



Federal Office of Bundeswehr Equipment,
Information Technology and In-Service Support

The Bundeswehr as a Customer



BUNDESWEHR

The Bundeswehr as a Customer



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Introduction

The Bundeswehr's mission is to provide national and collective defense as laid down in the German constitution. To be able to accomplish this mission and the tasks based on it, the necessary capabilities must be made available to the armed forces. This includes providing them with the required equipment.

The responsibility of satisfying the armed forces' demand for materiel and services lies with the Federal Defense Administration. To provide the armed forces with the necessary equipment, the designated agencies of the Federal Defense Administration award contracts to trade and industry in compliance with budgetary and contracting provisions and the applicable administrative guidelines. This brochure is designed to inform citizens and especially companies

interested in obtaining Bundeswehr contracts about the Bundeswehr organization and its procurement and contracting procedures. It can serve as a guideline for getting into business with the Bundeswehr. The award of construction contracts is not covered by this brochure as Bundeswehr construction projects are managed by regional financial construction authorities.

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Section I: Procurement organization

The Federal Defense Administration has the constitutional mission to directly meet the material requirements of the armed forces. The Defense Administration eases the burden on the field units by handling numerous tasks, including the running of barracks facilities, the procurement of materiel, or giving consideration to environmental protection issues. The Defense Administration is divided into the major organizational elements of “Infrastructure, Environmental Protection and Services”, “Equipment, Information Technology and In-Service Support” and “Personnel”. Civilian personnel also fulfill important functions in the administration of justice in the Bundeswehr and in the military chaplaincy.

1. The Federal Defense Administration

There are two elements within the Federal Ministry of Defense (FMoD) that are in charge of Bundeswehr procurement: The Directorate-General for Equipment (A) is responsible for the procurement of defense materiel. Its tasks include providing the armed forces, in a demand-oriented and cost-effective manner, with the military equipment required to accomplish their mission. All other procurements needed to meet the armed forces' demand are handled by the Directorate-General for Infrastructure, Environmental Protection and Services (IUD). It is in charge of providing the armed forces, in line with demand and cost-effectiveness, with the infrastructure and services required to accomplish their mission.

Federal Ministry of Defense				
Bundeswehr	Armed Forces	Services	Army	Bundeswehr Joint Forces Operations Command
			Air Force	Federal Office of the Bundeswehr for Military Aviation
			Navy	Bundeswehr Office for Defense Planning
		Joint Medical Service		Bundeswehr Command and Staff College
		Joint Support and Enabling Service		Leadership Development and Civic Education Center
		Cyber and Information Domain Service		
	Federal Defense Administration	Personnel		Federal Office of Military Counter-Intelligence
		Equipment, Information Technology and In-Service Support		
		Infrastructure, Environmental Protection and Services		
	Administration of Justice			
	Military Chaplaincy			

1.1 Procurement of equipment

1.1.1 Directorate-General for Equipment (A) at the FMoD

The Directorate-General for Equipment is responsible for the planning, control and supervision of national and international armaments activities with regard to the tasks of the Bundeswehr and the capability profile deriving from them. It has overall responsibility for the procurement and in-service process in the Bundeswehr. This also comprises materiel responsibility for the operational maturity of all defense materiel, which lies with the Director-General for Equipment.

The Director-General for Equipment is also the National Armaments Director (NAD) and as such responsible for the detailed planning of armaments policy in accordance with the strategic guidelines (Directorate-General for Security and Defense Policy). In addition, he/she represents Germany's national interests and the interests of the German defense industry in international bodies.

1.1.2 Federal Office of Bundeswehr Equipment, Information Technology and In-Service Support (BAAINBw)

BAAINBw and its agencies are subordinate to the Directorate-General for Equipment (A) at the FMoD. It is responsible for providing the Bundeswehr with state-of-the-art technology and equipment in a demand-oriented and cost-effective manner. It is the central authority for managing all armaments projects, including information technology-related projects. The following BAAINBw directorates are responsible for actual procurement:

The five directorates Combat, Land Support, Air, Sea, and Program Organization (PMO) are in charge of

- managing complex projects,
- systems engineering and integration,
- research and technology,
- technical/economic aspects of in-service support management,
- procuring the equipment required by each directorate.



Source: BAAINBw/Anneken

IT related tasks are handled by the directorates for information technology (Directorate I) and IT support (Directorate G).

The Purchasing Directorate (Directorate E) plays the central role in the procurement of commercial and Bundeswehr-specific supplies and equipment. In addition, it handles the procurement of complex services

The subordinate agencies of BAAIN-Bw include six Bundeswehr technical centers (WTD) and two Bundeswehr research institutes (WIS and WI-WeB). They are responsible for

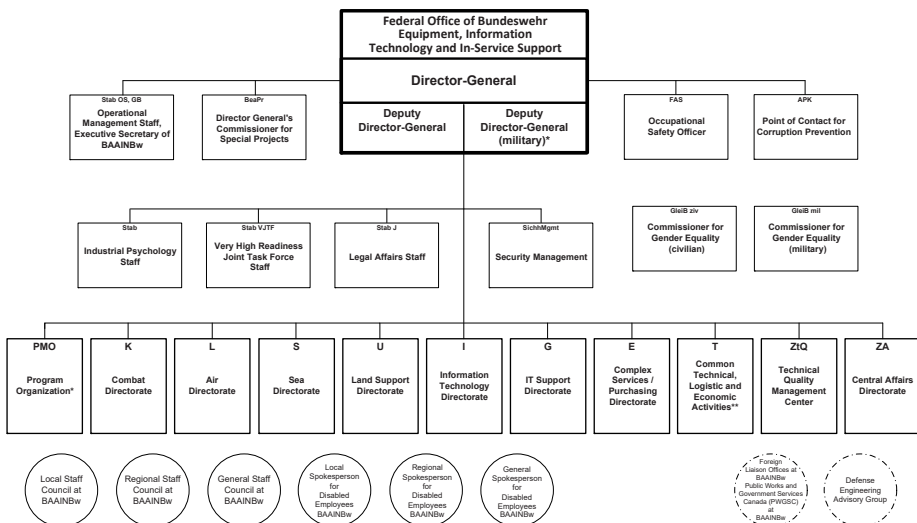
- providing technical advice and support to project management for components and equipment,
- performing studies, research and technology tasks, and

- performing experiments and analyses.

