 2014 *Journal of South African Law* 536
6. Procuring entities covered

6.1 General

Articles and Essays in Edited Collections


6.2 Joint and Centralised Procurement

Articles and Essays in Edited Collections


7. Contracts covered: classifications

Books


8. Methods of procurement: basic characteristics and conditions for use

Articles and Essays in Edited Collections


S. De la Harpe, "The Use of Electronic Reverse Auctions in Public Procurement in South Africa" (2012) 26 *Speculum Juris* 21

F.S. Jenkins, “Decentralization and Accountability Challenges to Appointing Independent Bid...
Committees in the Public Sector” in S.N. Nyeck (ed.) *Public Procurement Reform and Governance in Africa* (New York: Palgrave Macmillan, 2016) 157


G. Quinot, "In-house provisioning and South African public procurement law" (2014) 39 *Journal for Juridical Science* 115


### 9 The conduct of procurement proceedings

**Articles and Essays in Edited Collections**


### 10 Specifications

**Articles and Essays in Edited Collections**


G. Quinot, "The Role of Quality in the Adjudication of Public Tenders" (2014) 17 *Potchefstroom Electronic Law Journal* 1110 (http://dx.doi.org/10.4314/pelj.v17i3.08)

11 Qualification of suppliers/contractors (responsibility)

Articles and Essays in Edited Collections

P. Bolton, "Disqualification for non-compliance with public tender conditions" (2014) 17 Potchefstroom Electronic Law Journal 2314 (http://dx.doi.org/10.4314/pelj.v17i6.03)


S. Williams, “The Use of Exclusions for Corruption in Developing Country Procurement: The Case of South Africa” (2007) 51 Journal of African Law 1


12 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

13 Electronic procurement

Articles and Essays in Edited Collections

S. De la Harpe, "The Use of Electronic Reverse Auctions in Public Procurement in South Africa" (2012) 26 Speculum Juris 21

14 Debriefing, freedom of information rules and other information requirements

Articles and Essays in Edited Collections


15 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

Books


Articles and Essays in Edited Collections


P. Bolton, “Protecting the Environment through Public Procurement: the Case of South Africa” (2008) 32 Natural Resources Forum 1


D.C. Campbell, “US Firms and Black Labour in South Africa: Creating a Structure of Change” (1986) 7 Journal of Labour Research 1


F.S. Jenkins, “Decentralization and Accountability Challenges to Appointing Independent Bid Committees in the Public Sector”, ch.7 in S.N. Nyeck (ed.), Public Procurement Reform and Governance in Africa (Palgrave Macmillan, 2016) 157


Processes and Internet Public Procurement: Decision Support Systems (USA: IGI Global (Idea Group), 2013) 254


16 Remedies and enforcement

Articles and Essays in Edited Collections


M.R. Phooko, "'Flaws' in public procurement not synonymous with 'irregularities': a guide to determining irregularities that are sufficient to invalidate a contract" (2014) 4 Int. J. of Public Law and Policy 352


J.C. Sonnekus, "Procurement contracts and underlying principles of the law – no special dispensation for organs of state (part 2 – developing the common law, consequences and remedies)" 2014 Journal of South African Law 536


17 Conflicts of interest

18 Bribery and other corruption in public procurement

Articles and Essays in Edited Collections


M. Du Plessis and A. Coutsoudis, “Considering corruption through the AllPay lens: On the


P. Sewpersadh and J.C. Mubangizi, “Using the law to combat public procurement corruption in South Africa: Lessons from Hong Kong” (2017) 20 *PER/PELJ* 1 (http://dx.doi.org/10.17159/1727-3781/2017/v20n0a1359)

S. Williams, “The Use of Exclusions for Corruption in Developing Country Procurement: The Case of South Africa” (2007) 51 *Journal of African Law* 1


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19 Collusion by suppliers (bid rigging)

20 Competition law and public procurement (other than bid rigging)

21 Pricing of public procurement contracts
22 Contract execution

Articles and Essays in Edited Collections


23 Foreign aid and public procurement

Articles and Essays in Edited Collections


24 Outsourcing of public services

25 The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-Private partnerships, Build-Operate-Transfer (BOT), concessions)

Books


Articles and Essays in Edited Collections

A. Anthony, “Construction procurement in South Africa: Capacity for procurement law or procurement law for capacity”, in S. Williams-Elegbe and G. Quinot (eds), *Public Procurement Regulation for 21st Century Africa* (Cape Town: Juta, 2018) 225


| 26 | Defence procurement |

**Books**


**Articles and Essays in Edited Collections**


27 Trade relations in public procurement

**Articles and Essays in Edited Collections**


**TANZANIA**

**Articles and Essays in Edited Collections**


**TUNISIA**

**Articles and Essays in Edited Collections**


UGANDA

**Books**


**Articles and Essays in Edited Collections**


A. Ahimbisibwe, M. Muhwezi and S. Nangoli, “Outsourced Contracts, Buyer-Supplier Trust, Supplier Opportunistic Behavior and Supplier Performance in Ugandan Public Procuring and Disposing Entities (PDEs)” (2012) 12 *Journal of Public Procurement* 435

B.C. Basheka, “Economic and Political Determinants of Public Procurement Corruption in Developing Countries: An Empirical Study from Uganda” (2011) 11 *Journal of Public Procurement* 33

B.C. Basheka, P.O. Nagitta and R.B. Namara, “The role of civil servants and political leaders in combating public procurement corruption in Uganda an empirical analysis” (2012) 5 *African journal of public affairs* 93


N. Shipman and E. Agaba, “Public Procurement Reform in Developing Countries: The Uganda Experience”, ch.16 in G. Piga and K.V. Thai (eds), *Advancing Public Procurement: Practices, Innovation and Knowledge-sharing* (Boca Raton, FL: PrAcademics Press, 2007) 373


S. Wanyama, “History and Evolution of Public Procurement Reforms in Uganda”, ch.9 in S.N. Nyeck (ed.), *Public Procurement Reform and Governance in Africa* (Palgrave Macmillan, 2016) 203

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**ZIMBABWE**

**Articles and Essays in Edited Collections**


MATERIAL ON REGIONAL ARRANGEMENTS AND OTHER GENERAL/COMPARATIVE MATERIAL

Articles and Essays in Edited Collections

J.L. Benavides and J.M. Álvarez Zárate, “Government Procurement in Free Trade Agreements in the Americas”, ch.8 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 173


J.I. Muratorio, “Internationalizing Public Contracts Under MERCOSUR”, ch.6 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 129

S.J.-A. Shillingford McKlmon and S.G. Sinclair, “CARICOM: small market – big money. Amalgamating the procurement market to transform small size into an economic advantage”, ch. 2 in G. Piga and T. Tátrai (eds), Law and Economics of Public Procurement Reforms (The Economics of Legal Relationships) (Routledge, 2018) 31

GENERAL/COMPARATIVE

Articles and Essays in Edited Collections


G. Ondarts, Government Procurement as a Tool for the Economic Integration of Latin America. Technical papers series no. 45 (Austin: Office for Public Sector Studies, Institute of Latin American Studies, University of Texas at Austin, 1985)


Books

Articles and Essays in Edited Collections


ARGENTINA

Articles and Essays in Edited Collections


BELIZE

Articles and Essays in Edited Collections


BOLIVIA

Articles and Essays in Edited Collections

Books


Articles and Essays in Edited Collections


A.L. Ikenaga, M. Ruski Augusto Sá and T. Bizerril Duleba Mendes, “Reverse Auction as a Method of Public Procurement”, ch.16 in M.J. Filho, C. Pereira and M.A. Rost (eds), *Brazil
"Infrastructure Law" (International Commerce and Arbitration Series, Vol. 20) (Eleven International Publishing, 2016) 257


V. Mourão and R. Cantu, “Brazil”, ch.4 in V. Lember, R. Kattel and T. Kalvet (eds), Public Procurement, Innovation and Policy: International Perspectives (Springer, 2014) 65


R. Sanches and D. Engel, “The Role of Regional Multilateral Development Banks in the Internationalization of Public Contacts”, ch.25 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 661


D. Vargas and T. Reis, “National and International Pies Taste the Same: The Role of the World Bank in the Flexibilization of Public Contracts Law in Brazil”, ch.24 in M. Audit and S.W. Schill (eds), Transnational Law of Public Contracts (Bruylant, 2016) 635

R. Wallbach Schwind, “Public Procurement Financed by International Agencies and Multilateral Funds in Brazil”, ch.17 in M.J. Filho, C. Pereira and M.A. Rost (eds), Brazil Infrastructure Law (International Commerce and Arbitration Series, Vol. 20) (Eleven International Publishing, 2016) 277


CANADA

1 General works

This heading covers books and articles that range across several parts or all of the headings covered later below.

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

Books

S. Arrowsmith, Civil Liability and Public Authorities (Earlsgate, 1992)

D.M. Attwater, *Procurement review: a practitioner's guide* (Scarborough, Ont.: Carswell, 2001)


A.C. McNeely, *Canadian law of competitive bidding and procurement* (Aurora, Ont.: Canada Law Book, 2010)

L. Ricchetti and T. Murphy, *Construction law in Canada* (Markham, Ont.: LexisNexis Canada, 2010)


**Articles and Essays in Edited Collections**


G. Anderson, “Formalities in municipal contracts” (1977) 35 *University of Toronto Faculty of Law Review* 69

S. Arrowsmith, "Government Contracts and Public Law" (1990) 10 *Legal Studies* 231

D.A. Brindle, “Hybrid procurement and the duty of good faith” (2003) 25 *C.L.R. (3d)* 30


O.B. North, "Canadian government contract requirements" (1940) 3 Comparative Law Series 139


N. Rafferty, “Mistaken Tenders: An Examination of the Recent Case Law” (1985) 23 Alberta Law Reports 491

2  Objectives of regulation and general principles

This sub-section contains works focused specifically on the objectives of the national procurement regimes – e.g. the different reasons and priorities for national regulation, whether procurement is regulated because of membership of trade regimes etc - and the general principles for achieving those objectives (e.g. transparency).

Articles and Essays in Edited Collections


3  Reform of the regulatory system

This sub-section contains general articles on issues relating to the reform of the national public procurement system e.g. recent reforms and general experience of reform processes.

4  Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement in the context of the particular national system.

5  Introduction to the national public procurement system and public procurement regulation within the system

5.1  Organisation of the public procurement system

This contains works on the organization of the public procurement system and, in particular, the system of regulation, to place the rest of the bibliography in context e.g. regulatory level
under the constitution; centralized or decentralized approach within each regulatory jurisdiction in the state; nature of regulating institutions.

**Articles and Essays in Edited Collections**


**5.2 The role and nature of regulatory provisions**

This sub-section covers issues such as the role and significance of regulation in public procurement (whether hard or and/or soft law); conceptual place of public contracts within the legal system (e.g. is there a separate concept of public contracts in the system, in terms of either substantive law applicable to the award and/or execution of contracts or the jurisdiction to determine disputes?), and the *general approach* to implementing any applicable international obligations.

**Articles and Essays in Edited Collections**

S. Arrowsmith, "Government Contracts and Public Law" (1990) 10 *Legal Studies* 231

S. Arrowsmith, “Governmental Liability and the Public-Private Distinction in Quebec” (1990) 4 *Canadian Journal of Administrative Law and Practice* 1


**5.3 Critique and evaluation**

This sub-section includes articles evaluating the state of the regulatory system and its approach *in general* (but not those confined to specific issues that are the subject of separate sub-headings).
5.4 Scope of the powers of public bodies to conclude procurement contracts (capacity to contract)

Articles and Essays in Edited Collections


5.5 Power of public officials to enter into contracts on behalf of public bodies (authority to contract)

Articles and Essays in Edited Collections


5.6 Special rules applying to the contracts of the Crown

6 Procuring entities covered

This sub-section deals with the entity coverage of public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules or whether state enterprises are regulated. It also covers joint and centralised procurement.

7 Contracts covered: classifications

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, distinction adopted in some systems between procurement and concessions for determining whether contracts are regulated at all, scope of exclusions e.g. of defence contracts etc).
Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc).

Books


Articles and Essays in Edited Collections


The conduct of procurement proceedings

Books


Articles and Essays in Edited Collections


Specifications
11 Qualification of suppliers/contractors (responsibility)

11.1 General

11.2 Supplier lists (approved lists, qualification lists)

11.3 Exclusion and debarment for criminal offences and other misconduct

*Articles and Essays in Edited Collections*

J.D. Mujuzi, “Public procurement, foreign convictions and the Canadian ineligibility and suspension policy of the integrity regime: some of the issues to grapple with” (2017) 26 *Public Procurement Law Review* NA81

12 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

13 Electronic procurement

13.1 Electronic communications and tendering

*Articles and Essays in Edited Collections*


13.2 Electronic reverse auctions
14 Debriefing, freedom of information rules and other information requirements

Articles and Essays in Edited Collections


15 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

Articles and Essays in Edited Collections


D.M. Attwater, “Promoting Sustainable Development with Canadian Public Procurement” (2014) 44 Public Contract Law Journal 79


D. Lemieux, "Legal issues arising from protectionist government procurement policies in Canada and the United States" (1988) 29 Les Cahiers de Droit 369

16 Remedies and enforcement

The sub-section on remedies and enforcement is sub-divided into two parts – one on mechanisms which are mainly focused on, and controlled by, individual suppliers, and the other on other enforcement mechanisms.

16.1 Supplier review

16.1.1 General

Articles and Essays in Edited Collections
C.W. Lavesque, "Chapter 13 of the United States-Canada Free Trade Agreement: has it created an open and effective government procurement dispute resolution system?" (1991) 12 Northwestern Journal of International Law & Business 187

A. Reich, "Government procurement and bid challenging in Canada after the Free Trade Agreement" (1991) 18 Canadian Business Law Journal 195


16.1.2 Forum for review

16.1.3 Remedies: interim measures

16.1.4 Remedies: damages

16.1.5 Other specialized topics (e.g. standing to bring proceedings)

16.1.6 Informal supplier complaints systems (e.g. Ombudsman system)

16.2 Other enforcement mechanisms
17 Conflicts of interest

18 Bribery and other corruption in public procurement

See also the sub-heading “Exclusion and debarment for criminal offences and other misconduct”.

