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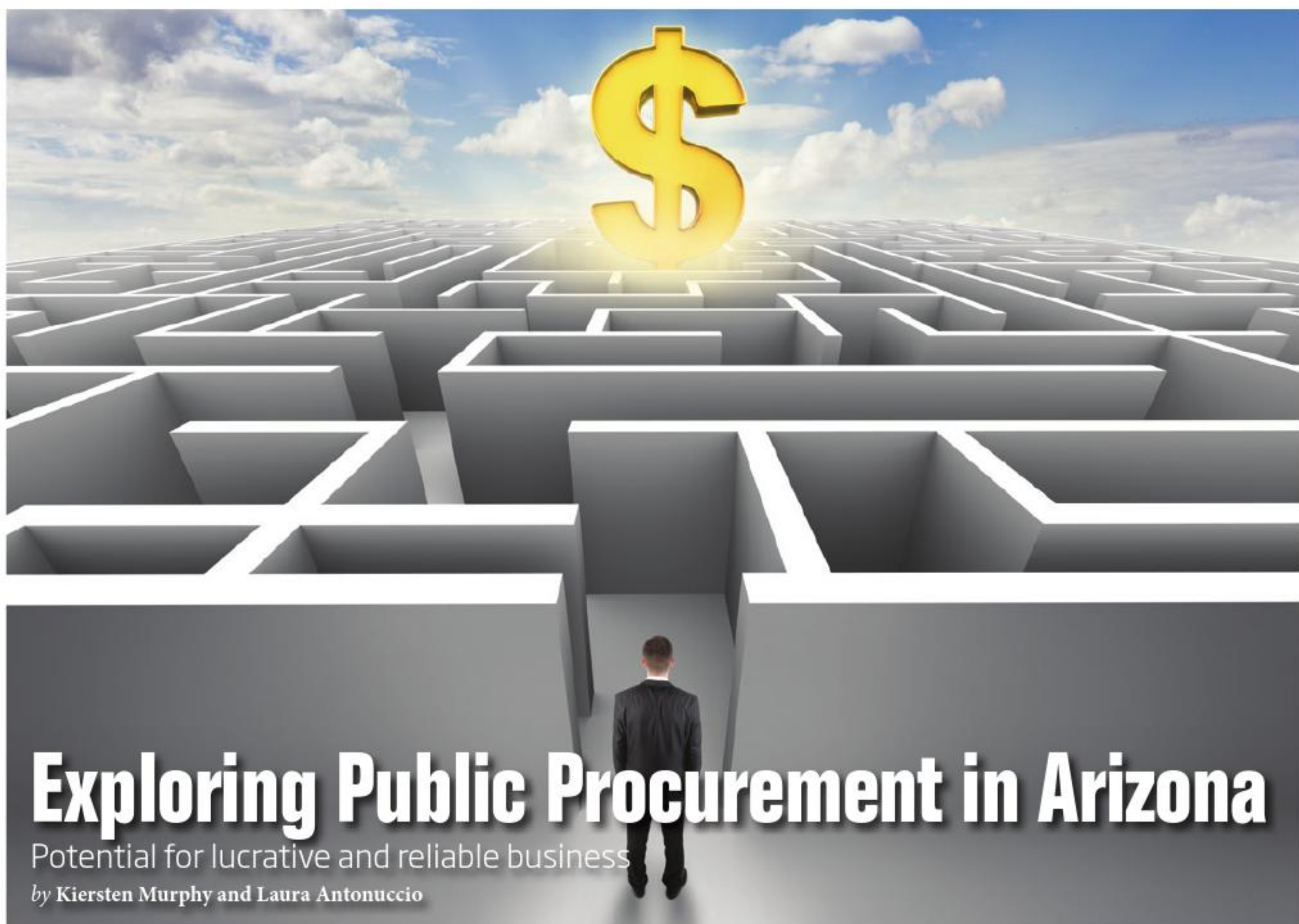
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# Exploring Public Procurement in Arizona

Potential for lucrative and reliable business

by Kiersten Murphy and Laura Antonuccio

BOTH WELL-ESTABLISHED AND emerging companies seeking to expand in Arizona should consider whether to pursue lucrative government contracting opportunities. However, confusion about when and how the government actually purchases goods and services often keeps businesses from pursuing these opportunities. Through understanding *what* public procurement is, *how* it works and *why* a company should explore public contract opportunities, we can begin to chip away at the mystery.

