

# PRO CURE MENT LAW



LEINEMANN PARTNER  
RECHTSANWÄLTE







## PROCUREMENT LAW SPECIALISTS

Public contracting entities effect their purchases through formal award procedures. The regulations applying to these public procurement procedures are continually gaining in complexity and increasingly difficult to keep track of. Ever since the introduction of formal public procurement legislation, we have been providing advice to all involved parties and supporting them throughout the process. The

expertise of our procurement law team, which practices throughout Germany and is one of the largest in the country, extends to all public procurement areas. We handle the design of the award process from start to finish - including e-procurement contracts - for public contracting entities. We also support bidders all the way through the bid processing procedure - right up to the actual award decision. Speed and expertise are our trademarks.



## AWARD OF CONSTRUCTION CONTRACTS

Today, due to the high order volumes involved, limited funding and the considerable costs incurred through the tender process, it is hardly possible to realize a major project without obtaining legal advice on procurement law issues. Each and every construction measure that exceeds the European threshold automatically leads to a European-wide tender for all the trades involved, in cases where a general contractor is not appointed. It is not rare for a construction award procedure to end up before a public procurement tribunal or the Higher Regional Court. Contracting entities face the risk of having to repeat the whole tender procedure. Bidders, on the other hand, often ruin their chances of winning the contract through erroneous tender documents or the wrong bidding strategy. LEINEMANN PARTNER RECHTSANWÄLTE secure the economic success of their clients through their expertise. We are the market leader when it comes to reviewing the award of construction contracts.