18.1 General

Articles and Essays in Edited Collections

D. Debenham, "Tender Mercies" (2006) 56 C.L.R. 22


M. Morrison, P. Schabas and M. Dixon, “Canada”, ch.7 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 56

18.2 Implementation of international conventions on bribery

19 Collusion by suppliers (bid rigging)

20 Competition law and public procurement (other than bid rigging)

21 Pricing of public procurement contracts
22 Contract execution

**Articles and Essays in Edited Collections**


23 Foreign aid and public procurement

24 Outsourcing of public services

24.1 General

24.2 Application of public law controls to outsourced activities

**Articles and Essays in Edited Collections**


25 The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-private partnerships, Build-Operate-Transfer (BOT), concessions)

**Articles and Essays in Edited Collections**


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26 Defence procurement

Books


Articles and Essays in Edited Collections


27 Trade relations in public procurement

Articles and Essays in Edited Collections


C.W. Lavesque, "Chapter 13 of the United States-Canada Free Trade Agreement: has it created an open and effective government procurement dispute resolution system?" (1991) 12 Northwestern Journal of International Law & Business 187

D. Lemieux, "Legal issues arising from protectionist government procurement policies in Canada and the United States" (1988) 29 Les Cahiers de Droit 369


A. Semple, “Socially Responsible Public Procurement (SRPP) under the EU Law and International Agreements: The GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area” (2017) 12 European Procurement & Public Private Partnership Law Review 293

CHILE

Books


Articles and Essays in Edited Collections


G. Concha and R. Anrique, “Impacts of the public procurement reform in Chile on the municipal level” (Published in *Proceedings of the 6th International Conference on Theory and Practice of Electronic Governance* (2012 ICEGOV) 440


**COLOMBIA**

**Articles and Essays in Edited Collections**


**COSTA RICA**

**Articles and Essays in Edited Collections**


CUBA

Articles and Essays in Edited Collections


EQUADOR

Articles and Essays in Edited Collections


JAMAICA

Articles and Essays in Edited Collections


MEXICO

Books

**Articles and Essays in Edited Collections**


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**PANAMA**

**Articles and Essays in Edited Collections**


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PARAGUAY

Articles and Essays in Edited Collections


PERU

Books


Articles and Essays in Edited Collections


UNITED STATES OF AMERICA

PLEASE NOTE THAT THIS SECTION OF THE BIBLIOGRAPHY HAS NOT YET BEEN UPDATED TO 2018

1 General works

1.1 General

This heading at the start of each section covers books and articles that range across several parts or all of the subject matter of the heading (e.g. books on the national regime in general).

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

Books

*Best Practices in the Acquisition of a Government Contractor* (Chicago, Ill.: American Bar Association, 2010)

*California Government Contracts* (Sacramento, Calif: California Procurement Publications, 1979)


*Con 216, Legal Considerations in Contracting* (Vienna, Virginia: Management Concepts, 2010)


*Government Contracts: Entering into a Business Relationship with the U.S.* (New York, N.Y: Practising Law Institute, 2010)


*The Bidding Book for Washington Cities and Towns* (Seattle, WA: Municipal Research and Services Center, 2010)

183


The Impact of Recent Changes in Government Contracts: Leading Lawyers on Navigating the Current Economic Climate and Responding to Regulatory Changes (Boston, Mass.: Aspatore, 2011)

The Impact of Recent Changes in Government Contracts: Leading Lawyers on Understanding the Effects of the Stimulus Program, Addressing Compliance Concerns, and Analyzing the Latest Regulations (Boston, MA: Aspatore Books, 2010)


S. Bauer, How to Sell to the United States Government: Marketing Goods and Services to America's Greatest Customers (Secaucus, N.J: Carol Pub, 1994)

P. Beckett, Governmental Purchasing in the Los Angeles Metropolitan Area (Los Angeles, 1941)


J. Berry, Georgia State and Local Government Contracts (Thomson West, 2010)


C. Greve, Contracting for Public Services (London: Routledge, 2008)


C. Hinson and National Institute of Governmental Purchasing (U.S.), Welcome to Public Procurement (Herndon, VA: National Institute of Governmental Purchasing, 2001)


M.G. Kolchin and Center for Advanced Purchasing Studies (Tempe, Ariz.), *Purchasing in the Industrial, Institutional, Governmental, and Retail Sectors: A Comparative Study* (Tempe, Ariz: Center for Advanced Purchasing Studies, 1990)


Pennsylvania Bar Institute, *Public Contracting in Pennsylvania* (Mechanicsburg, Pa.: Pennsylvania Bar Institute, 2009)


S.N. Sherman, Government Procurement Management (Germantown, Md: Wordcrafters Publications, 1991)


K.V. Thai (ed.), International Handbook of Public Procurement (CRC Press, 2008)

W.W. Thybony, Government Contracting Based on the Federal Acquisition Regulation (FAR), and the Competition in Contracting Act of 1984 (Reston, Va.: Thybony, 1985)


West (Firm), West's Code of Federal Regulations Annotated (St. Paul, Minn.: Thomson/West, 2010)


R.J. Zee, Purchasing Preference Practices, a 50 State Overview (Lexington, Ky: NASPO, 1989)
Articles and Essays in Edited Collection


F.T.v. Baur, “State and local procurement and fiscal management” (1976) 8 The Urban Lawyer 909

B.J. Bergman, J. “Reletting the abandoned or defaulted public works project in New York---to bid or not to bid?” (1975) 3 Fordham Urban Law Journal 451

J.C. Bernhardt, “Government priority for repayment of monies advanced to contractors” (1945) 33 The Georgetown Law Journal 279


F.W. Claybrook, “Good faith in the termination and formation of federal contracts” 56 Maryland Law Review 555


G.A. Cuneo, “Some practical applications of international law to government contracts” (1975) 50 The Notre Dame Lawyer 843


L.F. Del Duca, “State and local government procurement: developments in legislation and litigation” (1986) 18 The Urban Lawyer 301


L.C. Ethridge, “Recent developments in state and local procurement: implementation of the Model Procurement Code picks up pace” (1985) 17 The Urban Lawyer 977


D. Gallimore, "Legal aspects of funding department of the army procurements" (1975) 67 Military Law Review 85


B.M. Holmes, "Techniques for researching public contract law" (1978) 10 Public Contract Law Journal 53


S.A. Livingston, "Principles of Maryland procurement law" (1999) 29 University of Baltimore Law Review 1

S.A. Livingston, "Fair treatment for contractors doing business with the state of Maryland" (1986) 15 University of Baltimore Law Review 215


J.D.B. Mitchell, "The Treatment of Public Contracts in the United States" (1952) 9 University of Toronto Law Journal 194

W.H. Murphy, "Managing for improved profitability through effective use of the federal government's procurement regulations and common sense management" (1992) 21 Public Contract Law Journal 294


192


R.S. Pasley, "Formation of government contracts---application of common law principles---a reply" (1955) 40 The Cornell Law Quarterly 518

T.L. Patten, "Government contracts - are they enforceable if not in writing?" (1975) 7 Public Contract Law Journal 232


M.F. Pofcher, "Choice of law, state or federal, in cases involving government contracts" (1951) 12 Louisiana Law Review 37

E.S. Pommer, "Municipal bankruptcy and its effect on government contractors" (1996) 25 Public Contract Law Journal 249

J.T. Ramey, "Mistakes and bailouts of suppliers under government contracts and subcontracts---a study of doctrine, practice and adhesions" (1954) 39 The Cornell Law Quarterly 634


H.M. Schooner, "Look before you lend: a lender's guide to financing government contracts pursuant to the Assignment of Claims Act" (1993) 48 The Business Lawyer 535


J.P. Shedd, "Christian doctrine, force and effect of law, and effect of illegality on government contracts" (1977) 9 Public Contract Law Journal 1
C.W. Sherrer, "Joint ventures on government contracts: a walk through a rose garden planted over land mines" (1990) 19 Public Contract Law Journal 331


W.J. Spriggs, "Judicial role of the contracting officer in U.S. government contracting" (1972) 11 Washburn Law Journal 213

C.V. Stelzenmuller, "Formation of government contracts----application of common law principles" (1955) 40 The Cornell Law Quarterly 238

K.V. Thai, “Public Procurement Reexamined” (2001) 1 Journal of Public Procurement 9


F.T. Vom Baur, "Early days of government contract practice" (1989) 18 Public Contract Law Journal 446


1.2 General: case law reviews

**Articles and Essays in Edited Collections**


E.L. Lipman, "Summer to summer: recent government contracts cases before the United States Claims Courts" (1992) 22 Public Contract Law Journal 1
2 Objectives of regulation and general principles

This sub-section contains works focused specifically on the objectives of the national procurement regime – e.g. the different reasons and priorities for national regulation, whether procurement is regulated because of membership of trade regimes etc - and the general principles for achieving those objectives (e.g. transparency).

Articles and Essays in Edited Collections


A.S. Miller, "Administrative discretion in the award of federal contracts" (1955) 53 Michigan Law Review 781

R.A. Miller, "Economy, efficiency and effectiveness in government procurement" (1975) 42 Brooklyn Law Review 208


3 Reform of the regulatory system

This sub-section contains general articles on issues relating to the reform of the national public procurement system e.g. recent reforms and general experience of reform processes.

Books


Articles and Essays in Edited Collections


198
4 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement in the context of the particular national system.

5 Introduction to the national public procurement system and public procurement regulation within the system

5.1 Organisation of the public procurement system

This contains works on the organization of the public procurement system and, in particular, the system of regulation, to place the rest of the bibliography in context e.g. regulatory level under the constitution; centralized or decentralized approach within each regulatory jurisdiction in the state; nature of regulating institutions; the procurement workforce.

Articles and Essays in Edited Collections


5.2 The role and nature of regulatory provisions

This sub-section covers issues such as the role and significance of regulation in public procurement in the national system concerned (whether hard or and/or soft law); conceptual place of public contracts within the legal system (e.g. is there a separate concept of public contracts in the system, in terms of either substantive law applicable to the award and/or execution of contracts or the jurisdiction to determine disputes?), and the general approach to implementing any applicable international obligations.

Articles and Essays in Edited Collections


J.C. Griffith, "Local government contracts: escaping from the governmental/proprietary maze" (1990) 75 Iowa Law Review 277


5.3 Critique and evaluation

This sub-section includes articles evaluating the state of the system and its approach in general (but not those confined to specific issues that are the subject of separate sub-headings).
Books


Articles and Essays in Edited Collections


### Procuring entities covered

This sub-section deals with the entity coverage of public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules or whether state enterprises are regulated.
7 Contracts covered: classifications

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, distinction adopted in some systems between procurement and concessions for determining whether contracts are regulated at all, scope of exclusions e.g. of defence contracts etc).

**Articles and Essays in Edited Collections**

T.C. Modeszto “The Department of Defense’s Section 845 Authority: An Exception for Prototypes or a Prototype for a Revised Government Procurement System?” (2005) 34 *Public Contract Law Journal* 211

C.L. Vacketta, "Commercial item contracts: when is a government contract term or condition consistent with ‘standard’ or ‘customary’ commercial practice?" (1998) 27 *Public Contract Law Journal* 291

8 Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc)

**Articles and Essays in Edited Collections**

C.A. Barnes, “New improved awards without discussions or foreign competition” (1991) 20 *Public Contract Law Journal* 532


R.C. Epstein, "Soliciting high-technology contracts" (1990) 137 *New Jersey Lawyer* 44

R.M. Hansen, "CICA without enforcement: how procurement officials and federal court decisions are undercutting enforcement provisions of the Competition in Contracting Act" (1997) 6 *George Mason Law Review* 131

J.A. Jackson, "Expanding contracting opportunities without competition" (1997) 26 *Public Contract Law Journal* 205


W.N. Keyes, "Competition and sole-source procurements—a view through the unsolicited proposal example" (1984) 14 *Public Contract Law Journal* 284


C.W. Sherrer, "Unsolicited proposal: an underutilized arrow in our efforts to improve the functioning of our government" (1981) 33 *Administrative Law Review* 285


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**9 The conduct of procurement proceedings**

**Books**


**Articles and Essays in Edited Collections**


"Current procedures for performing meaningful discussions in federal negotiated procurements are uneconomical, inefficient, and ineffective—a proposal for improvement" 21 *St. Mary’s Law Journal* 985

"Prescribing preventive remedies for an ailing public construction industry: reforms under the new Massachusetts competitive bidding statute" (1982) 23 *Boston College Law Review* 1357


R.C. Epstein, "Soliciting high-technology contracts" (1990) 137 New Jersey Lawyer 44


S.M.P. Hannaway, "Oral Presentations in Negotiated Procurements: Panacea or Pandora’s Box" (2000) 29 Public Contract Law Journal 455


W.N. Keyes, "Competition and sole-source procurements—a view through the unsolicited proposal example" (1984) 14 Public Contract Law Journal 284


M.I. Mark, "Contract award on initial proposals" (1990) 19 Public Contract Law Journal 252


C.J. Peckinpaugh, "Best value source selection—contracting for value, or unfettered agency discretion?" (1993) 22 Public Contract Law Journal 275


C.A. Preston, "Evaluating bids against cost limitations" (1985) 15 Public Contract Law Journal 463


D.O. Smith, "Alternatives to exclusion of unbalanced offers" (1990) 19 Public Contract Law Journal 233


S.N. Tomanelli, "The duty to eliminate competitive advantage arising from contractor possession of government-furnished property" (1993) 142 Military Law Review 141

10 Specifications

Articles and Essays in Edited Collections


11 Qualification of suppliers/contractors (responsibility)

11.1 General

Articles and Essays in Edited Collections


11.2 Supplier lists (approved lists, qualification lists)

11.3 Exclusion and debarment for criminal offences and other misconduct

Books


S.R. Lollis, The Practitioner's Guide to Suspension and Debarment, Committee on Debarment and Suspension (American Bar Association, Section of Public Contract Law, 2002)

Articles and Essays in Edited Collections

"Due process in public contracts: pre-award hearings to determine responsibility of bidders" (1974) 5 Pacific Law Journal 142


"Moving toward a better-defined standard of public interest in administrative decisions to suspend government contractors" (1987) 36 The American University Law Review 693