Another subordinate agency is the Naval Arsenal (MARs), which mostly awards repair contracts for the Navy.

The German Liaison Office for Defense Materiel USA/Canada near Washington D.C. establishes and maintains contacts with Germany's transatlantic partners.

Organizational chart of BAAINBw



* also fulfils the function of Commissioner for Military Personnel Affairs and Commissioner for Reserve Affairs, directly supported by Chief of Branch ZA3.2

** At the same time Defense Materiel Disposal Officer at BAAINBw

1.2 Procurement in the field of infrastructure, environmental protection and services

1.2.1 Directorate-General for Infrastructure, Environmental Protection and Services (IUD) at the FMoD

The Directorate-General for Infrastructure, Environmental Protection and Services (IUD) exercises functional supervision of its subordinate agencies and bears ministerial responsibility for their organizational structures and procedures. It is responsible for the ministerial management of infrastructure activities, in particular the construction and operation of facilities, and all the services related to real estate for the armed forces and the Federal Defense Administration.

It integrates the ministerial tasks of the requesting and the supplying agencies in the field of infrastructure, all food services and the statutory protective tasks. It brings overall infrastructure planning into line with the planning and budgetary constraints.

1.2.2 Federal Office of Bundeswehr Infrastructure, Environmental Protection and Services (BAIUDBw)

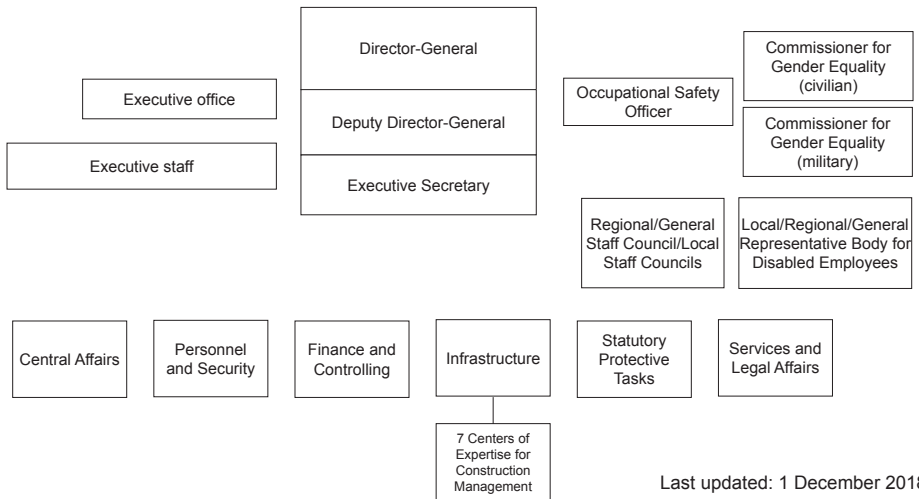


Source: Bundeswehr/Jenny Bartsch

BAIUDBw is organized into six directorates and two staff elements. It is responsible for all central non-ministerial activities relating to finance, controlling, infrastructure, services, and statutory protective tasks (environmental protection, fire prevention, occupational safety and health, and hazardous cargo transportation). The subordinate agencies of BAIUDBw include the Bundeswehr Subsistence Office in Oldenburg, the Bundeswehr Firefighting and Fire Protection Center in Sonthofen, and 43 Bundeswehr service centers all over Germany.

Furthermore, there are Federal Republic of Germany offices of defense administration in the USA/Canada, Italy, the Netherlands, France, Belgium, the United Kingdom and Poland, each with its own branch offices. Other agencies abroad include the field offices of defense administration which provide units in the contingents with supplies, counseling, and support in all budgetary and administrative matters.

Organizational chart of the Federal Office of Bundeswehr Infrastructure, Environmental Protection and Services



Last updated: 1 December 2018

2. Procurement organization

The task of satisfying the armed forces' and the civilian Bundeswehr administration's demand for supplies and services is shared among different procurement agencies. Depending on the nature of the supplies or services required, different types of procurement are applied.

The Bundeswehr procurement and in-service support management has three options at its disposal to satisfy requirements:

- providing material solutions and services in accordance with the Customer Product Management process (CPM),
- satisfying non-project Bundeswehr requirements (Bundeswehr Purchasing),

and

- procuring and using complex services.

The first option is the procurement process in accordance with CPM. CPM is the central standard for appropriate, timely and cost-effective procurement of operational products and product-specific services. In addition, CPM supports capability-oriented requirements identification. CPM serves the strategic objective of providing the Bundeswehr with

operational equipment required for mission accomplishment in a timely manner within the specified financial framework, and of keeping it operational. Armaments projects can differ markedly from one another in terms of their complexity and the resources available for their implementation. Project execution efforts and project complexity must be appropriately balanced. In order to comply with these framework conditions, CPM provides for various procedures.

The second option is non-project procurement (Bundeswehr Purchasing) covering the procurement of commercial off-the-shelf as well as Bundeswehr-specific goods and services. This includes follow-on procurement of spare parts for weapon systems or equipment during the phase of in-

service use as well as requirements that are met via international procurement channels and by interministerial procurement.

Bundeswehr Purchasing



The third option comprises „complex services“. These are services that cannot or are not supposed to be provided entirely by the Bundeswehr itself. Instead, they are provided, for instance, by HIL GmbH (army maintenance logistics), BwBM GmbH

(clothing management), BwFuhrpark-Service GmbH (vehicle fleet management) or BWI GmbH (IT services).

2.1 Centralized procurement

Centralized procurement means that the Bundeswehr's entire demand for supplies and services is jointly determined and procured.

Pooling the demand results in larger order quantities which in turn allow for wider competition and lower prices.

Centralized procurement includes awarding contracts to meet initial and follow-up requirements for defense materiel and supplies including repair work for the armed services as well as study, research and development contracts.

