



PUBLIC PROCUREMENT

Comprehensive advice at all stages
of tender procedures

JARA DRAPAŁA & PARTNERS

legal • tax

Practice group overview

We advise Polish and foreign firms at all stages of the public procurement procedure (classic and sectoral), in particular with regard to infrastructure, energy and services sectors. We successfully represent our clients in proceedings before the National Appeals Chamber. The claims we filed with common courts against judgments of the National Appeals Chamber led to precedent-setting decisions in several cases.

We advise with regard to:

- review of public procurement notices or Terms of Reference (TOR) for compliance with the Public Procurement Law, generally applicable laws, and current case law of the National Appeals Chamber and of common courts;
- preparing a bid or a proposal, and reviewing these documents for compliance with the requirements set by the contracting authority, determining the scope of the required documents and statements for submission within the procedure, as well as checking that they are correct;
- preparing and submitting enquiries in order to clarify doubts as to the provisions of the Terms of Reference;
- participating in negotiations and other meetings under the law at the stage of the procedure for awarding a public contract;
- assessment of the likelihood of success in the event legal remedies (appeal, complaint) are used;
- preparing an appeal to the National Appeals Chamber or a complaint to a common court, as well as other pleadings necessary at the legal remedy stage;
- analysis of appeals submitted in the public procurement procedure by other bidders;
- representing our clients in proceedings before the National Appeals Chamber and common courts.

Selected projects

Railway infrastructure

- legal advice and representation before the Polish Chamber of Commerce and common courts in several dozen procurement procedures regarding modernization and renovation of railway lines;
- advising on a full range of issues with regard to participation of a Polish-German consortium in a tender for a feasibility study and a functional-utility programme for the modernisation of railway line E59, which is a section of an international line linking Scandinavia with Central and Eastern Europe and the Balkans;
- providing legal advice for a Polish-French consortium when applying for a public procurement contract for the preparation of project and tender documentation for modernisation of railway line E20, Siedlce - Terespol section;
- providing legal advice for a global leader in manufacture and servicing of railway rolling stock and rail equipment in a tender for the purchase of 11 electric double-cabin locomotives.

Road infrastructure

- legal advice and representation before the Polish Chamber of Commerce and common courts in several dozen procurement procedures regarding construction and extension of sections of national and local roads (in the “design and build” and “build” model);

- comprehensive legal advice for a Polish consortium in a procedure for awarding a public contract for expansion of the Warsaw – Białystok national road No. 8 (sections Ib and II);
- comprehensive legal advice for one of the leading suppliers of products, services and systems for traffic safety in tenders for ongoing and comprehensive maintenance of expressways and the purchase of mobile recording devices to equip the Main Inspectorate of Road Transport within an automatic traffic surveillance system;
- comprehensive legal advice for a Polish-Swedish consortium of companies (leading suppliers of products, services and systems for traffic safety) in a tender for the purchase of mobile recording devices to equip the Main Inspectorate of Road Transport within an automatic traffic surveillance system;
- comprehensive legal advice for a consortium (leading suppliers of products, services and systems for traffic safety) in a tender for ongoing and winter (comprehensive) maintenance of roads and motorways;
- comprehensive legal advice in terms of participation of a consortium in a procedure for awarding a public contract for the construction of a road in Białystok.

Energy sector

- advising on a full range of issues with regard to participation of a consortium in tenders for the construction of new combined cycle power units at the Gorzów CHP, Pomorzany PP (Dolna Odra Power Plant Complex), Bydgoszcz CHP and Katowice CHP
- legal advice on a full range of issues with regard to participation of a contractor in tenders for the modernisation of combustion systems: for unit 2 in GiEK PGE Bełchatów Power Plant Branch; for units 7–12 in PGE Bełchatów Power Plant;
- advising on a full range of issues with regard to participation of contractors in tenders for the construction of a “turnkey” flue gas desulphurisation system with supporting facilities: for lignite-fired units 4, 5 and 6 in the Turów Power Plant, in the ENERGA PP, in the Ostrołęka PP and in the Wybrzeże CHP.

Other

- providing comprehensive legal advice for a German consortium in the tender for preparing complete research, conceptual as well as design and construction documentation as part of comprehensive preparation of new investment sites in a city in northern Poland;
- providing legal advice for an Austrian contractor in terms of applying for a contract as well as execution of a public procurement contract for the supply, installation and commissioning of a high G-force centrifuge – a training simulator for the Military Institute of Aviation Medicine;
- comprehensive legal advice for a Polish contractor on a tender concerning construction of a multi-purpose breeding and exhibition facility together with animal paddocks (“Orientarium”) in the Łódź Zoological Garden.

Key advisors on the team

The Public Procurement Team is headed by **Professor Przemysław Drapała**, PhD, a Partner, and consists of lawyers with several to over ten years of experience in providing comprehensive legal advice for participants of public procurement procedures.



Partner, manages the Public Procurement Team, the Litigation and Arbitration Team and the Infrastructure Team. He has over fifteen years of experience in advising leading construction companies (contractors), technology providers and private investors in connection with the execution of complex investments made under the provisions of the Public Procurement Law. He has acted as a representative of parties or an arbitrator in numerous litigations and arbitrations regarding construction projects (including KIG, Lewiatan, ICC, DIS, UNCITRAL), as well as an attorney in proceedings before the National Appeals Chamber and common courts. He holds a PhD title in Civil Law, as well as that of an Associate Professor at the Department of Civil Law at the Koźmiński University in Warsaw. He is also the author of over

80 publications in the field of civil & commercial law and arbitration, including numerous publications on construction works contracts, the co-author of volume 5 and volume 6 of the System of Private Law (last edition by C.H. Beck, 2013), the co-author, together with the judges of the Civil Chamber of the Supreme Court, of the commentary to the Civil Code, edited by Jacek Gudowski (last edition by Wolters Kluwer, 2017), the member of the Problem-Focused Team at the Civil Law Codification Commission for contracts for providing services in the new Civil Code (including construction works contracts), a member of the Court of Arbitration at the Polish-German Chamber of Commerce and Industry, and the Chairman of the Court of Conciliation at the Warsaw Bar Association.

Prof. dr hab. Przemysław Drapała, PhD, Legal Advisor, Partner

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Legal Advisor with several years of experience in providing comprehensive services to entities from various industries (including in particular construction and infrastructure) and in legal representation in the procedures for awarding public procurement contracts. He has acted as an attorney in numerous proceedings before the National Appeals Chamber and common courts. He is the author of publications in the field of public procurement and Community funds. He uses his experience gained while working at an institution which supervised projects co-financed from EU funds, including as head of the public procurement auditing division.

Wojciech Merkwa, Legal Advisor

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Attorney. He specialises in legal and advisory services during execution of undertaken construction investment projects concerning, among others, road and railway infrastructure, maintenance works ("Keep the Standard" contracts), and deliveries of railway and tram vehicles. He also advises on public procurement and represents clients in proceedings before the National Appeals Chamber. He provides legal advice on performance of infrastructure investments, including in particular drawing up amendments to public contracts, no-bid contracts on additional works, as well as settlements between public employers.

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