"Shaping specific procedural requirements for disqualification under Louisiana's public bid law" (1980) 40 Louisiana Law Review 871


T.J. Canni, “Shoot First, Ask Questions Later: An Examination and Critique of Suspension and Debarment Practice Under the FAR, Including a Discussion of the Mandatory Disclosure Rule, the IBM Suspension, and Other Noteworthy Developments” (2009) 38 Public Contract Law Journal 547


B.D. Shannon, "The government-wide debarment and suspension regulations after a decade—a constitutional framework—yet, some issues remain in transition" (1991) 134 Military Law Review 1


J.M. Steadman, "Banned in Boston---and Birmingham and Boise and...: due process in the debarment and suspension of government contractors" (1976) 27 The Hastings Law Journal 793

12 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

Books


Articles and Essays in Edited Collections


R.S. Brams, "Multiple award schedule contracting: a practical guide to surviving its shortcomings, ambiguities and pitfalls" (1990) 19 *Public Contract Law Journal* 441

D.G. Gavin, "Government requirements contracts" (1972) 5 *Public Contract Law Journal* 234


S.A. Kaufman, "What GSA is entitled to know about an MAS contractor's commercial discounts" (1985) 15 *Public Contract Law Journal* 244

M.J. Lohnes, "Attempting to spur competition for orders placed under multiple award task order and MAS contracts: the journey to the unworkable Section 803" (2004) 33 Public Contract Law Journal 599

C.L. Sandner, "Multiple award task and delivery order contracting: a contracting primer" (2001) 30 Public Contract Law Journal 461


R.J. Sherry, "Resolving the unresolvable: federal courts tackle the multiple award schedule program" (1993) 22 Public Contract Law Journal 669


M.C. Wong, "Current Problems with Multiple Award Indefinite Delivery/Indefinite Quantity Contracts: A Primer" [2006] The Army Lawyer 17

13 Electronic procurement

13.1 Electronic communications and tendering

Books


Articles and Essays in Edited Collections


S.A. MacManus, “Understanding the Incremental Nature of E-procurement Implementation at the State and Local Levels” (2002) 2 *Journal of Public Procurement* 1


13.2 Electronic reverse auctions

Articles and Essays in Edited Collections


C. Yukins and D. Wallace, “UNCITRAL Considers Electronic Reverse Auctions, as Comparative Public Procurement Comes of Age in the United States” (2005) 14 Public Procurement Law Review 183

14 Debriefing, freedom of information rules and other information requirements

Articles and Essays in Edited Collections


S.W. Feldman, "Legal and practical aspects of debriefings: adding value to the procurement process" [2001] The Army Lawyer 17


R.J. McAvoy, "Meaningful pre-award debriefings—a tool to increase public confidence and cost-effective procurement?" 34 The Air Force Law Review 237


15 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

15.1 General

This section includes articles that range across several of the policies below or which deal with general themes.

Books


International Trade Centre, Improving SME access to public procurement: the experience of selected countries (2000)


**Articles and Essays in Edited Collections**

"Enforcing social and economic policy through government contracts" (1981) 1980 *Annual Survey of American Law* 539


A.L. DeWitt, "Badges? We don't need no stinking badges! Citizen attorney generals and the False Claims Act" (1996) 65 *UMKC Law Review* 30


V. Lember, T. Kalvet and R. Kattel “Urban Competitiveness and Public Procurement for Innovation” (2011) 48 *Urban Studies* 1373


**15.2 Industrial development policies and national and local preferences**

**Articles and Essays in Edited Collections**


"A constitutional analysis of Iowa's Bid Preference Law" (1985) 70 *Iowa Law Review* 1353

"Eliminating nontariff barriers to international trade: the MTN agreement on government procurement" (1979) 12 *New York University Journal of International Law and Politics* 315

"Home-state preferences in public contracting: a study in economic balkanization" (1973) 58 *Iowa Law Review* 576


International Law Review 59

J.W. Chierichella, "Buy American act and the use of foreign sources in federal procurements— an issues analysis" (1977) 9 Public Contract Law Journal 73

C.H. Clarke, "Local hire and the state-market-participant doctrine: a Trojan horse for the commerce power of Congress" 33 Cleveland State Law Review 191


216


J.D. Southwick, "Binding the states: a survey of state law conformance with the standards of the GATT Procurement Code" (1992) 13 University of Pennsylvania Journal of International Business Law 57

15.3 Regional policy

15.4 Small and medium-sized enterprises in public procurement
See also section 15.5 below, Social policies.

Books

J.P. Carlson and A.M. Bernard, Disadvantaged Small Businesses and the 8(a) Program (Hauppauge, N.Y: Nova Science Publishers, 2011)


K. Weddell, Aiding Small Industry through Government Purchases (Menlo Park, Calif: International Industrial Development Center, Stanford Research Institute, 1960)

Articles and Essays in Edited Collections


D. Conway-Jones, "Federal procurement of environmental remediation services: feast or famine for small business" (1997) 41 Howard Law Journal 1

217


J.J. Shestack, "Small businessman and government contracts" (1951) 11 Louisiana Law Review 426


15.5 Social policies (including equality, labour policies and human rights)

Books


E. Reardon, The Department of Defense and Its Use of Small Businesses: An Economic and Industry Analysis (Santa Monica, CA: RAND, 2005)

Articles and Essays in Edited Collections

“Administrative law---government contracts---public utilities supplying services to government agencies are government contractors subject to nondiscrimination provisions of executive order 11,246” (1977) Brigham Young University Law Review 673

“Affirmative action toward hiring qualified handicapped individuals” (1976) 49 Southern California Law Review 735


"Executive order no. 11,246: presidential power to regulate employment discrimination" (1978) 43 Missouri Law Review 451

"Federal contract compliance: use of special contract provisions to encourage minority employment" (1977) 8 Loyola University Chicago Law Journal 913


"Set-asides of local government contracts for minority owned businesses: constitutional and state law issues" (1987) 17 New Mexico Law Review 337


M. Brody, "Congress, the President, and federal equal employment policymaking: a problem in separation of powers" (1980) 60 *Boston University Law Review* 239


D.M. Davin, "Model affirmative action program" (1980) 26 *The Practical Lawyer* 11

E.F. Denison, "Influence of the Walsh-Healey Public Contracts Act upon labor conditions" (1941) 49 *Journal of Political Economy* 225


H. Frankel, "Opportunity denied! New York State's study of racial and sexual discrimination related to government contracting" (1994) 26 *The Urban Lawyer* 413


B.T. Gorman, "The Massachusetts Burma law—the First Circuit's decision to stem the tide of increasing sub-national actor participation in the field of foreign relations in National Foreign Trade Council v. Natsios (181 F.3d 38 (1st Cir. 1999))" 45 Villanova Law Review 137

H.S. Hancock, "America's War on Tribal Economies: Federal Attacks on Native Contracting in the SBA 8(A) Business Development Program" (2010) 49 Washburn Law Journal 717

J.M. Hanson, "Hanging by yarns?: Deficiencies in anecdotal evidence threaten the survival of race-based preference programs for public contracting" (2003) 88 Cornell Law Review 1433


G.L. Hopkins, "Contracting with the disadvantaged, sec. 8(a) and the Small business administration" (1975) 7 Public Contract Law Journal 169


K.A. Jenero, "Implied private right of action under the Davis-Bacon act: closing some loopholes in administrative enforcement" (1980) 29 DePaul Law Review 793


G.R. La Noue, "Gross presumptions: determining group eligibility for federal procurement preferences" 41 Santa Clara Law Review 103


D. Lemieux, "Legal issues arising from protectionist government procurement policies in Canada and the United States" (1988) 29 Les Cahiers de Droit 369

G.N. Lenhoff, "Voluntary affirmative action and the Office of Federal Contract Compliance Programs" 54 Temple Law Quarterly 762

V.J. Limas, "Sovereignty as a bar to enforcement of Executive Order No. 11,246 in federal contracts with Native American tribes" (1996) 26 New Mexico Law Review 257


L. Loschin, "Massachusetts challenges the Burmese dictators: the constitutionality of selective purchasing laws" 39 Santa Clara Law Review 373


R.E. Mathews, "Labor standards provisions in government foreign procurement contracts" (1947) 42 Illinois Law Review 141


K.L. Miller, "HUBZones: moving from the racial battleground to the economic common ground" (1999) 3 Journal of Small & Emerging Business Law 367


H.C. Nystrom, "New approaches to government service contract labor standards" (1973) 7 Georgia Law Review 698

222
P.M. Panken, "Obligation of federal contractors to take affirmative action" (1979) 3 *Ali-ABA Course Materials Journal* 81

R.S. Pasley, "Nondiscrimination clause in government contracts" (1957) 43 *Virginia Law Review* 837


T.W. Reilly, "Role of government contracts in furthering national economic and socioeconomic policies" (1975) 21 *The Catholic Lawyer* 8

P.C. Remus, "Preference in government procurement for labor surplus area concerns" (1973) 47 *Connecticut Bar Journal* 167


R.W. Roper, "Participation and performance of minority-owned (MBEs) and women-owned (WBEs) business enterprises in the Port Authority's prime contract markets" (1994) 26 *The Urban Lawyer* 471


15.6 Environmental policies (green procurement)

Books


**Articles and Essays in Edited Collections**


W.B. Bonvillian, "Time for climate plan B" (2011) 27 *Issues in Science and Technology* 51


16 Remedies and enforcement

The sub-section on remedies and enforcement is sub-divided into two parts – one on mechanisms which are mainly focused on, and controlled by, individual suppliers, and the other on other enforcement mechanisms.

16.1 Supplier review

16.1.1 General

Books


Articles and Essays in Edited Collections


D.V. Anthony, “Contract suit practice and procedure in the United States court of claims” (1973) 49 The Notre Dame Lawyer 276


T.J. Madden, "Providing an adequate remedy for disappointed contractors under federal grants-in-aid to states and units of local government" (1975) 34 Federal Bar Journal 201


R.J. McAvoy, "Bid protest-balancing public and private interests" 34 The Air Force Law Review 227


H.J. Schweiter, "Post-award declaratory judgment jurisdiction of the Claims Court and the BCA over non-monetary claims: faithful statutory construction or the abdication of judicial responsibility" (1989) 18 Public Contract Law Journal 277

R.A. Smith, "Government contracts: contesting the federal government's award decision" 20 New England Law Review 31

R.E. Speidel, "Judicial and administrative review of government contract awards" (1972) 37 Law and Contemporary Problems 63

J.B. Tieder, "Forums and remedies for disappointed bidders on federal government contracts" (1978) 10 Public Contract Law Journal 92


16.1.2 Forum for review

Articles and Essays in Edited Collections


G.D. Soll and T.L. Ward, “‘In- or Out- ’: The Jurisdictional Confusion over Challenges to Agency Decisions to In-Source Contracted Work” (2012) 41 Public Contract Law Journal 583

J.B. Tieder, "Forums and remedies for disappointed bidders on federal government contracts" (1978) 10 Public Contract Law Journal 92

16.1.3 Remedies: interim measures

Articles and Essays in Edited Collections


16.1.4 Remedies: damages

Articles and Essays in Edited Collections


16.1.5 Standing to bring proceedings

Articles and Essays in Edited Collections


"Federal contractor's standing to sue before award of contract and related problems" (1973) 25 University of Florida Law Review 562


K.M. Rylander, "Scanwell (Scanwell Laboratories, Inc. v. Shaffer, 424 F.2d 859 (D.C. Cir. 1970)) plus: challenging the propriety of a federal agency's decision to use a federal grant and cooperative agreement" (1998) 28 Public Contract Law Journal 69

O.N. Sharma, "U.S. foreign contractors' standing to sue in United States courts" (1974) 8 The International Lawyer 574

R.C. Walters, "The matter of interest in federal government contracting" (1983) 14 Public Contract Law Journal 96


16.1.6 Validity of contracts

Articles and Essays in Edited Collections

J.R. Montgomery, "Bid imperfections in California public contracting: carving out a good faith exception to the void contract rule" 38 Santa Clara Law Review 205

16.1.7 Procedure, time limit and other specialised topics

Articles and Essays in Edited Collections


16.1.8 Informal supplier complaints systems (e.g. Ombudsman system)

16.2 Other enforcement mechanisms

17 Conflicts of interest

Books


Articles and Essays in Edited Collections

"Political patronage in public contracting" (1984) 51 The University of Chicago Law Review 518


E. Lyon, "Organizational Conflicts of Interest: A Practical Legal Issue in Implementing the Vision for Space Exploration, a View from the Trenches" (2006) 32 Journal of Space Law 111

P. Luci, "Contracting with government employees: an overly restrictive rule, a comparison, and a compromise" (1997) 27 Public Contract Law Journal 37

R.S. Pasley, "Organizational conflicts of interest in government contracts" (1967) 1967 Wisconsin Law Review


M.S. Stanek, "Gotta Have Faith: Why the New Contractor Ethics Rules Miss the Mark" (2009) 38 Public Contract Law Journal 427


J.W. Taylor, "Organizational conflicts of interest under the federal acquisition regulation" (1984) 15 Public Contract Law Journal 107

R.D. Wallick, "Procurement integrity: pondering some imponderables" (1990) 19 Public Contract Law Journal 349


S.W. Woehr, "Agency cancellation of federal contracts for fraud and conflicts of interest" (1987) 16 Public Contract Law Journal 386

C.D. Woodruff, "Organizational conflicts of interest—not what it's been said to be" (1986) 16 Public Contract Law Journal 213

See also the sub-headings 11.3 “Qualification: Exclusion and debarment for criminal offences and other misconduct” and 22.3 “Contract execution: false claims”.