2.1.1 Competent authorities

Contracts under the centralized procurement procedure are mainly awarded by the following authorities:

Das

Bundesamt für Ausrüstung,
Informationstechnik und Nutzung
der Bundeswehr (BAAINBw)

Ferdinand-Sauerbruch-Strasse 1
56073 Koblenz

Internet: www.bundeswehr.de >
Organisation > Ausrüstung >
Organisation > BAAINBw

and

Bundesamt für Infrastruktur,
Umweltschutz und Dienstleistungen
der Bundeswehr (BAIUSBw)

Fontainengraben 200
53123 Bonn

Internet: www.bundeswehr.de >
Organisation > Infrastruktur, Umwelt-
schutz und Dienstleistung >
Organisation > Das Bundesamt
Infrastruktur, Umweltschutz und
Dienstleistung im Überblick

Subordinate agencies of both offices also use the centralized procurement procedure to award contracts. The Bundeswehr Subsistence Office in Oldenburg, for instance, which is subordinate to BAIUSBw, is respon-

sible for the centralized procurement, storage and supply of long-life groceries and for providing German units deployed abroad with fresh and nonperishable food.

In specific cases, centralized procurement contracts are also awarded by the FMoD:

Bundesministerium der Verteidigung

Fontainengraben 150
53123 Bonn

Stauffenbergstrasse 18
10785 Berlin

Internet: www.bmvg.de



Source: Bundeswehr

Procurement for the Bundeswehr is no longer handled completely by the Bundeswehr itself as the contracting authority. In order to achieve more efficiency and operational readiness, only those supplies and services should be provided by the Bundeswehr itself which are core tasks or which it can provide at lower cost than commercial suppliers. For this reason, the Bundeswehr has ente-

red into public private partnerships, outsourcing part of its tasks to independent companies with government participation and companies that are 100 percent state owned. Consequently, certain items of equipment are procured by separate contracting authorities that are not part of the Bundeswehr.

The logo for bwbeleidung features the company name in a lowercase, sans-serif font. The 'bw' is in a dark blue color, while 'beleidung' is in a lighter blue-grey color.

Bw Bekleidungsmanagement GmbH (BwBM GmbH) is responsible for procuring, distributing, cleaning and maintaining clothing and individual equipment of military and civilian personnel.

100 percent of BwBM interests are held by the Federal Republic of Germany.

Internet: www.bwbm.de

The logo for HIL consists of the letters 'HIL' in a bold, dark blue, sans-serif font. To the right of the letters is a red graphic element composed of two nested L-shaped blocks.

Heeresinstandsetzungslogistik GmbH (HIL GmbH) procures products and services needed to maintain the availability of land-based Bundeswehr weapon systems. To this end, it awards contracts, for example for necessary repair and maintenance work.

100 percent of HIL GmbH interests are held by the Federal Republic of Germany. HIL GmbH is an independent contracting authority under functional supervision of the FMoD.

Internet: www.hilgmbh.de

The logo for BWI features the letters 'BWI' in a bold, grey, sans-serif font. Above the letters is a horizontal graphic element consisting of a red rectangle followed by two grey circles.

BWI Informationstechnik GmbH (BWI GmbH) is in charge of any procurement activities required for modernizing and operating the Bundeswehr's entire non-military information and communications technology in the approximately 1,200 Bundeswehr facilities throughout Germany. BWI, too, is 100 percent state owned.

Internet: www.bwi.de



BwFuhrparkService GmbH is responsible for any procurement activities with regard to the management of its vehicle fleet, ranging from commercially available vehicles with and without military equipment to special-duty vehicles. 100 percent of its interests are held by the Federal Republic of Germany. BwFuhrparkService GmbH is an independent contracting authority under functional supervision of the FMoD.

Internet: www.bwfuhrpark.de



BwConsulting is a company of the Federal Ministry of Defense (FMoD). It advises the ministry, the armed forces and the defense administration on economic and methodological issues. Its counseling services focus on strategy and control, processes and organization, and project management advice.

Internet: www.bwconsulting.de



The Gesellschaft zur Entsorgung von chemischen Kampfstoffen und Rüstungsaltslasten mbH (GEKA) works on behalf of the federal government. The FMoD holds 100 percent of the company. GEKA's primary responsibility is to safely and sustainably dispose of chemical agents and soil contaminated due to armaments production.

Internet: www.geka-munster.de



The responsibilities of the Fernleitungs-Betriebsgesellschaft mbH (FBG) include the operation of the NATO pipeline systems in Germany:

- CEPS (Central Europe Pipeline System covering Germany, France and the Benelux countries)
- NEPS (North European Pipeline System covering Germany and Denmark)

In addition, FBG handles the transportation and storage of aviation and ground fuels for NATO forces and, to the extent possible after satisfaction of military demand, civilian customers (producers and traders of mineral oil). FBG thus contributes to ensuring a secure supply of aviation and ground fuel to NATO forces in peace, crisis and war.

Internet: www.fbg.de

These contracting authorities publish their invitations to tender not only in the media mentioned in Section II No. 3, but also on their respective websites.

2.2 Decentralized procurement

Decentralized procurement means that several agencies cover the demand of the regional sectors of the Bundeswehr for materiel or other types of supplies or services. All products and services that are not suited to centralized procurement because of their nature or for economic reasons are subject to decentralized procurement.

These are mainly commercial off-the-shelf supplies of daily use required by units, garrisons and the local administration.

They include, for example,

- terrain management equipment, housekeeping and domestic equipment (e.g. agricultural equipment, mattresses, bedding, flags, coffee machines, all-purpose slicers),
 - spare parts for off-the-shelf equipment,
 - guard and cleaning services.
- consumables for the maintenance of quarters and facilities (hardware, special oils, fertilizers),



Source: Bundeswehr / Holzbrecher

2.2.1 Competent authorities for decentralized procurement

In most cases, decentralized procurement is handled by Bundeswehr service centers (BwDLZ), which are subordinate to BAIUDBw, in their capacity as local authorities of the Federal Defense Administration.

They provide direct support and supplies to the armed forces and defense administration agencies in terms of personnel and material.