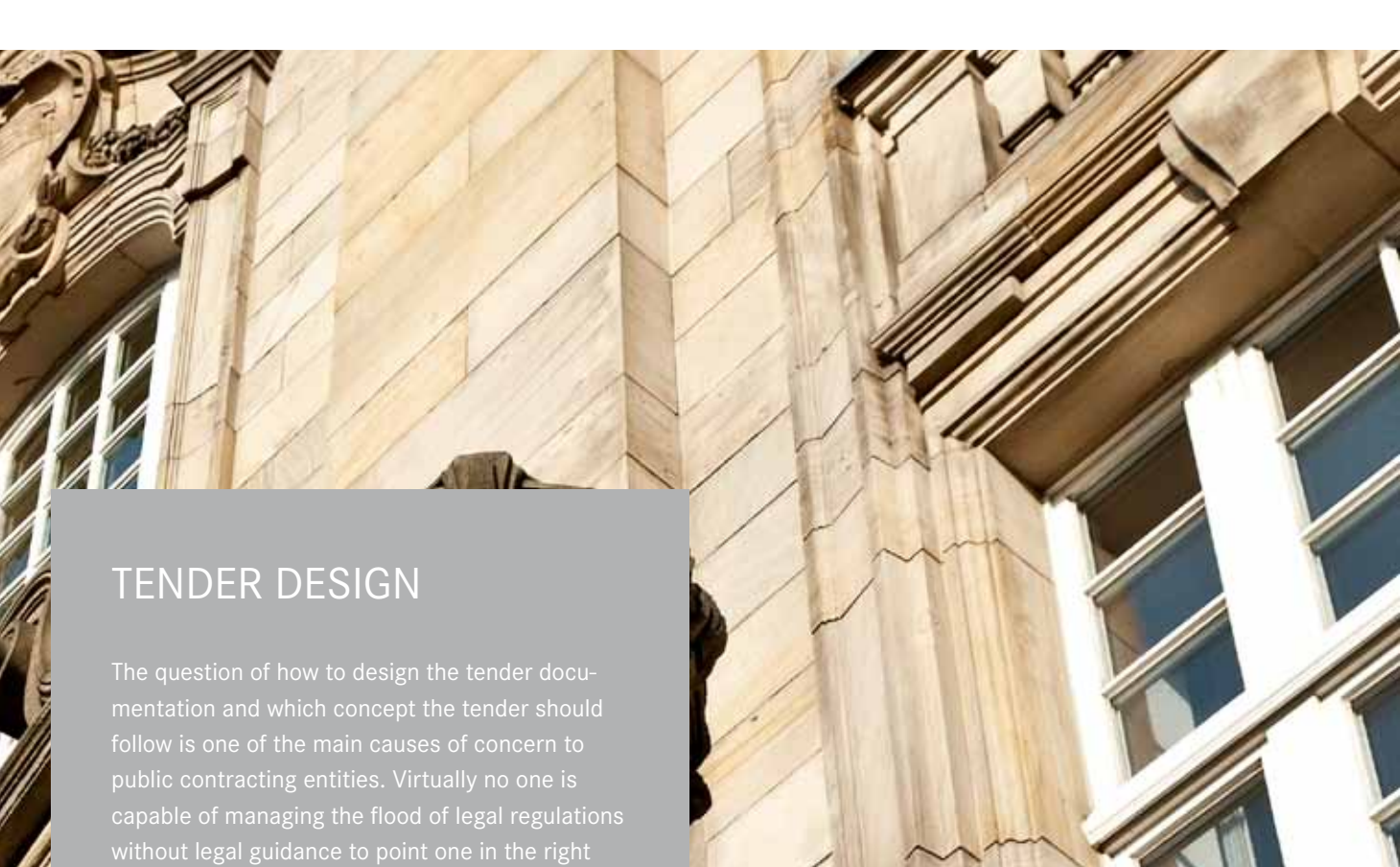
## TENDER PROCESSING

Anyone who believes that tender processing is a purely commercial and technical matter will have little chance of securing the deal when bidding for a public contract. Nowadays, it is essential to consider all procurement law aspects - from compiling the tender to fixing the price. Whether it is a question of selecting and furnishing proof of suitability during the competitive bidding phase, filling in the (right!) forms, entering the correct information in the right place or dealing with company-specific divergences, compiling alternative bids or handling the evaluation matrix: All these give rise to procurement law questions.

LEINEMANN PARTNER RECHTSANWÄLTE have successfully obtained procurement law decisions on all these questions and dealt with every aspect of the tender processing procedure from a procurement law perspective. The more significant the tender and more attractive the competitive challenge, the more likely is legal advice on procurement law questions to be a mandatory component of a successful tender strategy.

## PROCUREMENT REVIEW PROCEEDINGS

The urgent nature of procurement review proceedings places the highest demands on a legal advisor. Complex topics have to be worked through and prepared for the public procurement tribunal or Higher Regional Court within the extremely short time frame of two to five days. Having the right legal tactics is of decisive importance when presenting the case and requires many years of experience. The same applies to accessing files during the procurement review process in accordance with § 165 German Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen - GWB) - the nature and extent of which is often a point of contention between the parties involved in the proceedings. LEINEMANN PARTNER RECHTSANWÄLTE have successfully conducted hundreds of such cases, allowing them to build a huge and virtually unrivalled store of experience and expertise across a large team. We have obtained many of the important landmark decisions taken and published by the awarding bodies. No other law firm in Germany is commissioned more often than ourselves to conduct such cases.



## TENDER DESIGN

The question of how to design the tender documentation and which concept the tender should follow is one of the main causes of concern to public contracting entities. Virtually no one is capable of managing the flood of legal regulations without legal guidance to point one in the right direction. Furthermore, ensuring that an award procedure is legally soundproof also decides whether public funds (subsidies) may be “kept”, if a German auditing office or political monitoring body conducts an examination at a later point in time. LEINEMANN PARTNER RECHTSANWÄLTE advise public contracting entities and awarding offices in all procurement areas - ranging from designing the procedural concept to the award strategy, creation of the tender documentation, managing the process and the final evaluation.

LEINEMANN PARTNER RECHTSANWÄLTE offer customized concepts for preparing and supporting award procedures - carefully aligned and attuned to each individual case.





## PUBLIC PRIVATE PARTNERSHIPS (PPP)

The privatization of public tasks within the scope of a public private partnership (PPP) has become an integral part of the state's procurement activities. Such award proceedings are also subject to procurement law and review by the public procurement tribunals and Higher Regional Courts. LEINEMANN PARTNER RECHTSANWÄLTE have supported numerous procurement projects in the public sector, for example: school redevelopment and operation projects, city halls, fire stations, prisons, road development projects and specialized structures. In all these cases, we compile the tender documentation for the contracting entity and offer support during the development of an award concept, the performance specifications and a respective evaluation scheme. We are widely known for our special expertise and experience in PPP projects focused on road development. We also engaged in handling ongoing pilot processes in this area.

## AWARD OF SUPPLIES AND SERVICES ACCORDING TO THE GERMAN REGULATION ON THE AWARD OF PUBLIC CONTRACTS (VERGABEVERORDNUNG - VGV)

