



Procurement law

We advise public and private principals from all our offices on structuring, designing and developing procurement processes that are legally secure and in line with market requirements – always with the necessary foresight and creativity. For every project we develop the best procurement strategy. In doing so, we ensure that the requirements of European and national legislation are fulfilled and that regional public procurement laws are observed, while making the most of any flexibility available to our clients. In the event of public funding, we keep careful track of all associated requirements. On request, we can also take on the comprehensive management of a procurement process as an external issuing agency.

We support companies in the proper legal submission of applications and offerings and review procurement documents for any possible infringements of procurement law as well as advising on the best course of action if an infringement has been identified. It goes without saying that we regularly represent public principals as well as bidders in review and submission procedures before public procurement tribunals, the German courts and the European Court of Justice.

„ One interviewee describes Kapellmann und Partner as 'very present in the procurement area especially in construction but also other areas like IT. They have good procurement lawyers'; 'The firm is broadly positioned and that allows comprehensive coverage,' according to a client who further highlights the 'very nice human interaction; you just feel really well taken care of' “

Chambers Europe 2022

„ Leading law firm for procurement law; 'Quick comprehension, independent determination of the relevant content of procurement law across all topics, courage to challenge judgements of principle'; 'Extensive experience with complex procurement

procedures'; 'Super team, a contact person available at all times, very fast and competent feedback on concerns'. “

Legal 500 Germany 2022 and 2023

„ The procurement practice is strongly rooted in the construction industry and advises on numerous complex construction and planning projects. “

JUVE Handbook 2022/23

„ Leading law firm for procurement law 2022 “

WirtschaftsWoche Top-Kanzleien 2022

OUR SECTOR EXPERTISE

Construction, supply and service provision

Our practice advises on all possible types of procurement procedures. We develop the best possible procurement strategy which we structure in collaboration with our clients. Preparing and implementing complex procurement procedures are part of our day-to-day business. We always take a holistic approach to giving advice.

This means that we provide comprehensive support for our clients in all stages of a procurement procedure. The structuring and implementation of procurement procedures in a legally secure manner are a given – but we also know the market and generate competition for you, which pays off, particularly in special procedures such as negotiation proceedings and competitive dialogue or in the conclusion of framework contracts.

If you would like us to, we can create all the necessary procurement and contractual documentation for your project, tailored to your individual needs, in order to guarantee the best possible outcome.

Selected references

- Municipal IT service provider: support in the procurement of framework agreements on IT provision for a number of municipal associations
- Advising on procurement of cleaning and waste disposal services, surveillance services, reception services, post, etc.
- Advising on planning and construction procurement for municipal new build and redevelopment projects

Architectural services and expert planning

The design and implementation of proceedings for the procurement of architectural or expert planning services is one of our core competencies. We approach construction projects in an integrated manner and can provide a set of inter-dependent contracts for all parties involved.

We also support clients in planning competitions and in the integration of architects competitions into innovative procurement strategies.

Selected references

- Berlin-Brandenburg International Airport: support in various EU Utilities Directive procurement procedures and review procedures
- Energy supply company: comprehensive advice on the construction of an offshore wind park
- WSW mobil GmbH: procurement and contract law advice regarding the acquisition of new vehicles as well as a new operating system for the Wuppertaler Schwebebahn (suspension railway)

Health sector – planning, construction, medical technology and pharmaceuticals

Our clients include principals, industry associations and companies in the health sector. We have worked on a very wide range of matters from the provision of support in the purchase of medical products (capital goods and consumer goods), pharmaceuticals and medical aids and a diverse range of services to the provision of comprehensive advice on the new build of hospitals and university clinics.

We have brought together our construction expertise in the health sector in an interdisciplinary > **Sector Group**. In this manner we can advise our clients on all the relevant legal issues from a single source.

Selected references

- Statutory health insurance: support in various tendering procedures
- Purchasing groups for municipal hospitals: comprehensive support in the purchase of hospital materials, rescue vehicles, etc.
- Two top-level organisations: continuing advice in connection with, among other things, services for cost-benefit assessments

Procurement in the utilities sector – transport, drinking water and energy

We support principals in the utilities sector such as public utilities, energy producers, ports, airports and transport service providers on all questions of procurement and contract law. In doing so, we identify any additional flexibility available to the utilities sector under procurement law and design a procurement process that is both, legally secure and efficient.

IT hardware and software procurement

We design both hardware and software procurement for you. When we do, it is standard practice for us to actively contribute to specifications or testing. Where products have a rapid innovation cycle, procurement processes must be designed carefully and with foresight – from the initial concept to implementation through to user workshops. We are happy to share our experience, tailored to your needs, when we first assess your requirements.

Sustainable and resource-friendly procurement

Public procurement does not only serve to meet demand in the most favourable way – goals beyond this may and should also increasingly be pursued. We will assist you in designing legally secure and innovative procurement and award criteria so that you may implement a sustainable, resource-friendly and socially responsible procurement.

Selected references

- State capital Kiel: complete structuring and execution of PFI projects for the new build of three vocational training centres.
- Haan: PFI procurement for a school complex/canteen
- City of Neuss: advice on the construction and maintenance of a multi-functional school building (RomaNEum)

Innovative procurement strategies e.g. investor selection processes/procurement of public service concessions/sole contractor procurement

In some cases, the common procurement structures are not suitable for the attainment of our clients' goals. We will think outside the box for you and develop innovative procurement strategies, such as investor selection processes or sole contractor procurements. We will strive to find a cooperative approach where appropriate. The design flexibility allowed within the scope of the law offers many more opportunities and possibilities than you might think. In turn-key construction projects we will include an urban development and an architectonic competition in order to ensure the best possible outcome.

Privatisations and partnership models

In some cases, the most economic procurement strategy will be a collaboration between the public sector and the private sector (public-private partnership or PPP) or a privatisation. Also in this area of expertise we have extensive experience, with a wide variety of asset classes and corresponding procedures – whether with school buildings, administrative buildings or single purpose buildings or in the transport sector.

Supporting structured bidding procedures

Procurement law only governs the procurement of goods and services, not the sale of goods such as property or company shares. However, in these sales processes a transparent and fair competition may also be legally required or at least sensible. The procedural standards that apply to procurements can be applied here, too. Accordingly, we regularly advise on the preparation and implementation of sales processes on behalf of the public sector.

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