For an overview of the Bundeswehr service centers (in German), see

<http://www.bundeswehr.de> > Organisation > Infrastruktur, Umweltschutz und Dienstleistung > Organisation > Die Bundeswehr-Dienstleistungszentren

The **field offices of defense administration** and the **offices of defense administration abroad** cover

parts of their requirements themselves.

For an overview of the field offices and offices abroad (in German), see

<http://www.bundeswehr.de> > Organisation > Infrastruktur, Umweltschutz und Dienstleistung > Organisation > Die Bundeswehrverwaltungsstellen im Ausland

Agencies and institutes subordinate to BAAINBw award research and study contracts within the scope of their technical responsibilities, and procurement and repair contracts

to meet their own demand for basic equipment, consumables, and test rigs/tools.



Bundeswehr Technical Center for Land-Based Vehicle Systems, Engineer and General Field Equipment (WTD 41)
Trier



Bundeswehr Technical Center for Protective and Special Technologies (WTD 52)
Oberjettenberg



Bundeswehr Technical Center for Aircraft and Aeronautical Equipment (WTD 61)
Manching



Bundeswehr Technical Center for Ships and Naval Weapons, Maritime Technology and Research (WTD 71)
Eckernförde



Bundeswehr Technical Center for Information Technology and Electronics (WTD 81)
Greding



Bundeswehr Research Institute for Materials, Fuels and Lubricants (WIWeB)
Erding



Bundeswehr Research Institute for Protective Technologies and CBRN Protection (WIS)
Munster



Bundeswehr Technical Center for Weapons and Ammunition (WTD 91)
Meppen



Naval Arsenal (MARs)
Wilhelmshaven and Kiel



German Liaison Office for Defense Materiel
USA/Canada (DtVStRü USA/KA)
Reston, VA
USA

For the agencies' websites and organizational charts, see

<http://www.bundeswehr.de> > Organisation > Ausrüstung > Organisation

im Überblick

Under certain conditions and if dictated by expediency, operational readiness and cost effectiveness requirements, the armed forces are able and

authorized to undertake procurement activities themselves.

SECTION II:

Procurement procedures

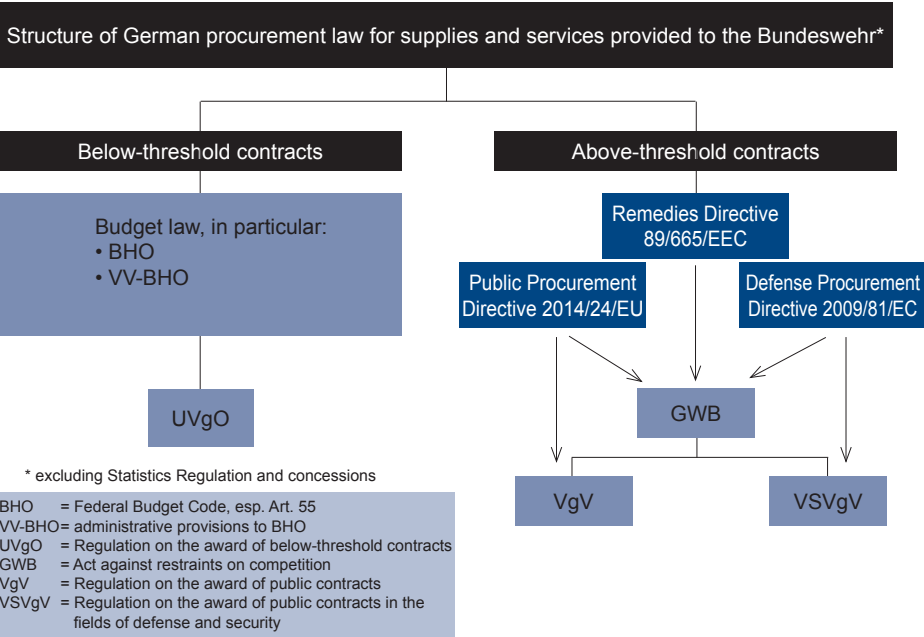
As a public customer, the Bundeswehr has to comply with budget and procurement law when awarding contracts. This means that it is only very rarely allowed to award contracts directly to a certain company, because procurement, as a general rule, has to take place on a competitive basis. Companies will therefore only be awarded a contract if they participate in the tendering procedure. This section explains how public procurement works. See No. 3 for an overview of where to find the latest invitations to tender.

1. Public procurement law

Public procurement law comprises the regulations a contracting authority has to comply with when awarding contracts. German procurement law mainly comprises budgetary provisions and EU directives that have been transposed into a number of German laws and regulations.

German public procurement law for supplies and services is the most relevant law for the Bundeswehr as a public customer. At the time of publi-

cation of this brochure, it comprised the following elements:



Public procurement law defines two major objectives for the Bundeswehr as a customer: ensuring compliance with the principles of efficiency and economy and meeting the requirement of competition.

The award of services and supply contracts is generally subject to the rules of VgV. If contracts are below the EU threshold, they are subject to the rules of UVgO (see No. 2 below). In exceptional cases, however, VSVgV must be applied when awarding services and supply contracts.

VSVgV governs the award of defense and security-related supplies and services contracts. It applies if the

services or supplies to be procured exceed a certain value (see No. 2 below).

2. Thresholds

Which regulation applies to a specific procurement procedure depends on the threshold values.

They are limits that determine whether national (below-threshold) or European (above-threshold) procurement rules apply. The thresholds refer to the estimated contract value including all options but not including VAT.

The threshold values are updated every two years by a regulation of the EU Commission. The thresholds

currently applicable (since 1 January 2020) are:

Procurement subject to VSVgV	EUR 428,000
Procurement subject to VgV	EUR 214,000
Higher and supreme federal authorities (with exceptions)	EUR 139,000
For defense supplies, only those listed in Annex III of Directive 2014/24/EU	

A Europe-wide contract notice is required only for contracts with an estimated contract value equal to or higher than the thresholds. In these cases, European antitrust rules apply. This does not mean, however, that only German or German-based businesses may participate in national tenders. “National” merely refers to

the way the contract notice is published and to the applicable procurement rules based on German budget law.