18.1 General

Books


Articles and Essays in Edited Collections


R.S. Bennett, “Negotiating global settlements of procurement fraud cases” (1986) 16 *Public Contract Law Journal* 30


M.A. Heinicke, "The ABA should not delay on pay-to-play: regulating the political contributions of lawyers to government officials who award legal contracts" (1997) 49 *Stanford Law Review* 1523


M.S. McGarry, "Winning the war on procurement fraud: victory at what price?" (1993) 26 *Columbia Journal of Law and Social Problems* 249


M.S. Stanek, "Gotta Have Faith: Why the New Contractor Ethics Rules Miss the Mark" (2009) 38 *Public Contract Law Journal* 427

R.D. Wallick, "Procurement integrity: pondering some imponderables" (1990) 19 *Public Contract Law Journal* 349


S.W. Woehr, "Agency cancellation of federal contracts for fraud and conflicts of interest" (1987) 16 *Public Contract Law Journal* 386


18.2 The Foreign Corrupt Practices Act and implementation of international conventions on bribery

Articles and Essays in Edited Collections


B. Hinchey, “Punishing the Penitent: Disproportionate Fines in Recent FCPA Enforcements and Suggested Improvements” (2011) 40 Public Contract Law Journal 393


19 Collusion by suppliers (bid rigging)

Articles and Essays in Edited Collections


M.B. Coate, "Techniques for protecting against collusion in sealed bid markets" (1985) 30 The Antitrust Bulletin 897

C.L. Eger, "Contractor team arrangements under the antitrust laws" (1988) 17 Public Contract Law Journal 595


R.M. Lemke, "Legislative price-fixing and the competitive bidding requirement in government contracts" (1940) 8 The George Washington Law Review 955

20 Competition law and public procurement

Articles and Essays in Edited Collections

“Antitrust and government procurement: the application of the antitrust laws to government contracting activities” 57 Antitrust Law Journal 507

"Monopolies---collusive bidding---remedies available to the state" (1962) 10 The University of Kansas Law Review 604


D.S. Dameron, "Son of Scanwell {Scanwell Laboratories v. Shaffer, 424 F.2d 859}: antitrust challenges to government contracts awards and related actions" (1988) 17 Public Contract Law Journal 500

A Estache and A. Iimi, "(Un) Bundling infrastructure procurement: Evidence from water supply and sewage projects" (2011) 19 Utilities Policy 104


D.L. McLachlan, "Monopoly and collusion in public procurement: a survey of recent American experience" 8 Antitrust Law & Economics Review 69

H.E. O'Leary, "Defending a government contractor in a criminal antitrust investigation" 57 Antitrust Law Journal 587

C.W. Sherrter, "Predatory pricing: an evaluation of its potential for abuse under government procurement contracts" (1981) 6 The Journal of Corporation Law 531


21 Pricing of public procurement contracts

Books

Articles and Essays in Edited Collections

"Determination of cost in military procurement cost - plus - a - fixed - fee contracts" (1952) 65 Harvard Law Review 1035


R. Braucher, "Cost-reimbursement contracts with the United States" (1952) 5 Stanford Law Review 4

D.D. Dzara, “The United States' experimentation with share-in-savings contracting: is the risk worth the reward?” (2006) 15 Public Procurement Law Review 1

L. Fletcher, "Contingent fees in procurement of government contracts" (1942) 11 The George Washington Law Review 37


E.H. Kurth, "Profit for extra work under government contracts---an uncertain reward" (1969) 2 Public Contract Law Journal 265


J.A. Lovitky, "Applying the exemptions to cost or pricing data" (1989) 19 Public Contract Law Journal 146

J.A. Lovitky, "Understanding causation and determining the price adjustment in defective pricing cases" (1988) 17 Public Contract Law Journal 407

J.W. McBride, "Avoiding Anti-Deficiency Act violations on fixed-price incentive contracts (the hunt for red ink)" [1994] The Army Lawyer 3
R.C. Nash, "Incentive contracting" (1962) 22 Federal Bar Journal 195


K.M. Sacilotto, “Déjà vu all over again: cost-reimbursement contracts fall out of favor (again), but should they?” (2011) 40 Public Contract Law Journal 681


### 22 Contract execution

#### 22.1 General

**Books**


I.M. Ortiz, Fighting Fraud with Qui Tam and the False Claims Act (Hauppauge, N.Y.: Nova Science Publisher’s, 2010)


Articles and Essays in Edited Collections

"Choice of law in prime-sub government contract disputes" (1968) 48 Boston University Law Review 613

"Economic perspective on the law of excessive profits recovery" (1978) 45 The University of Chicago Law Review 882

"Facilitating subcontractors' claims against the government through the prime contractor as the real party in interest" (1983) 52 The George Washington Law Review 145


R. Braucher, "Arbitration under government contracts" (1952) 17 Law and Contemporary Problems 473

R. Braucher, "Fixed prices and price redetermination in defense contracts" (1953) 53 Columbia Law Review 936

R. Braucher, "Renegotiation Act of 1951" (1952) 66 Harvard Law Review 270


S.D. Bynum, "Federal procurement contracts---dispute resolution and the developing federal common law" (1975) 27 Alabama Law Review 1

T.J. Cani, "Who's Making False Claims, the Qui Tam Plaintiff or the Government Contractor? A Proposal to Amend the FCA to Require That All Qui Tam Plaintiffs Possess Direct Knowledge" (2007) 37 Public Contract Law Journal 1

E.S. Cavallucci, "Government misuse of technical data---measuring the data owners' damages" 20 The Air Force Law Review 162


C.L. Christenson, "Economic implications of renegotiation of government contracts" (1944) 52 Journal of Political Economy 48


J.H. Coffman, "War-time contracts and control in equity of inordinate" profits" (1941) 9 The George Washington Law Review 693


S.L. Coblens, "Cancellation of government war contracts due to default" (1946) 7 Federal Bar Journal 235


239


J.A. Dreifus, "Engineer decision" in California public contract law" (1979) 11 Public Contract Law Journal 1

J.J. Dyer, "Breach of warranty damages: consequently, contractors are not liable" (1994) 24 Public Contract Law Journal 89


B. Fagg, "Default terminations for failure to make progress" (1995) 25 Public Contract Law Journal 113


240
M.R. Finke, "The burden of proof in government contract schedule delay claims" (1992) 22 Public Contract Law Journal 125

M.R. Finke, "Unusually severe weather" (1993) 22 Public Contract Law Journal 495


W.P. Flynn, "Should we have renegotiation?" (1978) 10 Public Contract Law Journal 379


J.J. Gallagher, "Renegotiation at the Court of claims: the government's struggle with the burden of proof" (1978) 46 The George Washington Law Review 376


M.W. Graf, "The determination of property rights in public contracts after Winstar v. United States {116 S. Ct. 2432 (1996)}: where has the Supreme Court left us?" (1998) 38 Natural Resources Journal 197

R.C. Gusman, "'Constructive change’---a theory labeled wrongly" (1974) 6 Public Contract Law Journal 229

D.M. Haddock, "Uniform commercial code warranties---application to government purchases" (1968) 1 Public Contract Law Journal 77

P.W. Hanifin, "Qui tam suits by federal government employees based on government information" (1991) 20 Public Contract Law Journal 556

D.J. Hanson, “Foreign Food Aid Procurement: Why Domestic Preferencing Requirements Must Be Substantially Reduced to More Effectively and Efficiently Reduce Global Hunger” (2009) 39 Public Contract Law Journal 51

C.W. Hardee, "Termination of military contracts" (1953) 32 Texas Law Review 172

G. Henderson, "Terminations for Convenience and the Termination Costs Clause" 53 The Air Force Law Review 103


M. Kadi, "Applications of the substantial performance doctrine in private and federal government contracts" 22 Ohio Northern University Law Review 295

P.M. Kannan, "The compensation dimension of CERCLA: recovering unpaid contract costs" (1999) 30 University of Memphis Law Review 29

P.M. Kannan, "Challenging award fee determinations under federal government contracts" (1991) 20 Public Contract Law Journal 197

J.H. Kasimer, "First article approval requirements in government contracts: terminations and claims" (1978) 10 Public Contract Law Journal 134


S.A. Kaufman, "The law of defective pricing: its shape and fit with commercial law" (1990) 19 Public Contract Law Journal 559


P. King and J.R. Little Jr, "Critique of public construction contract remedies with recommended changes" (1972) 5 Public Contract Law Journal 1


J.H. LaBrum, "Termination of government war contracts, recent developments in" (1944) 15 Pennsylvania Bar Association Quarterly 229

P.S. Latham, "Sovereign act doctrine in the law of government contracts: a critique and analysis" (1975) 7 The University of Toledo Law Review 29


C.A. Libbey, "Working together while “waltzing in a mine field”: successful government construction contract dispute resolution with partnering and dispute review boards" 15 Ohio State Journal on Dispute Resolution 825


S. Marcus, "The Renegotiation Act of 1951" (1951) 11 Federal Bar Journal 269


J.C. McBride, "Confusion in the concept of the equitable adjustment in government contracts" (1962) 22 Federal Bar Journal


P.M. Meador, "Financing government contracts with progress payments" (1976) 18 The Air Force Law Review 1


C.R. Morrow, "Use of prehearing conferences by government boards of contract appeals" (1976) 8 Public Contract Law Journal 49

W.H. Murphy, "Business combinations: mergers and acquisitions" (1990) 19 Public Contract Law Journal 581


J.F. Nagle, "The role of certifying and disbursing officers in government contracts" (1982) 95 Military Law Review 1

E.E. Nemmers, "Third party beneficiary theory---the problem of government liability to subcontractors under terminated CPFF prime contracts" (1944) 31 Virginia Law Review 161

I. Newman, "Beginning of the end---the encroachment of federal contract termination practices" (1978) 33 The Business Lawyer 2143


R.S. Pasley, "Interpretation of government contracts: a plea for better understanding" (1956) 25 Fordham Law Review 211


S. Perloff, "Latent defects in government contracts law" (1997) 27 Public Contract Law Journal 87


P.E. Pompeo, "East meets West: a comparison of government contract dispute resolution in the common law and Islamic systems" (1992) 14 Loyola of Los Angeles International and Comparative Law Journal 815

D.L. Powell, "Rights and duties of vendors and government agencies under Florida’s new public contracting law" (1990) 17 Florida State University Law Review 481


M. Rishe, "Impossibility in the world of government contracts" (1973) 5 The University of Toledo Law Review 54

P.M. Risik, "Federal government contract clauses and forms" (1954) 23 The George Washington Law Review 125


J.D. Schminky, "Proper funding of contract modifications under the antecedent liability rule" (1997) 26 Public Contract Law Journal 221


R.H. Seamon, "Separation of powers and the separate treatment of contract claims against the federal government for specific performance" 43 Villanova Law Review 155


J.P. Shedd, "Government contractor's obligation to continue performance in accordance with contracting officer's decision" (1982) 12 Public Contract Law Journal 89


C.L. Vacketta, "Government contractor’s right to abandon performance" (1976) 65 The Georgetown Law Journal 27


L.H. Vance, "Fully compensating the contractor for delay damages in Washington public works contracts" 13 Gonzaga Law Review 410


J.M. Vogel, "Impossibility of performance---a closer look" (1977) 9 Public Contract Law Journal 110


D.R. White, "To dance with the one you came with: federal government regulation of assignments of contractual performance" (2000) 29 Public Contract Law Journal 601

J.T. White, "Miller act, or no more tears for the secondtiers" (1969) 74 Commercial Law Journal 41

R. Wienshienk, "Current challenge of military contract termination" (1952) 66 Harvard Law Review 47


S.W. Woehr, "Agency cancellation of federal contracts for fraud and conflicts of interest" (1987) 16 Public Contract Law Journal 386

22.2 Contractual disputes

Articles and Essays in Edited Collections

"Disputes procedures in the federal government construction contract: three views" (1977) 28 Federation of Insurance Counsel Quarterly 19

L.L. Anderson, “Disputes article in government contracts” (1945) 44 Michigan Law Review 211


S.D. Bynum, "Federal procurement contracts---dispute resolution and the developing federal common law" (1975) 27 Alabama Law Review 1

R.M. Cargill, "Resolving government contract disputes: why not arbitrate?" (1975) 34 Federal Bar Journal 1


E.H. Crowell, "Appealing government contract decisions: reducing the cost and delay of procurement litigation with alternative dispute resolution techniques" 49 Maryland Law Review 183

E.A. Dauer, "Government contractors, commercial banks, and Miller Act bond sureties---a question of priorities" (1973) 14 Boston College Industrial and Commercial Law Review 943

G.R. Delaume, "State contracts and transnational arbitration" (1981) 75 American Journal of International Law 784


E.R. Fish, "When a termination for convenience settlement proposal constitutes a claim under the Contract Disputes Act" (1997) 26 Public Contract Law Journal 423


D.M. Grunschlag, "Lawyer/non-lawyer decisions in adjudication of public contract claims: a study of administrative process" 12 Santa Clara Lawyer 36


D.W. James, "Concurrency and apportioning liability and damages in public contract adjudications" (1991) 20 Public Contract Law Journal 490


P.M. Kannan, "Challenging award fee determinations under federal government contracts" (1991) 20 Public Contract Law Journal 197

P.M. Kannan, "The compensation dimension of CERCLA: recovering unpaid contract costs" (1999) 30 University of Memphis Law Review 29


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J.A. Lovitky, "Dispute resolution procedures under federal contracts" (1995) 69 The Florida Bar Journal 36


V.S. McWhorter, "Virtual final decisions on government claims" (1997) 26 Public Contract Law Journal 157

W.H. Mulligan, "Disputes clause of the government construction contract: its misconstruction" (1952) 27 The Notre Dame Lawyer 167


S.J. Rob, "Contractor assertion of claims under the Contract Disputes Act" (1991) 133 Military Law Review 141


F.M. Schultz, "Proposed changes in government contract disputes settlement: the legislative battle over the Wunderlich case" (1953) 67 Harvard Law Review 217

R.F. Smith, "Use of critical path method techniques in contract claims" (1974) 7 Public Contract Law Journal 1


V.J. Zupa, "When is a claim not a claim?" (1993) 22 Public Contract Law Journal 654

22.3 False claims

Books


I.M. Ortiz, Fighting Fraud with Qui Tam and the False Claims Act (Hauppauge, N.Y.: Nova Science Publisher's, 2010)


Articles and Essays in Edited Collections


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28 Purchasing cards

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29 Procurement in disaster and other emergency situations

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30 Intellectual property issues

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**Articles and Essays in Edited Collections**


MALAYSIA

**Books**


**Articles and Essays in Edited Collections**


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**SINGAPORE**

**Articles and Essays in Edited Collections**


Books


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TAIWAN

Articles and Essays in Edited Collections


C-H. Ko and H-S. Liao “Reducing ineligible contractor disputes in government procurement: A lesson from Taiwan” 2014 (2) (18) KSCE Journal of Civil Engineering 409

THAILAND

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UNITED ARAB EMIRATES

Books

Articles and Essays in Edited Collections


| VIETNAM |

Articles and Essays in Edited Collections


AUSTRALASIA
MATERIAL ON REGIONAL ARRANGEMENTS AND OTHER
GENERAL/COMPARATIVE MATERIAL

GENERAL/COMPARATIVE

Books


Articles and Essays in Edited Collections

This heading at the start of each section covers books and articles that range across several parts or all of the subject matter of the heading (e.g. books on the national regime in general).