## What Is Public Procurement?

Public procurement is a straightforward concept. Government entities at every level spend *billions* of dollars each year purchasing a wide variety of commodities and services, ranging from office supplies to health insurance for government employees. Public procurement is simply a term of art for the competitive process that must be followed before the government can purchase almost anything — aside from small purchases, which are not subject to the formal procurement process.

During the process, the government determines how goods or services should be procured and issues a solicitation, also known as a request for bids or proposals. Next, interested and qualified companies respond, carefully adhering to the solicitation's requirements and the applicable law. Procurement officials then review and evaluate the submissions, and award the contract.

Procurement officials are charged with securing goods and services in the government's best interest. In some cases, that "best interest" may be realized by contracting for the *lowest priced* goods. For example, fungible goods like pens or pencils are procured through an "Invitation for Bids" process, with the contract awarded to the lowest-priced responsible and responsive bidder.

Alternatively, the government's "best interest" may be realized by contracting for goods or services that are *most responsive* to the issues the government seeks to address through a "Request for Proposals." For example, a health insurance proposal may be more expensive than competing proposals, but it may better represent the unique coverage the government seeks to provide its employees.

## Why Consider Public Procurement?

Securing a government contract can mean a significant increase in a company's profitability. The government frequently awards large contracts, some of which last several years and generate a steady stream of revenue over the term. The government also tends to be a stable customer, offering near-certainty of payment.

Additionally, government contracts are governed by identifiable laws, rules and regulations that mandate openness and fairness in the competitive process, and otherwise provide for and protect companies' rights. Those rules and regulations generally provide a mechanism to challenge the government's decisions to ensure fairness and openness in the decision-making process.



Effective procurement is also in the public interest — a robust and competitive process assists the government in securing low-cost, best-value goods and services in the best interest of the government and the taxpayer.

### How Long Does the Process Take?

The length of each procurement process — from solicitation issuance to final contract award — varies from contract to contract, and may depend on a number of factors that include the government entity and its needs, the product or service sought, the timetables established by the solicitation, whether or when an existing contract will expire, the contract's dollar amount, the number of interested bidders, whether anyone challenges the solicitation or protests the recommended contract award, and so forth. The rules are designed to keep the process moving forward, and turnaround times can range anywhere from days to months.

### What if a Company Is Successful (or Not)?

A company's ability to perform the terms and conditions of the contract to the government entity's satisfaction is critical. As a successful contract awardee, establishing goodwill and a positive impression with a government customer can pay dividends in future procurement opportunities. On the other hand, failing to meet promises may have a lasting, negative impact on a company's ability to secure future contracts.

Remember, there is a learning curve in submitting proposals to the government, so even if a company isn't successful the first time, there's no need to be discouraged. An unsuccessful bidder can assess how to improve future proposals by scheduling a post-award "debriefing" meeting with procurement officials to learn why the government chose a competitor, and by submitting a public records request to obtain copies of competitors' proposals.

Unsuccessful bidders should also consider whether it makes strategic sense to challenge the government's award through a bid protest, identifying errors in the procurement process (e.g., scoring, methodology or compliance with applicable law). Because procurement officials have great discretion, bid protests are an uphill battle, but may still be worth pursuing if a company is on solid legal ground and if there are objectives outside the procurement process worth pursuing (e.g., to alert the government to flaws in the process).