3. Contract notices

As a rule, current Bundeswehr requirements for products and services with a contract value equal to or higher than the applicable threshold value are published in the Supplement to the Official Journal of the European Union at:

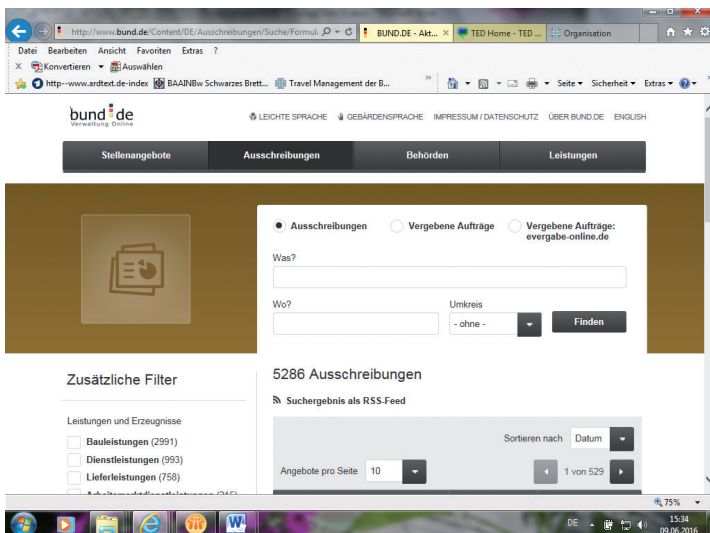
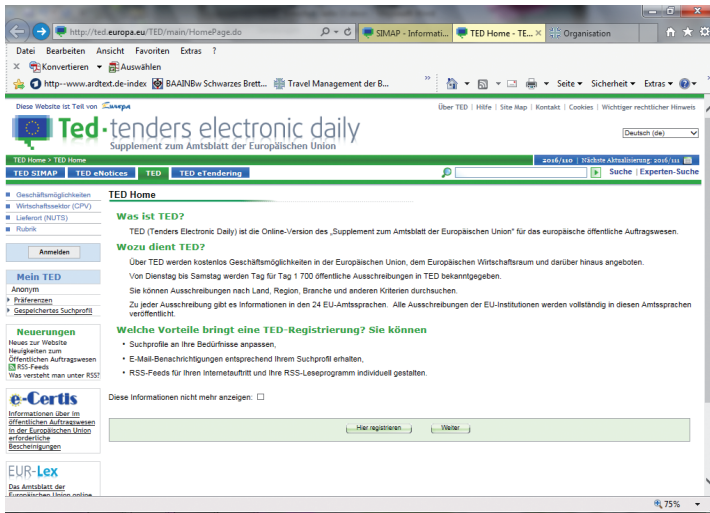
<http://ted.europa.eu>

The e-procurement platform of the Federal Government provides an overview of all electronic contract notices:

<http://www.evergabe-online.de>

Notices for these contracts, and for contracts below the applicable threshold, are also regularly published in the Federal Administration's central web portal.

**<http://www.service.bund.de> >
Ausschreibungen**



It gives companies interested in Bundeswehr contracts information about current contracts for which they may want to submit a tender. The Bundeswehr does not maintain "bidders' lists" that automatically inform listed companies about new contract notices on the web portals. However, the above-mentioned web portals allow busines-

ses to set up automatic notifications on new notices. The Bundeswehr will not accept offers that do not relate to a published invitation to tender.

4. Special case

4.1 Direct purchasing: A simplified procurement procedure

Purchases below a value of EUR 1,000 (excluding VAT) may be made without a formal procurement procedure.

5. Types of award procedures

Contracting authorities are not entirely free to choose which award procedure to use for their procurement projects. The type of award procedure depends on whether the estimated contract value is above or below the applicable threshold and whether the purchase is subject to UVgO, VgV or VSVgV.

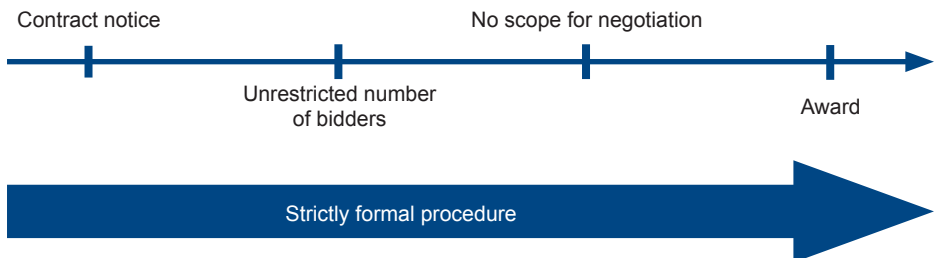
5.1 Award procedures for below-threshold contracts

Below-threshold contracts are awarded in accordance with the Regulation on the Award of Below-Threshold Contracts (UVgO). It provides that as a rule, such contracts must be awarded by means of public competitive bidding or restricted bidding with a prior call for competition. If certain conditions are met, the contracting authority may also choose restricted bidding without a call for competition or negotiated contracting with or without a call for competition.

5.1.1 Public competitive bidding

In public competitive bidding, the contracting authority publishes a contract notice inviting an unlimited number of companies to submit tenders. Companies interested in the contract have to submit their tenders within the time limits stated in the contract notice. The contracting authority will evaluate the tenders on the basis

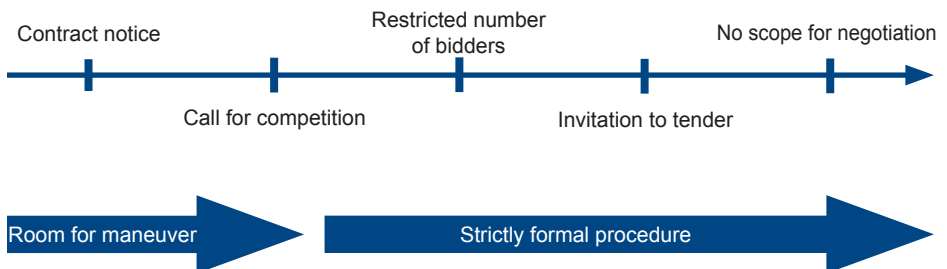
of the selection and award criteria announced beforehand. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected.