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

**Books**


S. Arrowsmith, *Civil Liability and Public Authorities*, (Earlsgate, 1992)


**Articles and Essays in Edited Collections**


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2 Objectives of regulation and general principles

This sub-section contains works focused specifically on the objectives of the national procurement regimes – e.g. the different reasons and priorities for national regulation, whether procurement is regulated because of membership of trade regimes etc - and the general principles for achieving those objectives (e.g. transparency).

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3 Reform of the regulatory system

This sub-section contains general articles on issues relating to the reform of the national public procurement system e.g. recent reforms and general experience of reform processes.
4 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement in the context of the Australian system.

Articles and Essays in Edited Collections


5 Introduction to the national public procurement system and public procurement regulation within the system

5.1 Organisation of the public procurement system

This contains works on the organization of the public procurement system and, in particular, the system of regulation, to place the rest of the bibliography in context e.g. regulatory level under the constitution; centralized or decentralized approach within each regulatory jurisdiction in the state; nature of regulating institutions.

Articles and Essays in Edited Collections

M.M. Aylesworth, “Consortia purchasing for higher education in Canada, the US, the UK and Australia”, ch.13 in L. Knight, C. Harland, J. Telgen, K.V. Thai, G. Callender and K. McKen (eds), Public Procurement: International Cases and Commentary (Abingdon: Routledge, 2007) 176


5.2 The role and nature of regulatory provisions

This sub-section covers issues such as the role and significance of regulation in public procurement in the national system concerned (whether hard or and/or soft law); conceptual place of public contracts within the legal system (e.g. is there a separate concept of public contracts in the system, in terms of either substantive law applicable to the award

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and/or execution of contracts or the jurisdiction to determine disputes?), and the general approach to implementing any applicable international obligations.

**Articles and Essays in Edited Collections**


### 5.3 Critique and evaluation

This sub-section includes articles evaluating the state of the regulatory system and its approach *in general* (but not those confined to specific issues that are the subject of separate sub-headings).

### 5.4 Scope of the powers of public bodies to conclude procurement contracts (capacity to contract)

### 5.5 Power of public officials to enter into contracts on behalf of public bodies (authority to contract)

### 5.6 Special rules applying to the contracts of the Crown

**Articles and Essays in Edited Collections**

J.R. Peden, "Application of legislation to the commercial dealings of the crown" (1977) 51 *Australian Law Journal* 756
6 Procuring entities covered

This sub-section deals with the entity coverage of public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules or whether state enterprises are regulated. It also covers joint and centralised procurement.

Articles and Essays in Edited Collections


7 Contracts covered: classifications

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, distinction adopted in some systems between procurement and concessions for determining whether contracts are regulated at all, scope of exclusions e.g. of defence contracts etc).

8 Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc)

9 The conduct of procurement proceedings

10 Specifications
11 Qualification of suppliers/contractors (responsibility)

11.1 General

11.2 Supplier lists (approved lists, qualification lists)

11.3 Exclusion and debarment for criminal offences and other misconduct

12 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

13 Electronic procurement

13.1 Electronic communications and tendering

Articles and Essays in Edited Collections


13.2 Electronic reverse auctions
14 Debriefing, freedom of information rules and other information requirements

**Articles and Essays in Edited Collections**


15 Industrial, social and environmental objectives in public procurement
(horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

**Articles and Essays in Edited Collections**


E. Thurbon, “Australia”, ch.3 in V. Lember, R. Kattel and T. Kalvet (eds), Public Procurement, Innovation and Policy: International Perspectives (Springer, 2014) 35


16 Remedies and enforcement

The sub-section on remedies and enforcement is sub-divided into two parts – one on mechanisms which are mainly focused on, and controlled by, individual suppliers, and the other on other enforcement mechanisms.
16.1 Supplier review

16.1.1 General

16.1.2 Forum for review

16.1.3 Remedies: interim measures

16.1.4 Remedies: damages

16.1.5 Other specialized topics (e.g. standing to bring proceedings)

16.1.6 Informal supplier complaints systems (e.g. Ombudsman system)

16.2 Other enforcement mechanisms

17 Conflicts of interest

18 Bribery and other corruption in public procurement

See also the sub-heading “Exclusion and debarment for criminal offences and other misconduct”.
18.1 General

Articles and Essays in Edited Collections

G. Williams and T. Meagher, “Australia”, ch.3 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 17


18.2 Implementation of international conventions on bribery

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24 Outsourcing of public services

24.1 General

**Articles and Essays in Edited Collections**


24.2 Application of public law controls to outsourced activities

**Articles and Essays in Edited Collections**


25 The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-private partnerships, Build-Operate-Transfer (BOT), concessions)

**Articles and Essays in Edited Collections**


**26 Defence procurement**

*Articles and Essays in Edited Collections*


**27 Trade relations in public procurement**

*Articles and Essays in Edited Collections*


**NEW ZEALAND**

*Books*


*Articles and Essays in Edited Collections*

G. Curtis, "Government contract requirements in New Zealand" (1940) 3 Comparative Law Series 17

D. Mathieson, “Does the Crown have Human Powers?” (1992) 15 *New Zealand Universities LR* 117


EUROPE
EUROPEAN ECONOMIC AREA

Books


Articles and Essays in Edited Collections


T. Kotsonis, “Damages claims should be limited to cases of a sufficiently serious breach”, in T. Kotsonis (ed.), *Getting the Deal Through: Public Procurement 2018* (London: Law Business Research, 2018) 6


This section of the bibliography contains works relating to the European regime on public procurement. It does not include works that are limited to examining the application of EU law in one or two specific Member States – these are included instead only in the later sections on the procurement systems to the EU Member States. It does, however, include works on implementation of EU law in Member States that are of a more general or comparative nature. Heading 4 below, Implementation of EU requirements into national law, includes pieces on general issues relating to implementation (such as the approach to implementation) and general surveys of implementing measures, whilst general or comparative pieces on implementation of specific aspects of EU procurement law (e.g. Competitive dialogue) are included under the relevant Heading for that aspect below.

1 General works

This section covers works that range across several parts or all of the EU system – for example, general textbooks on the EU system which deal with all key aspects such as objective, coverage, contract award procedures and remedies, as well as those dealing with the EU regime more broadly.

Many of these general works cover in detail many of the various section headings set out below. These books will not be listed again under those headings, except for the case of collections that involve contributions by different authors on discrete subjects.

This section includes works that deal in general terms with the procurement regime for utilities (those dealing with coverage, procedures, remedies etc under the utilities regime), which differs slightly from the general public procurement regime under EU law.

Books


P. Badcoe (ed.), Public Private Partnerships and PFI (Looseleaf) (Sweet & Maxwell, updated 2016)

C. Bovis, EC Public Procurement: Case Law and Regulation (Oxford University Press, 2007)


L. Digings, J. Bennett and R. Hann, *EU Public Procurement: Law and Practice* (Looseleaf) (Sweet & Maxwell, updated 2018)


P. Lee, *Public Procurement (Current EC Legal Developments)* (Butterworths Law, 1992)


G.S. Ølykke and A. Sanchez-Graells (eds), *Reformation or Deformation of the EU Public Procurement Rules* (Edward Elgar Publishing, 2016)

G. Piga and T. Tátrai (eds), *Law and Economics of Public Procurement Reforms* (The Economics of Legal Relationships) (Routledge, 2018)


A. Shorter, *EU Procurement: Legal Precedents and their Impact – A look at some of the quirkier and more interesting legal cases around EU procurement and how they have affected tendering practice* (Cambridge: Cambridge Academic/Liverpool Academic Press, 2014)


M. Trybus, R. Caranta and G. Edelstam (eds), *EU Public Contract Law: Public Procurement and Beyond* (Bruylant, 2013)

**Articles and Essays in Edited Collections**


S. Arrowsmith, “Procurement and the European Single Market in the Water Industry” (1992) 3 *Water Law* 111


E. Aspey, “Public goods, special rights and competitive markets: Right2Water and the utilities procurement regime”, ch.15 in G.S. Ølykke and A. Sanchez-Graells (eds),
Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 343


C. Bovis, “Public Procurement and Public Services in the EU”, ch.5 in I. Lianos and O. Odudu (eds), Regulating Trade in Services in the EU and the WTO: Trust, Distrust and Economic Integration (Cambridge: Cambridge University Press, 2012) 147


R. Boyle, "Regulated Procurement - a Purchaser's Perspective" (1995) 4 Public Procurement Law Review 105


C.M. Cantore and S. Togan, “Public Procurement in the EU”, ch.5 in A. Georgopoulos, B. Hoekman and P.C. Mavroidis (eds), The Internationalization of Government Procurement Regulation (Oxford: Oxford University Press, 2017) 143


A. Georgopoulos, “The EU Accession to the ECHR: An Attempt to Explore Possible Implications in the Area of Public Procurement”, ch.17 in V. Kosta, N. Skoutaris, V. Tzevelekos (eds), The EU Accession to the ECHR (Hart Publishing, 2014) 271


J. Grandia, “Public Procurement in Europe”, ch.19 in E. Ongaro and S. Van Thiel (eds), The Palgrave Handbook of Public Administration and Management in Europe (Palgrave Macmillan, 2018) 363


I. Lazăr and L. Lazăr, “The efficiency of Public Procurement Procedures. The Principle of


A. Sanchez Graells, “Assessing the Public Administration’s Intention in EU Economic Law: Chasing Ghosts or Dressing Windows?” (2016) 18 Cambridge Yearbook of European Legal Studies 93

A. Sanchez-Graells and G.S. Ølykke, “Under the political science magnifying glass: reformation or deformation of the EU public procurement rules in 2014”, ch.16 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 367


M. Steinicke, “Government procurement - can the WTO learn from the EU regime?”, ch.14 in S.E. Gaines, B. Egelund Olsen and K. Engsig Sørensen (eds), Liberalising Trade in the EU and the WTO: A Legal Comparison (Cambridge University Press, 2012) 360


S. Torricelli, “Utilities Procurement”, ch.9 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Bruylant, 2013) 223


R. Wainwright, “Public Procurement in the EU” (1996) 24 International Business Lawyer 7


### 2 Objectives of regulation and general principles

This sub-section contains works dealing specifically with the objectives of the EU public procurement regime.

#### 2.1 Objectives of regulation

**Books**


**Articles and Essays in Edited Collections**


S.E. Weishaar, “Striking an Uneasy Balance Between Competition and Market Integration: The Case of EU Public Procurement”, in N. Philipsen, S.E. Weishaar and G. Xu (eds), *Market*
2.2 General principles

Books

C. Risvig Hansen, Contracts Not Covered, or Not Fully Covered, by the Public Sector Directive (Djøf Publishing, 2012)

Articles and Essays in Edited Collections


3 History of the EU system and reforms of the system

Books

B. Bedford and A. Tyrrell, Public Procurement in Europe (Butterworths Law, 1996)

C. Bovis, EC Public Procurement Law (London: Longman, 1997)

C. Bright, Public Procurement Handbook (Chichester: Chancery Law Pub, 1994)


A. Cox, The texts of the Community directives, recommendations, proposals, decisions, resolutions and communications in force (Boston: Earlsgate Press, 1993)


**Articles and Essays in Edited Collections**


M. Meulenberg, “Protectionism on the rise? Modernization of EU public procurement rules during the economic crisis”, ch.6 in H. Kalimo and M.J. Jansson (eds), EU Economic Law in a Time of Crisis (Edward Elgar Publishing, 2016) 57

T. Millett, “The Role of the European Court of Justice in Relation to Public Procurement” (1992) 1 Public Procurement Law Review 70


326
S. Peacle, “EU Public Procurement regulations towards a single market” (1998) 4 British Journal of Health Care Management 2


As mentioned above, this sub-section includes pieces on general issues relating to implementation (such as the approach to implementation) and general surveys of implementing measures. On the other hand, general or comparative pieces on implementation of specific aspects of EU procurement law (e.g. competitive dialogue) are included under the relevant heading for that aspect. Articles on implementation in individual Member States are listed under the relevant Member State.

Books

S. Treumer and M. Comba (eds), Modernising Public Procurement: The Approach of EU Member States (Edward Elgar Publishing, 2018)

Articles and Essays in Edited Collections


This sub-section covers general issues such as the sources and principles of EU procurement law; the general characteristics of, and trends in, the EU system; critical perspectives on the system; and the impact of EU law on Member State legal systems on procurement (for example, on legal concepts and organization).

**Books**


**Articles and Essays in Edited Collections**


S. Arrowsmith, “The Purpose of the EU Procurement Directives: Ends, Means and the Implications for National Regulatory Space for Commercial and Horizontal Procurement
This sub-section covers the actual impact of the EU rules in terms of extent of compliance, impact on trade etc.

**Books**


P.T. Madsen, *The Idea of a Closed European Public Procurement Market: Why it has Always been Open* (Centre for Documentation and Research on the European Communities, Working Paper nr.2 (22) 2001)

**Articles and Essays in Edited Collections**


Application of the free movement principles of the Treaty on the Functioning of the European Union

Books


C. Risvig Hansen, Contracts Not Covered, or Not Fully Covered, by the Public Sector Directive (Djøf Publishing, 2012)

Articles and Essays in Edited Collections


S. Arrowsmith, “Rethinking the approach to economic justifications under the EU's free movement rules” (2015) 68 Current Legal Problems 307


333


P. Horijk and M. Meulenbelt, “A Bridge Too Far: Why the European Commission’s Attempts to Construct an Obligation to Tender outside the Scope of the Public Procurement Directives should be Dismissed” (2005) 14 Public Procurement Law Review 123


P. Oliver, “When, if ever, can restrictions on free movement be justified on economic grounds?” (2016) 41 European Law Review 147

G.S. Ølykke, “Is the granting of special and exclusive rights subject to the principles applicable to the award of concessions? Recent developments in case law and their implications for one of the last sanctuaries for protectionism” (2014) 23 Public Procurement Law Review 1


C.F. Petersen and G.S. Ølykke, “The provision on services of general economic interest in the 2014 Directive – pure reiteration of the obvious?”, ch.8 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 193
8 Procuring entities covered

This sub-section deals with the entity coverage of EU public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules and how far state enterprises are regulated. It also covers joint and centralised procurement, including cross-border joint and centralised procurement.