A wealth of procurement information is available online. The State Procurement Office website provides information on contracting with the State of Arizona. Federal contracting information/opportunities can be found on the Government Accountability Office and Federal Business Opportunities websites. And many Arizona localities (cities, counties, etc.) provide information on their websites about local procurement opportunities and procedures.

If you decide to pursue government contracting opportunities, commit to the process. Be strategic, diligent, well-researched and thorough, and remember that great patience can bring great reward. ■

**Arizona Department of Administration, State Procurement Office** [spo.az.gov](http://spo.az.gov)

**Gallagher & Kennedy** [gknet.com](http://gknet.com)

**General Services Administration, Federal Business Opportunities** [fbo.gov](http://fbo.gov)

**U.S. Government Accountability Office** [gao.gov](http://gao.gov)

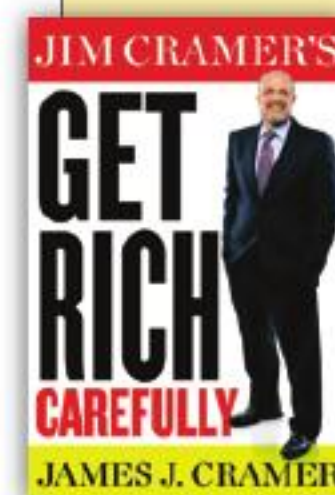
*Kiersten Murphy and Laura Antonuccio are Arizona attorneys and members of the Public Bidding & Procurement team at Gallagher & Kennedy. They assist clients with a wide variety of government contracting matters.*



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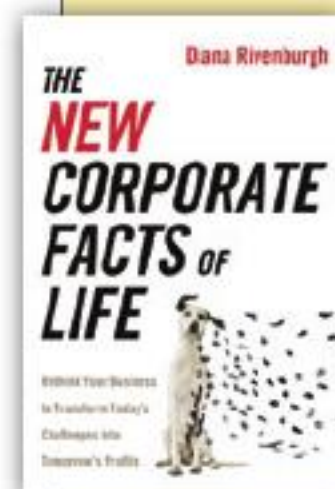
**J. Stewart Black and Hal Gregersen**  
\$39.99 • FT Press • December 2013



### Jim Cramer's Get Rich Carefully

JIM CRAMER USES his 35 years of experience as a Wall Street veteran and host of CNBC's "Mad Money" to create a guide to high-yield, low-risk investing. In our recovering economy, this is the plan for making big money without taking big risks. Drawing on his unparalleled knowledge of the stock market and on the mistakes and successes he's made on the way to his own fortune, Cramer explains — in plain English — why a person can get rich in a prudent, methodical way, as long as he starts *now*.

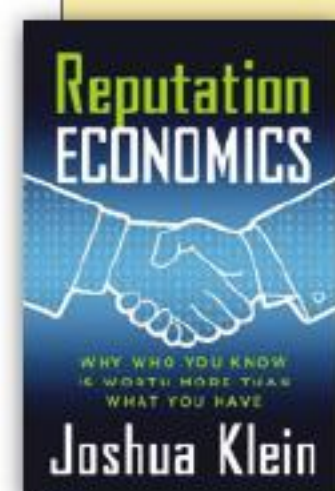
**James J. Cramer**  
\$29.95 • Blue Rider Press • Late December 2013



### The New Corporate Facts of Life: Rethink Your Business to Transform Today's Challenges into Tomorrow's Profits

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**Diana Rivenburgh**  
\$27.95 • AMACOM • November 2013



### Reputation Economics: Why Who You Know Is Worth More Than What You Have

AS THE INTERNET has increasingly become more social, the value of individual reputations has risen and a new currency based on reputation has been created. This means that not only are companies tracking what an individual is tweeting and what sites they spend the most time on, but they're using this knowledge to predict the consumer's future behavior. Klein's book points to the importance of data in becoming a success.

**Joshua Klein**  
\$28 • Palgrave Macmillan • On shelves and online