5.1.2 Restricted bidding with/without a call for competition

5.1.2.1 Restricted bidding with a call for competition

In this procedure, the publication of the contract notice is followed by a pre-qualification stage to evaluate the suitability of interested companies. Only the companies invited to submit a tender may do so. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected.



5.1.2.2 Restricted bidding without a call for competition

This procedure does not include a pre-qualification stage. Suitable companies are invited to submit tenders without a prior call for competition. Restricted bidding without a call for competition may be applied either if public competitive bidding did not yield an economically advantageous result or if the effort involved for the contracting authority or the candidates would be disproportionate to the achievable benefit or to the value of the products or services to be procured.

At least three candidates should be invited to submit tenders. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected.

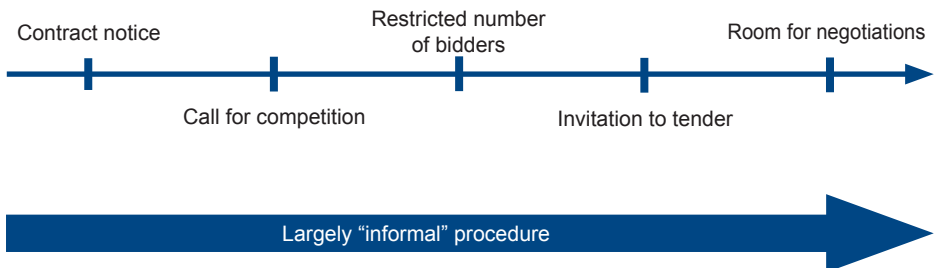
5.1.3 Negotiated contracting with/ without a call for competition

In negotiated contracting, the contracting authority may approach several companies (at least three) to negotiate with one or more of them. This may or may not be preceded by a call for competition.

Negotiated contracting may only be applied if it is allowed under UVgO, for example in cases where the supplies or services can be provided only by a particular company. Unlike public competitive and restricted bidding, this procedure provides for the possibility to negotiate the tender.

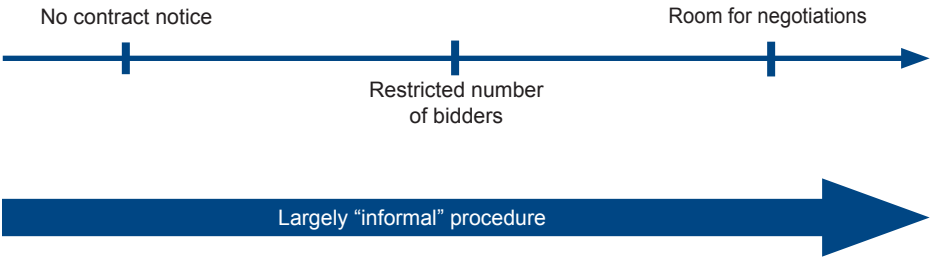
5.1.3.1 Negotiated contracting with a call for competition

In this procedure, the publication of the contract notice is followed by a call for competition to evaluate the suitability of interested companies. Only a limited number of companies is invited to submit tenders. After the tenders have been negotiated, the most economically advantageous tender will be identified.



5.1.3.2 Negotiated contracting without a call for competition

In negotiated contracting without a call for competition, the contracting authority invites at least three suitable companies to submit a tender or to participate in negotiations. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected.



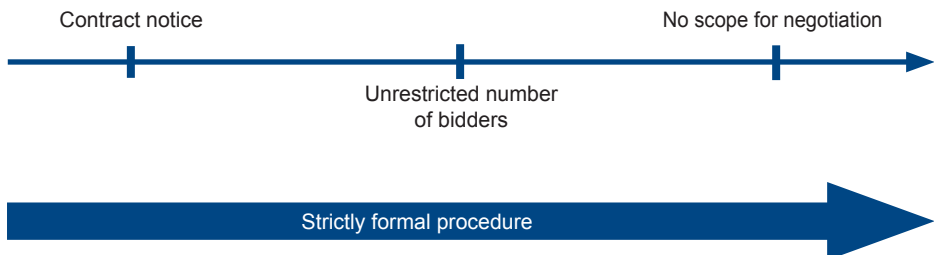
5.2 Award procedures for above-threshold contracts

Above-threshold contracts are awarded in accordance with the Regulation on the Award of Public Contracts (VgV) or the Regulation on the Award of Public Contracts in the Fields of Defense and Security (VSVgV). Within the scope of VgV, the contracting authority is free to choose between the open procedure and the restricted procedure, the latter including a pre-qualification stage. Under certain conditions, the contracting authority may also use the negotiated procedure with or without a call for competition, the competitive dialog or the innovation partnership.

As a rule, VSVgV allows for the negotiated procedure with a prior call for competition and the restricted procedure. However, if certain conditions are met, the contracting authority may also opt for a negotiated procedure without a call for competition or for competitive dialog.

5.2.1 Open procedure

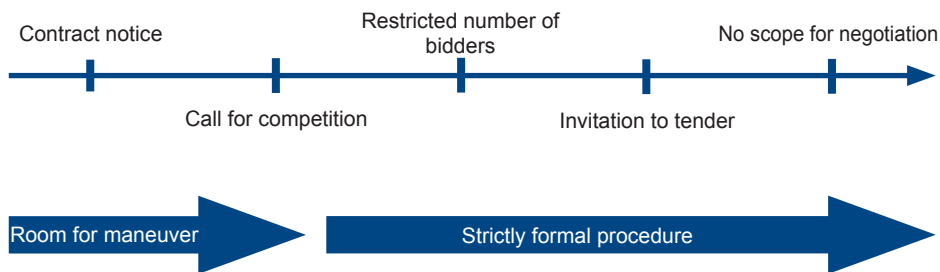
In an open procedure, the contracting authority publishes a contract notice inviting an unlimited number of companies to submit tenders. Companies interested in the contract have to submit their tenders within the time limits stated in the contract notice. The contracting authority will evaluate the tenders on the basis of the selection and award criteria announced beforehand. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected. Tenders in which changes or additions have been made to the contract documents, such as changes to the requirements for the supplies/services specified in the statement of work or the contract, will not be accepted.