8.1 General

Articles and Essays in Edited Collections


S. Arrowsmith, “Procurement in the Utilities Sectors and the Position of Private Companies” in F. Abraham, J. Styck and E. Ballon (eds), Privatisations and Public Procurement in the


C. Maund, “The Derogation for the Oil and Gas Sector under Article 3 of the Utilities Directive” (1997) 6 Public Procurement Law Review 227


R. Noguellou, “Scope and Coverage of the EU Procurement Directives”, ch.1 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Bruylant, 2013) 15


S. Schoenmaekers, “To Procure or not to Procure? That’s the Question!” in S. Schoenmaekers, W. Devroe and N. Philipse (eds), *State Aid and Public Procurement in the European Union* (IUS Commune Europaeum) (INTERSENTIA, 2014) 87

8.2 Joint and centralised procurement. Cross-border joint and centralised procurement

*Articles and Essays in Edited Collections*


9 Contracts covered

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, scope of exclusions etc).

9.1 General

Articles and Essays in Edited Collections


S. Arrowsmith, “Some Problems in Delimiting the Scope of the Public Procurement Directives: Privatisations, Purchasing Consortia and In-house Tenders” (1997) 6 Public Procurement Law Review 198


R. Noguellou, “Scope and Coverage of the EU Procurement Directives”, ch.1 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Bruylant, 2013) 15


C.F. Petersen and G.S. Ølykke, “The provision on services of general economic interest in the 2014 Directive – pure reiteration of the obvious?”, ch.8 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 193


9.2 In-house procurement/procurement arrangements with other public bodies

Books


M. Comba and S. Treumer (eds), The In-house Providing in European Law, (Copenhagen: Djøf Publishing, 2010)


K. Wauters, Cooperative Agreements between Public Authorities. The influence of CJEU case law on national legal systems (Intersentia, 2015)
Articles and Essays in Edited Collections


S. Arrowsmith, “Some Problems in De-limiting the Scope of the Public Procurement Directives: Privatisations, Purchasing Consortia and In-house Tenders” (1997) 6 Public Procurement Law Review 198


R. Caranta, “The In-House Providing: The Law as It Stands in the EU” in M. Comba and S. Treumer (eds), The In-House Providing in European Law (Copenhagen: Djøf Publishing, 2010) 1


T.B. Larsen, “In-kind contributions under a European research infrastructure consortium” (2018) 27 *Public Procurement Law Review* NA5


G.S. Ølykke, “Commission Notice on the notion of state aid as referred to in article 107(1) TFEU - is the conduct of a public procurement procedure sufficient to eliminate the risk of granting state aid?” (2016) 25 *Public Procurement Law Review* 197


K. Pedersen and E. Olsson, “Azienda – the creation of an exemption from public procurement law” (2013) 22 *Public Procurement Law Review* 225


R.C. Perin and D. Casalini, “Control over In-house Providing Organisations” (2009) 18 *Public Procurement Law Review* 227


9.3 Planning and development agreements

Articles and Essays in Edited Collections


P. Eleftheriadis, “Planning agreements as public contracts under the EU procurement rules” (2011) 20 Public Procurement Law Review 43


9.4 Thresholds for applying the procurement directives

Articles and Essays in Edited Collections


A. Brown, "Getting to Grips with Aggregation under the E.C. Public Procurement Rules" (1993) 2 Public Procurement Law Review 69


P. Telles, “Public Procurement Financial Thresholds in the EU and their Relationship with the GPA” (2016) 11 European Procurement & Public Private Partnership Law Review 205
9.5 Changes to existing contracts

**Articles and Essays in Edited Collections**


T. Bruyninckx, “Modification of contracts during their term: principle or exception? A view from the perspective of negative externalities”, ch.12 in G. S. Ølykke and A. Sanchez-Graells (eds), *Reformation or Deformation of the EU Public Procurement Rules* (Edward Elgar Publishing, 2016) 274


K. Hartlev and M.W. Lijenbøl, “Changes to existing contracts under the EU public procurement rules and the drafting of review clauses to avoid the need for a new tender” (2013) 22 *Public Procurement Law Review* 51

J.M. Hebly and P. Heijnsbroek, “When amending leads to ending: a theoretical and practical insight into the retendering of contracts after a material change”, ch.11 in G. Piga and S.


This sub-section covers articles that deal in a general way with the different methods of procurement available (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement, etc)


**Books**


**Articles and Essays in Edited Collections**


11 The conduct of procurement proceedings

11.1 General

Books


P. Kiiver and J. Kodym, *The Practice of Public Procurement: Tendering, Selection and Award* (INTERSENTIA, 2014)


Articles and Essays in Edited Collections


C. Risvig Hamer, “Requesting additional information – increase of flexibility and competition?”, ch.10 in G.S. Ølykke and A. Sanchez-Graells (eds), *Reformation or Deformation of the EU Public Procurement Rules* (Edward Elgar Publishing, 2016) 235


### 11.2 Division into lots

**Articles and Essays in Edited Collections**

I. Anchustegui, “Division into lots and demand aggregation – extremes looking for correct balance?”, ch.5 in G.S. Ølykke and A. Sanchez-Graells (eds), *Reformation or Deformation of the EU Public Procurement Rules* (Edward Elgar Publishing, 2016) 125


### 11.3 Publicity for contracts

**Articles and Essays in Edited Collections**


### 11.4 Choosing participants

**Books**

H. Pünder, H-J. Priess and S. Arrowsmith (eds), *Self-Cleaning in Public Procurement Law* (Köln: Carl Heymanns Verlag, 2009)

**Articles and Essays in Edited Collections**


S. Treumer, “The Selection of Qualified Firms to be Invited to Tender under the EC Procurement Directives” (1998) 7 *Public Procurement Law Review* 147


### 11.5 The competitive dialogue procedure

**Books**


Articles and Essays in Edited Collections


J. Davey, “Procedures involving negotiation in the new Public Procurement Directive: key reforms to the grounds for use and the procedural rules” (2014) 23 Public Procurement Law Review 103


11.6 Innovation partnership

Articles and Essays in Edited Collections


11.7 Discussions with participants

Books

M. Burnett and M. Oder, Competitive Dialogue and Negotiated Procedures – A Practical Guide (European Institute of Public Administration, 2015)
Articles and Essays in Edited Collections


J. Davey, “Procedures involving negotiation in the new Public Procurement Directive: key reforms to the grounds for use and the procedural rules” (2014) 23 Public Procurement Law Review 103


11.8 Award criteria

Books

M. Comba and S. Treumer (eds), Award of Contracts in EU Procurements (European Procurement Law Series Vol. 5) (Copenhagen: Djøf Publishing, 2013)


Articles and Essays in Edited Collections


M. Burgi and B. Brandmeier, “Quality as an Interacting Award Criterion under Current and Future EU-Law” (2014) 9 European Procurement & Public Private Partnership Law Review 12

R. Caranta, “Award criteria under EU law (old and new)”, ch.1 in M. Comba and S. Treumer (eds), Award of contracts in EU procurements (Copenhagen: Djøf Publishing, 2013) 21


M. Franch and M. Grau, “Contract Award Criteria”, ch.6 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Bruylant, 2013) 125


352

G.S. Ølykke, “The provision on abnormally low tenders: a safeguard for fair competition?”, ch.6 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 146


12 Specifications

Books


Articles and Essays in Edited Collections


S. Arrowsmith, “Amendments to Specifications under the European Public Procurement Directives” (1997) 6 Public Procurement Law Review 128


353
13 Qualification of suppliers/contractors (suitability/responsibility)

13.1 General

Books


Articles and Essays in Edited Collections


M. Steinnicke, “Qualification and Shortlisting”, ch.5 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Belgium: Bruylant, 2013) 105


S. Treumer, “The Selection of Qualified Firms to be Invited to Tender under the E.C. Procurement Directives” (1998) 7 Public Procurement Law Review 147


13.2 Supplier lists (approved lists, qualification lists)

Articles and Essays in Edited Collections


13.3 Exclusion and debarment for criminal offences and other misconduct

Books

H. Puender, H-J. Priess and S. Arrowsmith (eds), Self-Cleaning in Public Procurement Law (Köln: Carl Heymanns Verlag, 2009)

Articles and Essays in Edited Collections


S. de Mars, “Exclusion and self-cleaning in Art.57: discretion at the expense of clarity and trade?”, ch.11 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 253


356


14 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

Articles and Essays in Edited Collections

M. Andrecka, “Clarification or missed opportunity? The provision on framework agreements in the 2014 Directive”, ch.9 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 215


M. Andrecka, “Sustainable public procurement under framework agreements”, ch.7 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 138


S. Arrowsmith, “Methods for purchasing on-going requirements: the system of framework agreements and dynamic purchasing systems under the EC Directives and UK procurement regulations”, ch.3 in S. Arrowsmith (ed.), Public Procurement Regulation in the 21st Century: Reform of the UNCITRAL Model Law on Procurement (West, 2009) 131


15 Electronic procurement

15.1 General

Books

Articles and Essays in Edited Collections


P. Ferk, “E-procurement between EU objectives and the implementation procedures in the Member States – Art. 22(I) of the 2014 Directive”, ch. 4 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 101


T. Millett, “Electronic Procurement: Modernising the Public-Private Interface” (2007) 2 European Public Private Partnership Law 244


15.2 Electronic communications and tendering

Articles and Essays in Edited Collections


P. Ferk, “Can the Implementation of Full E-Procurement into Real Life Address the Real Challenges of EU Public Procurement?” (2016) 11 European Procurement & Public Private Partnership Law Review 327


15.3 Electronic reverse auctions

Articles and Essays in Edited Collections


15.4 Dynamic purchasing systems

Articles and Essays in Edited Collections


16 Debriefing, freedom of information rules and other information requirements

Articles and Essays in Edited Collections


17 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

17.1 General

This section includes articles that range across several of the policies below or which deal with general themes.
Books


B. Sjåfjell and A. Wiesbrock (eds), *Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder* (Cambridge University Press, 2015)


Articles and Essays in Edited Collections


A. Aschieri, “Non-Financial Benefits: Another Reason to Foster the Promotion of PPPs as a Viable Alternative for Public Service Delivery” (2014) 9 European Procurement & Public Private Partnership Law Review 240


A. Beckers, “Using contracts to further sustainability? A contract law perspective on sustainable public procurement”, ch. 10 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 206


R. Caranta, “Sustainable Procurement”, ch.7 in M. Trybus, R. Caranta and G. Edelstam (eds), EU Public Contract Law: Public Procurement and Beyond (Bruylant, 2013) 165


S. de la Rosa, “Local Autonomy and EU Public Procurement Law”, in A. Musa, D. Lhomme, S. de la Rosa (eds), Good Local Governance: Application of European Standards for Local Public Services in France and Croatia (Larcier, 2016) 79


B. Ferk and P. Ferk, “Local preferences as non-discriminatory instrument in public procurement of fresh foods: why, when and how”, ch.3 in G. Piga and T. Tátrai (eds), Law and Economics of Public Procurement Reforms (The Economics of Legal Relationships) (Routledge, 2018) 61


D. Sack and E.K. Sarter, “Strategic use and social taming – opening up the doctrine of market competition in public procurement”, ch.20 in H. Heinelt and S. Münch (eds), Handbook of European Policies: Interpretive Approaches to the EU (Edward Elgar Publishing, 2018) 371

A. Semple, “The link to the subject matter: a glass ceiling for sustainable public contracts?”, ch.3 in B. Själfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 50
S. Shoenmaekers, “The role of SME’s in promoting sustainable procurement” ch. 8 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 160

B. Sjåfjell, “Sustainable public procurement as a driver for sustainable companies? The interface between company law and public procurement law”, ch. 9 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 182

B. Sjåfjell and A. Wiesbrock, “Why should public procurement be about sustainability?”, ch. 1 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 1


A. Wiesbrock and B. Sjåfjell, “Public procurement’s potential for sustainability”, ch.11 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 230

17.2 Industrial development policies

Articles and Essays in Edited Collections


S. Arrowsmith, “Rethinking the approach to economic justifications under the EU’s free movement rules” (2015) 68 Current Legal Problems 307


366
17.3 Innovation

Books


Articles and Essays in Edited Collections


M. Rolfstam, “Public procurement of innovation for a better world: a consolidation or a new beginning?” (Editorial) (2015) 28 Innovation: The European Journal of Social Science Research (Special Issue: Public Procurement) 211


E. Uyarra and K. Flanagan, "Understanding the Innovation Impacts of Public Procurement" (2010) 18 European Planning Studies 123

17.4 Regional policy

Articles and Essays in Edited Collections

17.5 Small and medium-sized enterprises (SMEs) in public procurement

Articles and Essays in Edited Collections

I. Anchustegui, “Division into lots and demand aggregation – extremes looking for correct balance?”, ch.5 in G.S. Ølykke and A. Sanchez-Graells (eds), Reformation or Deformation of the EU Public Procurement Rules (Edward Elgar Publishing, 2016) 125


J. de Brux and C. Desrieux, “To allot or not to allot public services? An incomplete contract approach” (2014) 37 European Journal of Law and Economics 455


A. Erridge, “Involvement of SMEs in Public Procurement” (1998) 7 Public Procurement Law Review 37


G. O’Brien, “Public Procurement and the Small or Medium Enterprise (SME)” (1993) 2 Public Procurement Law Review 82


S. Shoenmaekers, “The role of SME’s in promoting sustainable procurement” ch. 8 in B. Sjäfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 160


