Public procurement at Noerr

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Advising on successfully participating in high-value procurement procedures for forward-looking investment projects in public infrastructure and the “turning point” in defence policy

Germany and Europe face major challenges and pivotal decisions. Given the changed security situation, there is an urgent need to significantly enhance the German armed forces’ deterrence and defence capabilities, requiring the rapid expansion of its resources and operational capacity. In parallel, the European Union’s “ReArm Europe” plan seeks to establish far-reaching European military readiness by 2030, mobilising substantial investment in defence capabilities. At the national level, the German federal government is implementing its proclaimed “turning point” through the €100 billion German armed forces’ special fund and an exemption from the cap on public spending for all defence expenditure exceeding 1% of GDP.

A resilient defence capability and a comprehensive approach to security must extend beyond the domain of land. Alongside cyberspace, the federal government has identified space as a key security domain and a core component of a modern defence architecture capable of addressing military challenges proactively and effectively. Its Space Security Strategy, adopted in November 2025, is designed to integrate the space domain systematically into national and collective defence. The Federal Ministry of Defence is allocating €35 billion to space and space security by 2030, with regular public procurement procedures playing a central role in implementing this investment programme.

At the same time, the federal, state and local governments face substantial funding requirements in the years ahead. They will need to meet these needs irrespective of economic conditions, given the public-infrastructure investment backlog and the transition to a climate-neutral economy and industry. As a vital locational factor, public infrastructure will have a material impact on Germany’s competitiveness in an increasingly competitive global environment. Through its €500 billion Special Fund for Infrastructure and Climate Neutrality, the German government is responding to this substantial additional investment need. Over the next decade, it aims to deliver a wide-ranging investment programme across all areas of public infrastructure, from modernising transport infrastructure and expanding and upgrading energy infrastructure to transforming hospital infrastructure and advancing digitalisation.

Meeting these challenges will require the public sector to harness the capabilities of a broad range of private-sector players and the vision of investors capable of delivering the major investment drive in defence and public infrastructure. Public procurement will therefore become a decisive factor in Germany’s competitiveness as a business location and a powerful driver of innovation across the European single market. Against this backdrop, public procurement law is gaining prominence as a vital engine of economic growth and a key lever for both commercial and broader economic success.

Diverse and attractive business opportunities in challenging economic times

Public authorities in Germany award public contracts and concessions worth almost €500 billion each year. Public procurement therefore accounts for around 15% of German GDP. In economically uncertain times, public contracts and concessions can provide a stable and predictable source of revenue, opening up attractive commercial opportunities and new growth areas for both innovative market entrants and established industrial companies.

Virtually every sector with significant exposure to public procurement is seeing a substantial increase in public investment. Across Europe, the defence sector is benefiting from sharply rising demand for construction works, goods and services. This reflects the political commitment to materially strengthening deterrence and defence capabilities and giving practical effect to the proclaimed “turning point”. Meanwhile, the Special Fund for Infrastructure and Climate Neutrality, together with complementary programmes at state level, is providing targeted additional investment in public infrastructure year after year. The €500 billion special fund is available for investment approvals from 2025 to 2036, supporting the ongoing reduction of Germany’s substantial infrastructure investment backlog.

The broad scope of the Special Fund for Infrastructure and Climate Neutrality is creating diverse commercial opportunities, not only across the full range of infrastructure sectors but also throughout the value chain. These opportunities extend to economic operators in transport, energy, hospital and telecommunications infrastructure as well as in digitalisation, research, technology and development.

At the same time, key future-oriented areas are already emerging as core investment fields and attractive commercial opportunities for innovative businesses. The German government's landmark Space Safety and Security Strategy identifies space as an indispensable component of a modern, resilient defence and infrastructure architecture and backs this objective with substantial funding. To establish a national space security architecture, the Federal Ministry of Defence has announced investment of €35 billion in aerospace and space safety and security by 2030.The planned investment will focus on developing resilient, sovereign satellite constellations, ground stations and secure launch capabilities, while also strengthening cyber security and space domain awareness through radar systems, telescopes and guardian satellites. This will in turn generate high-value public procurement opportunities.

The commercial opportunities presented by the public procurement market are therefore clear. Businesses that identify them early can not only enter attractive new markets but also establish themselves as leading players in the relevant procurement markets.