5.2.2 Restricted procedure

Under the restricted procedure, companies submit a request to participate in response to a call for competition. Only a limited number of those companies is invited to submit tenders. From those tenders that comply with the requirements in form and content, the most economically advantageous tender is selected.

Tenders in which changes or additions have been made to the contract documents will not be accepted.



5.2.3 Negotiated procedure

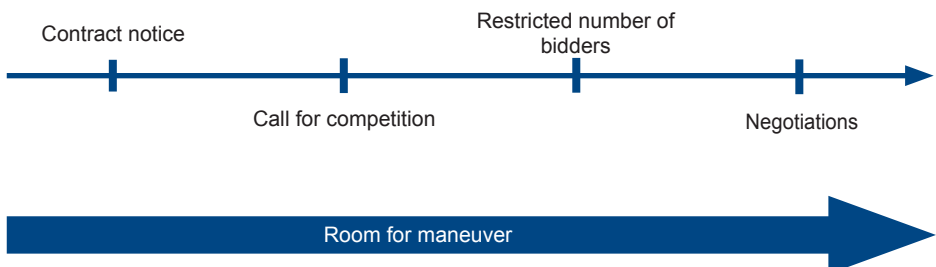
The contracting authority may award contracts through the negotiated procedure with or without a prior call for competition. Unlike the other award procedures, the negotiated procedure provides for the possibility to negotiate the tenders submitted. Unless ruled out by the customer, the price and any other contract terms may be subject to negotiation.

5.2.3.1 Negotiated procedure with a call for competition

In a negotiated procedure with a call for competition the contracting authority publishes a contract notice inviting an unlimited number of companies to submit requests to participate. Based on the submitted requests to participate, the contracting authority identifies suitable companies which will be invited to submit tenders.

The negotiated procedure with a call for competition is one of the standard procedures under VSVgV.

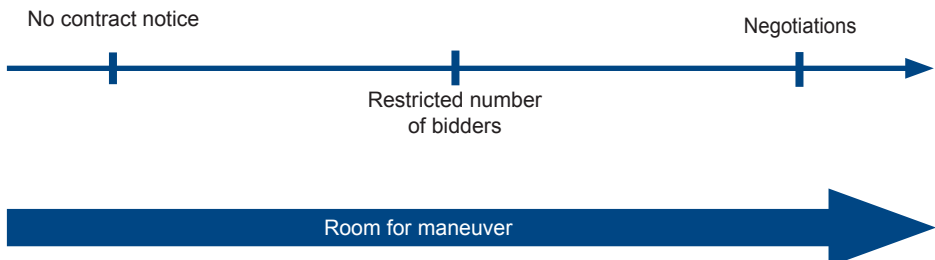
To apply this procedure within the scope of VgV, specific conditions must be fulfilled.



5.2.3.2 Negotiated procedure without a call for competition

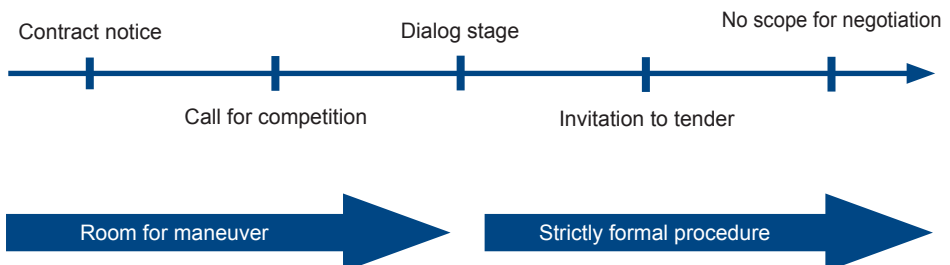
In a negotiated procedure without a call for competition, the contracting authority does not publish a contract notice but directly approaches selected companies to negotiate the terms of contract with one or more of them.

Within the scope of VgV as well as VSVgV, certain conditions must be met if this procedure is to be applied. This includes, for example, supplies that are manufactured purely for the purpose of research, experimentation, study or development.



5.2.4 Competitive dialog

The competitive dialog procedure is used to award particularly complex contracts. Following a call for competition, the contracting authority invites the selected companies to participate in the dialog. The aim of the dialog is to identify and define the solution best suited to satisfying the customer's needs. Once a solution has been defined, the contracting authority asks the companies to submit their final tenders on the basis of that solution. Within the scope of VgV as well as VSVgV, certain conditions must be met if this procedure is to be applied. This includes, for example, contracts containing conceptual or innovative solutions.



5.2.5 Innovation partnership

Within the scope of VgV (but not VSVgV) the contracting authority may use the innovation partnership procedure if the relevant requirements are met.

The purpose of the innovation partnership is to develop innovative supplies and services that are not yet available on the market. The resulting products will then be purchased by the customer. In this procedure the contracting authority publishes a contract notice inviting companies to submit requests to participate. Suitable candidates are then requested to submit tenders. The contracting authority then negotiates the submitted research and innovation projects with the tenderers. The negotiations may comprise several stages to improve the content of the tenders.

The innovation partnership is structured in successive phases following the sequence of steps in the research and innovation process:

1. research and development phase, comprising prototype production or service development,
- and
2. commercial phase, in which the product/service developed within the partnership is provided.



6. 6. Electronic procurement in the Bundeswehr



With the legislative package modernizing EU public procurement law, the European legislator has adopted a completely revised set of rules which govern the award of public contracts and concessions. These rules were transposed into German law on 18 April 2016 and are, consequently, applicable to contracts awarded by the Bundeswehr as a public customer. This has a direct impact on contracts above EU thresholds. Some structural changes were made,

and electronic procurement is now mandatory for contracts subject to VgV. The provisions of VgV stipulate that electronic means must be used for any communication with companies. This includes contract notices, the immediate provision of contract award documents and the submission of tenders. To implement these requirements, the Federal Government has set up an e-procurement platform (www.evergabe-online.de).