17.6 Social policies (including equality, labour policies and human rights)

Books

A. Calleja, Unleashing Social Justice through EU Public Procurement (Critical European Studies) (Routledge, 2016)


R. Nielsen, Discrimination and equality in public procurement (EU & Arbetsrätt, 2005)


Articles and Essays in Edited Collections


371


C. Bovis, “The Social Dimension of EU Public Procurement and The Social Market Economy”, Ch. 6 in D. Ferri and F. Cortese (eds), The EU Social Market Economy and the Law: Theoretical Perspectives and Practical Challenges for the EU (Routledge Research in EU Law) (Routledge, 2018) 104


A. Georgopoulos, “The EU Accession to the ECHR: An Attempt to Explore Possible Implications in the Area of Public Procurement”, ch.17 in V. Kosta, N. Skoutaris, V. Tzevelekos (eds), *The EU Accession to the ECHR* (Hart Publishing, 2014) 271


P. Oliver, “When, if ever, can restrictions on free movement be justified on economic grounds?” (2016) 41 (2) *European Law Review* 147

D. Pirvu and E. Clipici, “Social Enterprises and the EU’s Public Procurement Market” (2016) 27 *Voluntas* 1611


A. Semple, “Socially Responsible Public Procurement (SRPP) under the EU Law and International Agreements: The GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area” (2017) 12 European Procurement & Public Private Partnership Law Review 293


A. Wiesbrock, “Socially responsible public procurement: European value or national choice?”, ch.4 in B. Sjåfjell and A. Wiesbrock (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 75
17.7 Environmental policies (green procurement)

Books


Articles and Essays in Edited Collections


R. Colavitti, “Promoting ‘Local Green Government’ in Europe”, in A. Musa, D. Lhomme, S. de la Rosa (eds), *Good Local Governance: Application of European Standards for Local Public Services in France and Croatia* (Larcier, 2016) 199


H. Kahl, *Trade law constraints to regional renewable energy support schemes*, ch.3 in M. Peeters and T. Schomerus (eds), *Renewable Energy Law in the EU – Legal Perspectives on
Bottom-up Approaches (Cheltenham, UK and Northampton, MA, USA: Edward Elgar, 2014) 35

S. Kingston, “The uneasy relationship between EU environmental and economic policies: the role of the Court of Justice”, ch.2 in B. Sjåfjell and A. Wiesbrook (eds), Sustainable Public Procurement under EU Law – New Perspectives on the State as Stakeholder (Cambridge University Press, 2015) 23


P. Kunzlik, “From suspect practice to market-based instrument: policy alignment and the evolution of EU law's approach to "green" public procurement” (2013) 22 Public Procurement Law Review 97


376

J.P. O'Hara, “Environmental Protection through the Public Procurement Regime in the European Union and the UK” (2004) 21 Environmental Law 2


18 Remedies and enforcement

18.1 Supplier review

18.1.1 The EU Remedies Directives and general principles

Books

S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993)


S. Treumer and F. Lichère (eds), Enforcement of the EU Public Procurement Rules (Copenhagen: DJØF Publishing 2011)

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20 Conflicts of interest

Articles and Essays in Edited Collections


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21 Bribery and other corruption in public procurement

See also the sub-heading “Exclusion and debarment for criminal offences and other misconduct”.

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21.2 Implementation of international conventions on bribery
22 Collusion by suppliers (bid rigging)

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G. Cappellaro, G. Fattore and A. Torbica, “Funding health technologies in decentralized systems: A comparison between Italy and Spain” (2009) 92 *Health Policy* 313

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M. Comba, “In-House Providing in Italy: The Circulation of a Model”, ch.4 in M. Comba and S. Treumer (eds), The In-house Providing in European Law (Copenhagen: Djøf Publishing, 2010) 95


M. Comba and F. Casella, “Public Procurement below the EU Thresholds in Italy”, ch.5 in D. Dragos and R. Caranta (eds), Outside the EU Procurement Directives – Inside the Treaty? (The European Procurement Law series Vol. 4) (Copenhagen: Djøf Publishing, 2012) 163

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M. Giannino, “Collusion in Public Procurement Contracts: Suppliers of School Cleansing Services Fined for Bid Rigging (Italy)” (2017) 8 *Journal of European Competition Law & Practice* 247


B.M. Jalvo, “Public Procurement Law in Italy”, ch.6 in M. Sánchez Morón (ed.), *Public Procurement in the European Union and Its Member States* (Editorial Lex Nova/Thomson Reuters, 2012) 224


F. Manganaro, “Perspectives on fighting corruption in public contracts in Italy”, in G.M. Racca and C. Yukins (eds), *Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally* (Bruxelles: Bruylant, 2014) 53


F. Mastragostino, “Further Implementation of the Procurement Directives in Italy” (1992) 1 *Public Procurement Law Review* 325


R. Pisano, “Italy”, ch.15 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 141

E. Pontarollo, “Procurement in the Utility Sector in Italy” (1994) 3 Public Procurement Law Review 1

E. Pontarollo, “Regulatory Aspects and the Problem of Corruption in Public Procurement in Italy” (1995) 4 Public Procurement Law Review 201


A. Romeo, “Brief notes on tenderer requirements in Italy”, in G.M. Racca and C. Yukins (eds), Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally (Bruxelles: Bruylant, 2014) 387


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M.S.I. Duli, Public Procurement in Kosovo (Kosovo: University for Business and Technology, 2008)

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Articles and Essays in Edited Collections

LITHUANIA

Articles and Essays in Edited Collections


D. Šilčiuviienė, “Public Procurement in Lithuania: (Dis)balance Between Profitability and Environmental Protection”, ch.2 in K.V. Thai (ed.), Global Public Procurement Theories and Practices (Public Administration, Governance and Globalization (Springer, 2017) 17


D. Soloveičikas, “Public Procurement in Lithuania: The Ongoing Development” (2009) 4 European Public Private Partnership Law 104


LUXEMBOURG

Articles and Essays in Edited Collections


D. Spielmann, “Enforcing the Public Procurement Rules in Luxembourg” in S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993) 163
### MALTA

**Articles and Essays in Edited Collections**


### MOLDOVA

**Articles and Essays in Edited Collections**


### MONTENEGRO

**Articles and Essays in Edited Collections**


### NETHERLANDS

**Articles and Essays in Edited Collections**


L. Broeders, “Transparency Obligations for Parking Services” in S. Schoenmaekers, W. Devroe and N. Philipsen (eds), State Aid and Public Procurement in the European Union (IUS Commune Europaeum) (INTERSENTIA, 2014) 145


J. Grandia, S. Groenveld, B. Kuipers and B Steijn, “Sustainable Procurement in Practice: Explaining the Degree of Sustainable Procurement from an Organisational Perspective”, in G. Piga, F. Decarolis and M. Frey (eds), Public Procurement’s Place in the World: The Charge Towards Sustainability and Innovation (Palgrave MacMillan, 2014) 37

J. Grandia, B. Steijn and B. Kuipers, “It is not easy being green: increasing sustainable public procurement behaviour” (2015) 28 (3) Innovation: The European Journal of Social Science Research (Special Issue: Public Procurement) 243


S. Schoenmaekers, “To Procure or not to Procure? That’s the Question!” in S. Schoenmaekers, W. Devroe and N. Philipsen (eds), State Aid and Public Procurement in the European Union (IUS Commune Europaeum) (INTERSENTIA, 2014) 87


G-W.A. Van de Meent, “Enforcing the Public Procurement Rules in the Netherlands” in S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993) 95


NORTH MACEDONIA

Articles and Essays in Edited Collections


NORWAY

**Articles and Essays in Edited Collections**


POLAND

**Books**

M.A. Marciniak, “Public Procurement”, ch. V in M.A. Marciniak, *Poland’s Pyrrhic victory over bribery and collusion on its way to the European Union* (GRIN Verlag, 2016) 14

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A. Gorczynska, “Brief notes on bid rigging and price fixing in Poland”, in G.M. Racca and C. Yukins (eds), Integrity and Efficiency in Sustainable Public Contracts: Balancing Corruption Concerns in Public Procurement Internationally (Bruxelles: Bruylant, 2014) 233


X. Lazo Vitoria, “Public Procurement Law in Poland”, ch.8 in M. Sánchez Morón (ed.), Public Procurement in the European Union and Its Member States (Editorial Lex Nova/Thomson Reuters, 2012) 329


M. Spyra, “‘In-House’ Providing in Polish Public Procurement Law”, ch.6 in M. Comba and S. Treumer (eds), The In-house Providing in European Law (Copenhagen: Djøf Publishing, 2010) 139


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A. de Jesus Melo Correia, “Procurement Plan of the Portuguese Armed Forces” (2003) 48 (2) *NATOs Nations and Partners for Peace* 29


M.C. Teixeira, “Enforcing the Public Procurement Rules in Portugal”, ch.13 in S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993) 401


ROMANIA

Books


Articles and Essays in Edited Collections

I. Baciu, “Fraud against the Financial Interests of the European Union, Particularly in the Field of Public Procurement: Is Romania Ready to Tackle It: A Radiography of the Latest


D. Dragos and B. Neamtu, “Transposition of the EU Procurement Directives in Romania: complex issues of implementation and control”, ch.9 in S. Treumer and M. Comba (eds), Modernising Public Procurement: The Approach of EU Member States (Edward Elgar Publishing, 2018) 173

D. Dragos, B. Neamtu and R. Suciu, “The Theory and Practice of Award Criteria in the Romanian Procurement Law”, ch.7 in M. Comba and S. Treumer (eds), Award of contracts in EU procurements (Copenhagen: Djøf Publishing, 2013) 177


M. Mares, “Romania”, ch.20 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 187


**RUSSIA**

**Books**


**Articles and Essays in Edited Collections**


A. Shastitko, S. Golovanova and S. Avdasheva, “Investigation of Collusion in Procurement of one Russian Large Buyer” (2014) 37 *World Competition* 235


**SERBIA**

**Articles and Essays in Edited Collections**


**SLOVAKIA**

**Articles and Essays in Edited Collections**


SLOVENIA

Articles and Essays in Edited Collections


SPAIN

Articles and Essays in Edited Collections


G. Cappellaro, G. Fattore and A. Torbica, “Funding Health Technologies in Decentralized Systems: A Comparison between Italy and Spain” (2009) 92 Health Policy 313


J.M. Fernández Martin, “Enforcing the Public Procurement Rules in Spain”, ch.7 in S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993) 239
J. González Garcia, “‘In-House Providing’ in Spanish Public Procurement”, ch.5 in M. Comba and S. Treumer (eds), The In-house Providing in European Law (Copenhagen: Djøf Publishing, 2010) 119


J. Molas-Gallart, “Importing defence technologies: why have Spanish policies changed?”, ch.10 in S. Markowski, P. Hall and R. Wylie (eds), Defence Procurement and Industry Policy – A small country perspective (Hardback) (London and New York: Routledge, 2010) 272


A. Sanchez Graells, “Award Criteria and Award-Related Challenges under Spanish Public Procurement Law”, ch.8 in M. Comba and S. Treumer (eds), Award of contracts in EU procurements (Copenhagen: Djøf Publishing, 2013) 209


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**SWEDEN**

**Books**

C. Wehlander, *Services of General Economic Interest as a Constitutional Concept of EU Law* (Legal Issues of Services of General Interest Series) (T.M.C. Asser Press, 2016)

**Articles and Essays in Edited Collections**


S. Lundberg, “Auction Formats and Award Rules in Swedish Procurement Auctions”, in G. Piga and K.V. Thai (eds), The Economics of Public Procurement (Basingstoke: Palgrave Macmillan, 2007)


**SWITZERLAND**

**Articles and Essays in Edited Collections**


A. Shingal, “Services procurement under the WTO’s Agreement on Government Procurement: whither market access” (2011) 10 (4) World Trade Review 527


**TURKEY**

**Books**

E.Ç. Gürakar, Politics of Favoritism in Public Procurement in Turkey: Reconfigurations of Dependency Networks in the AKP Era (Reform and Transition in the Mediterranean) (Palgrave Macmillan, 2016)

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G. Gürkaynak and Ç.O. Kama, “Turkey”, ch.24 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 228


M.H. Kaya, “The legitimacy of Preferential Procurement and International Competition under the Turkish Public Procurement Law” (2012) 5 Law & Justice Review 121


M. Tiryakioğlu and M.A. Yülek, “Development-based public procurement policies: a selective survey of literature, cross-country policy experience and the Turkish experience” (2015) 28 (3) Innovation: The European Journal of Social Science Research (Special Issue: Public Procurement) 344


UKRAINE

Articles and Essays in Edited Collections


A. Semple, “Socially Responsible Public Procurement (SRPP) under the EU Law and International Agreements: The GPA, CETA and the EU-Ukraine Deep and Comprehensive Free Trade Area” (2017) 12 European Procurement & Public Private Partnership Law Review 293


S. Tsygankov and E. Gasanova, “Electronification of the Public Procurement System: A Comparative Analysis of the Experience of the Russian Federation and Ukraine”, Ch. 13 in
This heading at the start of each section covers books and articles that range across several parts or all of the subject matter of the heading (e.g. books on the national regime in general).

Many of these general works cover in detail the various section headings set out below but will not be listed again under those headings.

**Books**

S. Arrowsmith, *Civil Liability and Public Authorities* (Earlsgate, 1992)


L. Digings, J. Bennett and R. Hann, *EU Public Procurement: Law and Practice* (Looseleaf) (Sweet & Maxwell, updated 2018)


C. Maddox, *Brexit and Procurement Law* (Legal Perspectives on Brexit) (Routledge: ebook, 2018)

D. Marcer, *Procurement of Services in the Public Sector: the bidder’s perspective* (Gt. Shelford, UK: Cambridge Academic, 2013)


A. Shorter, *EU Procurement: Legal Precedents and their Impact – A look at some of the quirkiest and more interesting legal cases around EU procurement and how they have affected tendering practice* (Cambridge: Cambridge Academic/Liverpool Academic Press, 2014)


**Articles and Essays in Edited Collections**


S. Arrowsmith and S. Smith, “The ‘Lord Young’ reforms on transparency of information and selection of firms to be invited to tender under the Public Contracts Regulations 2015: a practical analysis of the legal provisions” (2018) 27 Public Procurement Law Review 75


S. Chappell, “Coping with Differences between the Public Procurement Directives and the Regulations in Local Authority Contracting” (1995) 4 Public Procurement Law Review 119

C. Davies, “A brief history of UK government IT contracting” (2012) 17 Communications Law 53


V. Ramsey and S. Furst, “Public Procurement”, in V. Ramsey and S. Furst, Keating on Construction Contracts, 10th edition (Sweet & Maxwell, 2016)
2 Objectives of regulation and general principles

This sub-section contains works focused specifically on the objectives of the national procurement regimes – e.g. the different reasons and priorities for national regulation, whether procurement is regulated because of membership of trade regimes etc - and the general principles for achieving those objectives (e.g. transparency).