Diverse and attractive business opportunities in challenging economic times

Public procurement law is currently undergoing its most significant reforms in over a decade. Following the entry into force of the German Armed Forces Planning and Procurement Acceleration Act (*Gesetz zur beschleunigten Planung und Beschaffung für die Bundeswehr*), the Federal Act on Compliance with Collective Agreements (*Bundestariftreuegesetz*) was adopted. More recently, the Procurement Acceleration Act (*Vergabebeschleunigungsgesetz*) entered into force. At the same time, the European Commission is seeking to modernise and simplify EU-wide procurement rules. To this end, it has prepared a legislative proposal that is expected to be presented shortly. This signals a paradigm shift: a single, uniform regulation is intended to replace the 2014 procurement directives with directly applicable law.

The Planning and Procurement Acceleration Act and the Procurement Acceleration Act are designed above all to simplify the complexity of public procurement law. They aim to relieve businesses and public authorities of disproportionate administrative burdens, promote the core functions of procurement law more effectively, notably EU-wide competition and the principle of value for money, and enable more flexible, targeted procurement procedures.

To meet the armed forces' requirements, the Planning and Procurement Acceleration Act introduces additional procurement-law exemptions and simplified procedural processes until full defence readiness has been achieved, together with further measures to increase flexibility and speed up procurement. The reforms therefore offer economic operators a significant commercial benefit: they will encounter a procurement framework that keeps pace with the range of current challenges when competing for public contracts.

The Special Fund for Infrastructure and Climate Neutrality is given further legislative effect through the Special Fund for Infrastructure and Climate Neutrality Act (*Gesetz zur Errichtung eines Sondervermögens Infrastruktur und Klimaneutralität*). The Infrastructure Financing Act for the Federal States and Local Authorities (*Gesetz zur Finanzierung von Infrastrukturinvestitionen von Ländern und Kommunen*) and the intergovernmental agreement between the federal and state governments implement the Special Fund across Germany's federal structure. This framework enables the federal, state and local governments to use the substantial investment funding effectively, efficiently and in a legally compliant manner through transparent and largely harmonised public procurement procedures. It also allows companies to pursue promising, sector-specific business opportunities tailored to their activities.

Businesses must also address the challenges arising from the reforms in a targeted manner. For federal contracts within the scope of the German Collective Agreement Compliance Act (*Bundestariftreuegesetz*), the Act imposes a substantial additional administrative burden by requiring compliance with contractual minimum employment standards, supported by corresponding documentation, verification and sanctions requirements. With appropriately tailored measures, businesses can significantly reduce that burden and turn compliance into a competitive advantage over their rivals.

Early, interdisciplinary procurement advice as a decisive competitive advantage

Successfully competing for high-value public contracts and conducting complex procurement procedures requires legal excellence, a sound understanding of commercial considerations and in-depth knowledge of the relevant sector and market. Many of the key legal factors underpinning later success need to be addressed at the preparation stage, for example through tailored corporate restructurings and the careful planning of forward-looking projects. During the procurement procedure itself, it is essential to retain control of the legal position and to anticipate the next steps. This requires an interdisciplinary approach that combines leading procurement law expertise with a deep understanding of the relevant industry.

Our firm takes a full-service approach, combining expertise across disciplines to help clients achieve their objectives and navigate highly complex challenges with confidence. We provide tailored advice that reflects each client's business model across all procurement-related markets. Our market-leading team of experienced advisers has delivered interdisciplinary, integrated legal advice across every aspect of public procurement law for decades, including extensive expertise in public pricing law.

We advise leading domestic and international private-sector companies on preparing for and participating successfully in procurement procedures, notably high-value infrastructure, defence, services and concession projects. Numerous contracting authorities also rely on Noerr's multi-award-winning full-service expertise to plan, structure and conduct public tenders in a legally compliant and effective manner, and to negotiate complex contracts. We are also highly regarded for representing both bidders and contracting authorities in complex procurement review proceedings. Our landmark matters include regularly supporting major projects and concession awards in litigation before national courts and the European Court of Justice. The procurement law reforms have significantly shortened the window for seeking effective primary legal protection, making first-rate procurement law advice even more important to safeguarding bidders' rights and advancing their commercial interests.

Our lawyers and procurement law practice are thought leaders in the field. We regularly guide clients through current developments in procurement law and draw on decades of experience in legal practice to help shape legislative initiatives and the review of existing procurement rules at both national and international level. In addition, clients benefit from our on-the-ground presence in Brussels and the longstanding relationships we maintain with EU institutions. This keeps us at the forefront of developments, especially in public procurement law. Our relationships and proximity to European stakeholders enable us to represent clients' interests effectively and at an early stage, ahead of political decisions on large-scale investment programmes and procurement regulation.

Selected reference projects

MOIA

Oberlandesgericht München

Mercedes-Benz

BAGS AND MORE

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