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Public Procurement

June 2019



Public Procurement

With over 140 public procurement specialists worldwide, the CMS Public Procurement Group offers you outstanding reach and capacity. We provide public tender support in 34 jurisdictions. Our specialists have long-standing sector expertise across core industries, including infrastructure, life sciences & healthcare, transport, TMC and energy. We put our experience to work for you in resolving complex public tender issues – including the formation and building of bidding consortia, e-procurement, protection of confidential information, antitrust matters, evaluations, specific rules around framework agreements, concession contracts and complex PPP projects. We deliver proactive advice and insights on negotiations, feedback, debriefing and how to approach different regulated tender procedures. Clients rely on us to represent them before authorities, tribunals and courts across Europe and in major cities in Latin America and Asia.



World-class public procurement specialists

The quality of public services increasingly depends on world-class skills in public procurement. Procurement regimes apply to the public sector and key utilities, presenting contractors bidding for work with ever more complex sets of rules. CMS is there to help. Our specialist procurement lawyers combine a thorough focus on legal detail with the ability to see the bigger, commercial picture, to deliver the best results for you.



Expertise on both sides of tender procedures

We have long experience of representing both contracting authorities and private companies bidding in tender procedures. We cover every aspect of complex tender procedures. Awarding authorities benefit from our skills in structuring the tender procedure in a legally secure way, while our advice gives bidders a better chance of winning the contract.



Broad sector experience

CMS public procurement specialists offer you focused expertise in key sectors:

- Infrastructure & Projects
- Construction industry
- Healthcare & Life Sciences
- Energy & Power generation
- Financial Services
- Transport
- Waste disposal
- IT and telecommunications
- Defense industry



Awards and Rankings

Number of
partners globally

> 60

Number of
lawyers globally

> 140



Largest public procurement team in Europe
with growing teams in Latin America and Asia.

One of very few **global law** firms with a dedicated
practice group focusing on public procurement.

Shaping the legal development of public procurement
through **numerous publications**, lectures and
representations as well as involvement in law-making
activities in **numerous jurisdictions**.

50% of
all group
members are
women and
they account
for 34%
of partners
in the group.



**One-stop
shop**
for multi-
jurisdictional
companies.

Award wins

UK: Included in the IAOP's 'Best of the World's Best Outsourcing Advisors'

Global directory rankings

Chambers ranking for Public Procurement/Public Law:

Band 1 in United Kingdom and Austria/**Band 2** in Germany/**Band 3** in Belgium, France, Portugal and Spain

Legal 500 for Public Procurement/Public Law:

Tier 2 in Austria, Germany, Morocco, Poland, Spain/**Tier 3** Romania, Chile and Peru

Our clients highlight the "strong and valuable relationship" with the CMS team, describing CMS as "a partner whom we can trust". We are known as particularly good at 'handling complex issues', including litigation, in the construction, healthcare, transport and waste management sectors. Clients highlight the team's "flexibility, pragmatism and speed of response" and value the fact that the department "provides a complete service" to clients.



Experienced on both sides

Our services for contracting authorities

- Pre-procurement market engagement
- Choice of procedure and strategic procurement planning
- Project management
- Drafting of tender notices and tender documents
- Responding to bidders' questions and complaints
- Tender evaluation
- Preparing and conducting bidder discussions and negotiations
- Debriefing unsuccessful bidders
- Contract award

Our services for bidders

- Engaging public sector bodies
- Developing bidding strategies for contract opportunities
- Forming bidding consortia
- Addressing incumbent contractor advantages and ensuring a level playing field
- Dealing with unfavourable contract specifications
- Support in complex procurement procedures (e.g. PPP, IT)
- Drafting and optimising submission documents
- Support for notification duties, as well as content and timing of procedural complaints
- Ensuring proper debrief information is received if unsuccessful



Looking outside of the box

Construction and service concessions, public-private partnerships (PPP)

The high complexity of the procurement of concessions and PPP projects requires extensive planning as well as project teams made up of specialists from different areas of expertise. We often see procurement, construction, contract law, public commercial law, corporate law, project finance and tax law experts working together in the same project.

Close cooperation with partners from various CMS offices ensures that our lawyers can always draw on international experience and develop tailor-made solutions for local projects, as required.

Procurement litigation

We advise on procurement review cases and appeals (procurement litigation). We regularly represent both awarding bodies and bidders in procurement challenges before national tribunals and courts, and in front of the European Commission and the European Court of Justice.

Compliance

Compliance is critically important in public tender procedures. We help to establish efficient compliance management systems and assist, if necessary, in investigations and sanctioning procedures. We work to mitigate any negative consequences that may arise from compliance issues, such as procurement bans by international financial institutions.

Interface with State aid and privatisations

CMS supports clients in transactions in which procurement law implications are easily overlooked. Real estate transactions or privatisations may contain pitfalls concerning state aid law, and may include complex procurement law aspects.



Highlights of our recent experience

European procurement procedure of the Dutch National Institute for Public Health and Environment

Advising a major pharmaceutical company on a tender submission regarding the purchase of vaccines.

European Commission

Member of the winning consortium hired to assist the EC in a project related to the value-based procurement of innovative solutions to help transform health and social care delivery.

Resalta

Advising on regional consolidation of the terms of business in Serbia, Croatia, Slovenia and Montenegro. Our advisory work included the public procurement aspects of all relevant documents and procedures.

Bombardier Transportation

Advising in a hearing before the Polish National Chamber of Appeal regarding qualification of Bombardier's competitors, based on the references and technical specifications in a public procurement tender in the Czech Republic.

Brenner Base Tunnel Project

Advising and representing an Austrian-Italian consortium on the tender for one of the largest tunnel projects in Europe

Eurofighter

Advised on a very large procurement project concerning fighter planes for the German Ministry of Defence.

Petroperu

Advising on new rules governing the public procurement process in Peru.

SNCF Mobilités – Gares & Connexions

Advising on a project to transform the Paris Nord railway station, which includes the incorporation of a semi-public single operation company with one or more private operators.

Sanifair

Advising the German bidder in a concession award for the construction and operation of facilities in Vienna's largest metro stations, and procurement litigation.

T-Systems Hungary

Representing the bidder in major litigation related to unlawful contract modification and the imposition of a fine, including an ECJ preliminary ruling procedure, following our initiative.

AEW Energie AG

Advice regarding the tender process and procedure for the procurement of IT services (implementation of new SAP software for an entire group of companies).

European Commission projects

Advising a provider of consulting services for public sector clients on public procurement matters concerning projects in Ghana, Nigeria, Namibia, Bosnia, Ukraine.



They are excellent – each member brings a specialist knowledge and expertise that combines to great effect in terms of client service.

*Chambers Europe 2019,
client on the UK team*



Get in touch



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<https://cms.law/en/INT/Publication/CMS-Public-Procurement-Contact-Card>



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CMS locations:

Aberdeen, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Berlin, Bogotá, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Duesseldorf, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Hamburg, Hong Kong, Istanbul, Kyiv, Leipzig, Lima, Lisbon, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Mexico City, Milan, Monaco, Moscow, Munich, Muscat, Paris, Podgorica, Poznan, Prague, Reading, Rio de Janeiro, Riyadh, Rome, Santiago de Chile, Sarajevo, Seville, Shanghai, Sheffield, Singapore, Skopje, Sofia, Strasbourg, Stuttgart, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

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