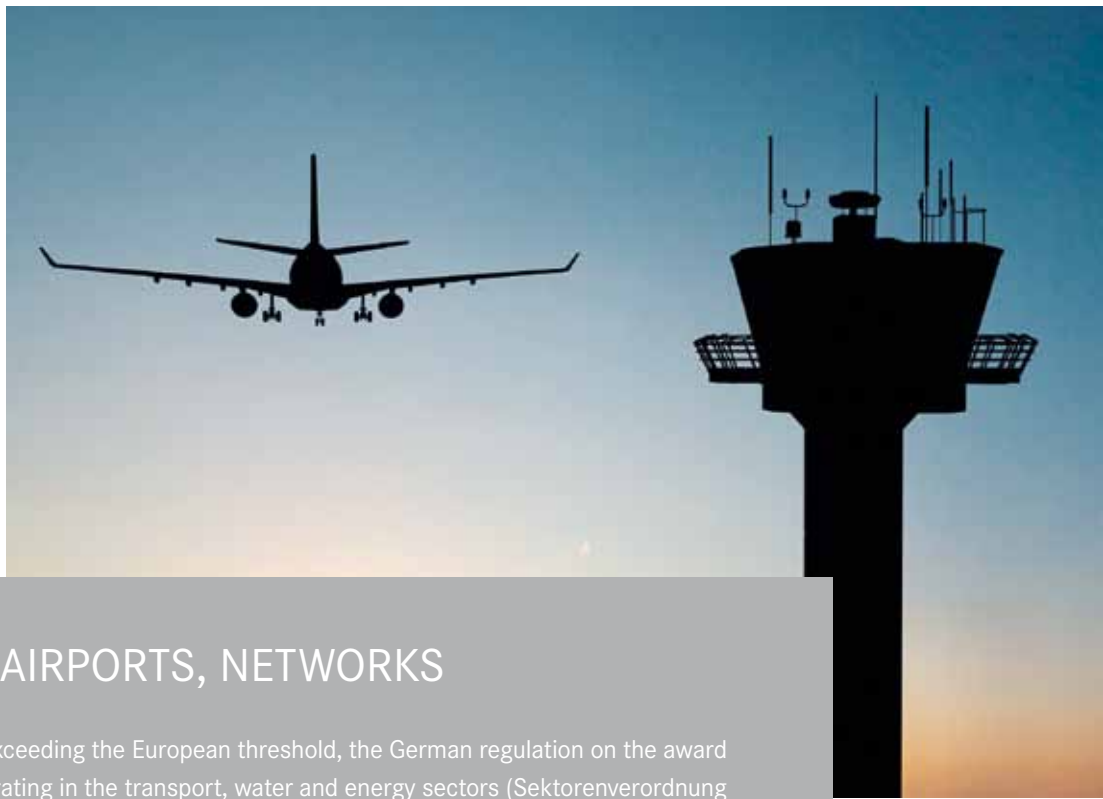
The award procedures for most procurement projects are governed by the German Regulation on the Award of Public Contracts (Vergabeverordnung - VgV), in as far as these are not construction contracts. Unique constellations are increasingly to be found in this context, such as voluminous framework agreements, technology-based tenders, special award techniques (reverse auctions, electronic catalogs, central purchasing bodies) through to function and serial tenders. Now, the mandatory procurement procedure is reshaping the whole system. We are familiar with the stumbling blocks and can manage all the common software solutions. The one decisive factor is a good knowledge of case law: Anyone who does not continually work on absorbing this knowledge or shaping it oneself, is hardly in a position to provide competent support. LEINEMANN PARTNER RECHTSANWÄLTE offer support and advice to contracting entities and bidders throughout all project phases.



## PRACTICE GROUPS

Each sector has its own rules of the game, requirements and laws. Based on many years of experience in providing help and advice to a broad range of different projects, we have gained extensive expertise in numerous select industries. We bundle and develop this knowledge within our individual Practice Groups.

Whether we are talking about a tender for IT infrastructure, the award of discount agreements in the healthcare sector or authorization procedures in the public transport sector: We have the required knowledge at our fingertips. Our lawyers strive to continually build on this expertise, thus ensuring our consulting skills are in line with the latest developments in the industry and corresponding legislation. Any emerging problem areas are anticipated well in advance and given due consideration. Whether draft European guidelines, national legislative initiatives or industrial codes of practice are concerned: We get involved in the developments at an early stage to devise a needs-based solution.



## SECTORS: PORTS, AIRPORTS, NETWORKS

In the case of award procedures exceeding the European threshold, the German regulation on the award of public contracts by entities operating in the transport, water and energy sectors (Sektorenverordnung - SektVO), which has already been in force since September 2009, contains common rules for all contracting entities engaged in the so-called "sectors" - gas, heating and electricity networks, water and transport services - irrespective of whether these are public or private undertakings. LEINEMANN PARTNER RECHTSANWÄLTE are one of Germany's leading consulting and law firms in this special market segment. Whether rail routes, high voltage lines, connections between offshore wind farms and the power grids, ports or airports are to be built - our list of references includes numerous projects in all these areas.

## DEFENSE AND SECURITY

This highly sensitive public procurement area is governed by the German Public Procurement Regulation for Defense and Security (Vergabeverordnung Verteidigung und Sicherheit - VSVgV). Modified procurement legislation is also in place for works contracts: German Construction Contract Procedures, Part A - Defense and Security (Vergabe- und Vertragsordnung für Bauleistungen Teil A im Bereich Verteidigung und Sicherheit - VS-VOB/A). The federal armed forces, federal police force, Federal Criminal Police Office and other security departments align their purchases to these provisions. We know the ropes and support both the authorities and bidders. The most important commentary on the provisions contained in the VSVgV and VS-VOB/A is published by C.H. Beck publishers on behalf of Leinemann/Kirch. Proceedings in this area are frequently based on this commentary.

## REVISION AND COMPLIANCE

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