3 Reform of the regulatory system

This sub-section contains general articles on issues relating to the reform of the national public procurement system e.g. recent reforms and general experience of reform processes.

Books

C. Maddox, Brexit and Procurement Law (Legal Perspectives on Brexit) (Routledge: ebook, 2018)

Articles and Essays in Edited Collections


4 Harmonisation of regulatory provisions on public procurement and the influence of international instruments

This sub-section contains articles on the issue of harmonization and divergence in public procurement in the context of the particular national system.

Articles and Essays in Edited Collections


5 Introduction to the national public procurement system and public procurement regulation within the system

5.1 Organisation of the public procurement system

This contains works on the organization of the public procurement system and, in particular, the system of regulation, to place the rest of the bibliography in context e.g. regulatory level under the constitution; centralized or decentralized approach within each regulatory jurisdiction in the state; nature of regulating institutions.
5.2 The role and nature of regulatory provisions

This sub-section covers issues such as the role and significance of regulation in public procurement in the national system concerned (whether hard or and/or soft law); conceptual place of public contracts within the legal system (e.g. is there a separate concept of public contracts in the system, in terms of either substantive law applicable to the award and/or execution of contracts or the jurisdiction to determine disputes?), and the general approach to implementing any applicable international obligations.

Books

Articles and Essays in Edited Collections


5.3 Critique and evaluation

This sub-section includes articles evaluating the state of the regulatory system and its approach in general (but not those confined to specific issues that are the subject of separate sub-headings).

Books


Articles and Essays in Edited Collections

5.4 Scope of the powers of public bodies to conclude procurement contracts (capacity to contract)

Books

S. Arrowsmith, *Civil Liability and Public Authorities* (Earlsgate, 1992)


Articles and Essays in Edited Collections


5.5 Power of public officials to enter into contracts on behalf of public bodies (authority to contract)

5.6 Special rules applying to the contracts of the Crown

Articles and Essays in Edited Collections


5.7 The Best Value regime for local government

Books
S. Cirell and J. Bennett, Best Value: Law and Practice (Looseleaf) (Sweet & Maxwell, 2010)

Articles and Essays in Edited Collections
P. Craig, “Contract and Service Provision, ch.5 in P. Craig, Administrative Law, 7th edition (Sweet & Maxwell, 2012)
P. Vincent-Jones, “Competition and Contracting in the Transition from CCT to Best Value” (1999) 77 Public Administration 273

6 Procuring entities covered

This sub-section deals with the entity coverage of public procurement rules – for example, the question of how public bodies are defined for the purpose of applying public procurement rules or whether state enterprises are regulated. It also covers joint and centralised procurement.
7 Contracts covered: classifications

This sub-section deals with the types of contract subject to regulation in principle under public procurement rules (e.g. distinction between procurement and other contracts) and classification of contracts for different regulatory purposes (thresholds at which certain procedures apply, distinction adopted in some systems between procurement and concessions for determining whether contracts are regulated at all, scope of exclusions e.g. of defence contracts etc).

Articles and Essays in Edited Collections


8 Methods of procurement: basic characteristics and conditions for use

This sub-section covers articles that focus on the different available methods of procurement (e.g. open tendering, other forms of tendering, procedures involving negotiation, single-source procurement etc)

Articles and Essays in Edited Collections


9 The conduct of procurement proceedings

Articles and Essays in Edited Collections


S. Arrowsmith and S. Smith, “The ‘Lord Young’ reforms on transparency of information and selection of firms to be invited to tender under the Public Contracts Regulations 2015: a practical analysis of the legal provisions” (2018) 27 Public Procurement Law Review 75

474


J. Thomas, “Public procurement and Lord Young’s reforms – two years on” (2018) 27 Public Procurement Law Review 152

10 Specifications

11 Qualification of suppliers/contractors (responsibility)

11.1 General

Articles and Essays in Edited Collections

S. Arrowsmith, “The ‘Lord Young’ reforms on transparency of information and selection of firms to be invited to tender under the Public Contracts Regulations 2015: a practical analysis of the legal provisions” (2018) 27 Public Procurement Law Review 75


J. Thomas, “Public procurement and Lord Young’s reforms – two years on” (2018) 27 Public Procurement Law Review 152

11.2 Supplier lists (approved lists, qualification lists)

11.3 Exclusion and debarment for criminal offences and other misconduct

Articles and Essays in Edited Collections

S. Williams, “The Mandatory Contractor Exclusions for Serious Criminal Offences in UK Public Procurement” (2009) 15 European Public Law 429

12 Framework agreements (ID/IQ contracts, umbrella contracts, recurring contracts)

Articles and Essays in Edited Collections


S. Arrowsmith, “Methods for purchasing on-going requirements: the system of framework agreements and dynamic purchasing systems under the EC Directives and UK procurement regulations”, ch.3 in S. Arrowsmith (ed.), Public Procurement Regulation in the 21st Century: Reform of the UNCITRAL Model Law on Procurement (West, 2009) 131

13 Electronic procurement

13.1 Electronic communications and tendering

**Articles and Essays in Edited Collections**


13.2 Electronic reverse auctions

**Articles and Essays in Edited Collections**


14 Debriefing, freedom of information rules and other information requirements

**Articles and Essays in Edited Collections**

S. Arrowsmith, “The ‘Lord Young’ reforms on transparency of information and selection of firms to be invited to tender under the Public Contracts Regulations 2015: a practical analysis of the legal provisions” (2018) 27 *Public Procurement Law Review* 75

477

15 Industrial, social and environmental objectives in public procurement (horizontal policies, collateral policies, sustainable development, strategic procurement, socio-economic policies, procurement linkages)

15.1 General

Books

R. MacFarlane and M. Cook, Achieving Community Benefits through Procurement (Joseph Rowntree Foundation, 2002)

C. Theron and M. Dowden, Strategic Sustainable Procurement: Law and Best Practice for the Public and Private Sectors (Do Sustainability, 2014; Routledge, 2017)

Articles and Essays in Edited Collections


T. Daintith, “Regulation by Contract: the New Prerogative” (1979) 32 Current Legal Problems 41


J. Hartwell, “Sustainable Procurement”, ch.11 in A. Cotgrave and M. Riley (eds), Total Sustainability in the Built Environment (Palgrave Macmillan, 2013) 206

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15.2 Industrial development

15.3 Innovation

Books

J. Binks, Using Public Procurement to Drive Skills and Innovation: A Report for the Department of Trade and Industry (Local Futures Group, March 2006)

Articles and Essays in Edited Collections


15.4 Small and medium-sized enterprises in public procurement

Articles and Essays in Edited Collections

J. Thomas, “Public procurement and Lord Young’s reforms – two years on” (2018) 27 Public Procurement Law Review 152


15.5 Social policies (including equality, labour policies and human rights)

Books


B. Bercusson, Fair Wages Resolutions (Mansell, 1978)


R. Nielsen, Discrimination and equality in public procurement (EU & Arbetsrätt, 2005)

Articles and Essays in Edited Collections


B. Bagilhole, “Managing to be Fair: Implementing Equal Opportunities in a Local Authority” (1993) 19 Local Government Studies 163


15.6 Environmental policies (green procurement)

**Articles and Essays in Edited Collections**

The sub-section on remedies and enforcement is sub-divided into two parts – one on mechanisms which are mainly focused on, and controlled by, individual suppliers, and the other on other enforcement mechanisms.

16.1 Supplier review

16.1.1 General

Articles and Essays in Edited Collections


M. Bowsher, “Prospects for Establishing an Effective Tender Challenge Regime: Enforcing Rights under EC Procurement Law in English Courts” (1994) 3 Public Procurement Law Review 30


S. Weatherill, “Enforcing the Public Procurement Rules in the United Kingdom”, ch.8 in S. Arrowsmith, Remedies for Enforcing the Public Procurement Rules (Winteringham: Earlsgate, 1993) 271

16.1.2 Forum for review

16.1.3 Remedies: interim measures

Articles and Essays in Edited Collections


16.1.4 Remedies: damages

Articles and Essays in Edited Collections


16.1.5  Impact of procedural violations on concluded contracts

*Articles and Essays in Edited Collections*


16.1.6  Informal supplier complaints systems (e.g. Ombudsman system)

*Articles and Essays in Edited Collections*


16.2  Previous mechanisms for the utilities sector

*Articles and Essays in Edited Collections*


16.3  Other enforcement mechanisms

*Articles and Essays in Edited Collections*


17  Conflicts of interest

*Articles and Essays in Edited Collections*

18 Bribery and other corruption in public procurement

See also the sub-heading “Exclusion and debarment for criminal offences and other misconduct”.

18.1 General

Articles and Essays in Edited Collections


M. Livingston and B. Basdeo, “Cayman Islands”, ch.8 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 66


J. Pickworth and D. Williams, “United Kingdom”, ch.26 in J. Pickworth and D. Williams (eds), Bribery & Corruption, 2nd edition (Global Legal Insights, 2014) 245


P. Tickner, Fraud and Corruption in Public Services (Gower Publishing/Routledge, 2015)
18.2 Implementation of international conventions on bribery

19 Collusion by suppliers (bid rigging)

Articles and Essays in Edited Collections


20 Competition law and public procurement (other than bid rigging)

Articles and Essays in Edited Collections

A. Davis, “Financing PFI Projects in the UK in the Credit Crisis and State Aid” (2009) 4 European Public Private Partnership Law 152


21 Pricing of public procurement contracts

Articles and Essays in Edited Collections


22 Contract execution

Articles and Essays in Edited Collections

J. Thomas, “Public procurement and Lord Young’s reforms – two years on” (2018) 27 Public Procurement Law Review 152

23 Foreign aid and public procurement

24 Outsourcing of public services

See also section 5.7, “The Best Value regime for local government”, and section 25, “The procurement of privately financed infrastructure/services and other major infrastructure/services”.

24.1 General

Books


K. Walsh, N. Deacon, P. Smith, et al., Contracting for Change: Contracts in Health, Social Care, and Other Local Government Services (Oxford University Press, 1997)

Articles and Essays in Edited Collections


P. Craig, “Contract and Service Provision”, ch.5 in P. Craig, Administrative Law, 7th edition (Sweet & Maxwell, 2012)


487

J. Greenwood and D. Wilson, “Towards the Contract State: CCT in Local Government” (1994) 47 Parliamentary Affairs 405


Larrard, “The History and Nature of Contracting out of Services in the Public Sector”, ch.4 in C. Bourn (ed.), The Transfer of Undertakings in the Public Sector (Ashgate Dartmouth, 1999)


P. Vincent Jones, “Competition and Contracting in the Transition from CCT to Best Value” (1999) 77 Public Administration 273

P. Vincent-Jones, “The Limits of Contractual Order in Public Sector Transacting” (1994) 14 Legal Studies 364

24.2 Application of public law controls to outsourced activities

Articles and Essays in Edited Collections


The procurement of privately financed infrastructure/services and other major infrastructure/services (Public-private partnerships, Build-Operate-Transfer (BOT), concessions)

Books

P. Badcoe (ed.), *Public Private Partnerships and PFI* (Looseleaf) (Sweet & Maxwell, updated 2016)


C.D. Tvarnø (ed.), *PPP - An international analysis in a legal and economic perspective* at www.cbs.dk/staff.tvarno

Articles and Essays in Edited Collections


R. Ball, M. Heafey and D. King, “Private Finance Initiative – A Good Deal for the Public Purse or a Drain on Future Generations?” (2001) 29 Policy and Politics 95


J. Broadbent, J. Gill, and R. Laughlin, “Evaluating the Private Finance Initiative in the National Health Service in the UK” (2003) 16 Accounting, Auditing & Accountability Journal 422


A. Davis, “Financing PFI Projects in the UK in the Credit Crisis and State Aid” (2009) 4 *European Public Private Partnership Law* 152


G. Hodge and C. Greve, “PPPs: The Passage of Time Permits a Sober Reflection” (2009) 29 *Economic Affairs* 33


M. Regan, *Public project procurement and the case for public-private partnerships*, ch.8 in G. Farrar and D.G. Mayes, *Globalisation, the Global Financial Crisis and the State* (Cheltenham, UK, and Northampton, MA, USA: Edward Elgar, 2013) 172


R. Yaya, “Twelve years of Scottish school public private partnerships: Are they better value for money?” (2017) 17 *Journal of Public Procurement* 187
26  Defence procurement

Books


Articles and Essays in Edited Collections


27  Trade relations in public procurement

Articles and Essays in Edited Collections


28  Economic impact of the EU procurement directives in the UK

Articles and Essays in Edited Collections


29 Application of the EU’s Acquired Rights Directive in the United Kingdom

Books
J. McMullen, Business Transfers and Employee Rights (Looseleaf) (LexisNexis, updated 2018)

Articles and Essays in Edited Collections


PART IV: PROCUREMENT BY INTERNATIONAL INSTITUTIONS
ARTICLES AND ESSAYS IN EDITED COLLECTIONS


Articles and Essays in Edited Collections


**EU INSTITUTIONS**

**Books**


**Articles and Essays in Edited Collections**


B. Heuninckx, “Forums to adjudicate claims related to the procurement activities of international organisations in the European Union” (2012) 21 *Public Procurement Law Review* 95

W. Kostka, “Vendors' list for procurement following expressions of interest - a critical analysis of a new procurement mechanism for the EU institutions” (2014) 23 *Public Procurement Law Review* 219


Books


Articles and Essays in Edited Collections


M. Pisano, “Moving Europe towards a more effective procurement of space-based assets” (2006) 22 *Space Policy* 176