What do they study?

How threats of challenges affect public contracting

• Challenges from third parties
  • competing politicians / firms

• Challenges occur in law courts & in “court” of public opinion (affecting elections)
To summarise...

Objectives:
• Explain rules, contract specificity and efficiency in a political context
• Rigidity in public procurement as “political risk adaptation” (response to threat of third party challenge)

Focus: “Rigidity + specificity” R
(high penalties + specific detail)
• Main case: TP = competing politician
  with challenges in “court” of public opinion (perhaps via law)
  (impacting via elections -- unmodelled)

The game

• Public agent (pu) buys a service from a private contractor (pr)
• Threat of response by third party challenger (TP)

• Timing?:
  • 1. Contracting (rigidity R, price P)
    -- Adaptations (cost K(R)), Kpu + Kpr
  • 2. TP challenges or desists q (R, c, T)
    -- Implicit public or legal judgement
    -- Successful challenge TP (or TP') substitutes pu (or pr)
Results

Propositions 1 and 2:
1: TP challenge probab is low if rigidity R is high
2: TP “opportunism costs” low if rigidity R is high

Lemma 1/Corollary 1: TP threat $\rightarrow +$ rigidity R

Scrutiny (transparency) raises TP threat if challenge costly
i.e., unless TP challenges when ignorant

Comment 1: The ignorant challenge caveat seems implausible (need info to make a challenge); also, the analysis requires an ex ante expectation or explicit motivation of why an (optimistic) bias in the prior is likely

Comment 2

General claim: contract rigidity results from:
- Public agent attempting to limit third party challenges
- Not civic legislation to limit public agent discretion
  (i.e. not a reaction to distrusted pu)

But whence assumption R helps limit TP challenges?
- If court of law assesses challenges, I think R helps because legislation biased towards rigidity.
  - In examples like US procurement, rules imposed from above pu
- If court of public opinion, endogenise how people judge
- Distrust of politician pu seems to remain vital
Comment 3

Then novelty is use of TP to generate info

- Endogenise the institutional rules
- Compare with alternatives (incentivised regulators…)

- Citizens have mobilisation costs but not impossible
- Ellman (2006) shows that rigid long-term contracts interfere with political accountability by dissuading activists
- & delegating control to private party also dissuades

Comment 4

Does R always dissuade challenges?
If R lowers social value (via K(R) say) then high R → a competing politician can gain more from raising public awareness

Authors just assume
- R makes challenges harder.
- K(R) fully internalised by the politician in eqm (2.4) since perfect competition among contractors adds K_{pr} to P
  - “alpha” (internalisation) - scrutiny raising alpha
Comment 5

- Empirical applications quite far removed from public procurement setting

- E.g. Civil servants as pr (private contractor) in model?
  - But then low discretion of pr is not in the model
  - Can look at low discretion of those who hire civil servants
  - But not self-imposed?

Minor comments

- Scrutiny may also lower rents from office
  - Reduces challenges (like political contestability parameter)
  - But also reduces need for challenges

- Don’t forget the L in public!
Concluding remarks

Important and exciting topic
Full of insightful observations

Model is perhaps too ambitious in scope (many parameters!) and often assumptions too close to results

Applications intriguing but currently distant from model