SECTION III: Contracts

The terms of contracts awarded by the Bundeswehr are not subject to specific rules and regulations. There are, however, pre-formulated standard contract terms which are normally included in contracts as required.

1. 1. Contract terms

The contracts are drafted based on the principle of contractual freedom. This means that there are no special legal provisions in private law governing contracts with public customers the Bundeswehr would have to adhere to.

1.1 1General contract terms

Notwithstanding the above, procurement authorities are required to comply with the principles of efficiency and economy stipulated by the Federal Budget Code and to apply uniform procedures when awarding contracts.

For this reason, there are usually a number of pre-formulated standard contract terms which are included in contracts on a case-by-case basis and which are part of the contract award documents.

The general terms and conditions of bidders/contractors are not accepted.

The general contract terms of the Bundeswehr are composed of:

- general terms of contract:
 - VOL/B (General Terms of Contract for the Provision of Supplies and Services)
- additional terms of contract in the defense sector:
 - ZVB/BMVg (Additional Terms of Contract of the Federal Ministry of Defense Implementing VOL/B)
- supplementary terms of contract for non-IT supplies/services:
 - ABBV (General Terms and Conditions for Procurement Contracts Placed by the Federal Ministry of Defense)
 - ABEI (General Terms and Conditions for Development Contracts with Industrial Firms)
 - ABFI (General Terms and Conditions for Research Contracts with Industrial Firms)

BAAINBw's contract terms are available at

<http://www.bundeswehr.de> > Organisation > Ausrüstung > Vergabe > Formulare und Grundlagen für die Vertragsgestaltung

1.2 General contract terms for IT products and services

Meanwhile, “Supplementary terms of contract for the procurement of IT products and services” (EVB-IT) have been developed to replace the old BVB regulations.

Since 1972, a range of different types of “Special terms of contract for the procurement of data processing services” (BVB) have been introduced to specify requirements for public procurement of data processing equipment. Of these contract terms the following are still applicable:

- BVB - Miete (rental)
- BVB - Planung (planning)

- EVB-IT Systemlieferung (system delivery)
- EVB-IT System
- EVB-IT Erstellung (software development)
- EVB-IT Kauf (purchase)
- EVB-IT Dienstleistung (service)
- EVB-IT Überlassung Typ A (type A provision of software)
- EVB-IT Überlassung Typ B (type B provision of software)
- EVB-IT Instandhaltung (hardware maintenance)
- EVB-IT Service (service for specific IT systems)
- EVB-IT Pflege S (standard software maintenance)

These contract terms are available at

<http://www.cio.bund.de/> > IT-Beschaffung > EVB-IT und BVB (in German)

1.3 Framework agreements

Framework agreements are agreements between one or more customers and one or more contractors the purpose of which is to establish the terms governing individual contracts to be awarded during a given period. As a rule, framework agreements are subject to the same rules as apply to equivalent public contracts. Using framework agreements to procure goods reduces the administrative burden. Framework agreements are frequently used for recurring procurements, for example the supply of consumables or supplies such as POL and medicine, or services such as maintenance or repair.

2. Quality assurance

Quality assurance as specified for public procurement in Germany provides that the contracting authority is entitled to perform Government Quality Assurance (GQA) at the contractor's premises. Separate GQA provisions may be included in the contract, if necessary.

GQA is required in cases where the quality of a certain product or service cannot be satisfactorily inspected upon receipt and GQA at the place of production is deemed to be indispensable. Its purpose is to reduce or eliminate identified risks relating to the product/service or the contractor.

In business dealings with contractors, quality assurance of defense materiel comprises the following main processes:

- evaluation of contractor quality capability,
- contractual agreement of quality assurance requirements,
- based on the "NATO Allied Quality Assurance Publications" (AQAP),
- additional statutory quality assurance requirements, if applicable,
- contractual agreement of the contracting authority's right to perform GQA. Pursuant to Art. 12 of VOL/B, government quality assurance is the inspection of supplies/services for their fulfillment of the technical and related organizational requirements laid down in the contract,
- performance of GQA, and
- quality inspection based on statutory requirements.

3. Promotion and support

3.1 Supporting small and medium-sized enterprises

It has always been a particular concern of the Bundeswehr to take small and medium-sized enterprises (SMEs) into account when awarding public contracts. Wide involvement of SMEs promotes competition and helps to put innovative products on the market.

The majority of Bundeswehr contracts are awarded to SMEs. A large number of SMEs are directly involved in the supply of consumables, maintenance and other services.

Within the scope of the promotion of small and medium-sized enterprises, possible competitive disadvantages of SMEs compared to large enterprises have to be compensated when contracts are awarded. This can be done, for instance, by breaking down supplies/services into lots or by encouraging subcontracting for complex large-scale contracts.

3.2 Supporting sheltered workshops and workshops for the blind

Article 224 of the German Social Code, Book 9 (SGB IX) stipulates that sheltered workshops and workshops for the blind be given priority with respect to public contracts which they are able to execute.

To this end, the Federal Government adopted guidelines on the involvement of sheltered workshops and workshops for the blind when awarding public contracts (BMWi I B 3 -26 23 55 of 10 May 2001, Federal Gazette No. 109 of 16 June 2001, page 11773). According to these guidelines, in national procurement procedures under VgV sheltered workshops and workshops for the blind must be awarded the contract in question if the price of their tender does not exceed the price of the most economically advantageous tender by more than 15 percent.

SECTION IV:

Summary and overview

1. Where to find contract notices

Stay up to date on contract notices by visiting the relevant publication platforms, such as

<http://ted.europa.eu>

<http://www.bund.de>

and

<http://www.evergabe-online.de>

- see pages 36/37 -

2. How to get a contract

- If a contract notice has been published:

By participating in the procurement procedure.

- see pages 40 to 57 -

- If the contract can be awarded directly:

By obtaining information from the contracting authority.

- see pages 10 to 30 -

3. How to contact the Bundeswehr for information on contracts

If you have any questions, send an e-mail to:

BAAINBwJ1@bundeswehr.org

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