



infrastructuur, gebouwen, milieu, communications

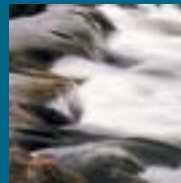
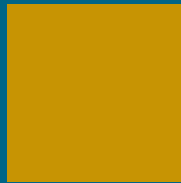
THE COMPETITIVE DIALOGUE IN THE NEW CONSOLIDATED EC PROCUREMENT DIRECTIVE

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THE COMPETITIVE DIALOGUE

1. THE COMPETITIVE DIALOGUE IN THE CONSOLIDATED
EC
PROCUREMENT DIRECTIVE
2. AN OPPORTUNITY AND THREATS
3. IN CONCLUSION

THE COMPETITIVE DIALOGUE IN THE CONSOLIDATED EC PROCUREMENT DIRECTIVE

- FIRST MENTIONED BY THE EUROPEAN COMMISSION IN MARCH

1998

- COMPETITIVE DIALOGUE IS (TOGETHER WITH PROCUREMENT BY

CENTRAL PURCHASING BODIES, FRAMEWORK AGREEMENTS, ELECTRONIC AUCTIONS, DYNAMIC PURCHASING SYSTEMS) INTRODUCED IN ART. 29 OF NEW CONSOLIDATED EC PROCUREMENT DIRECTIVE

- TO BE APPLIED FOR THE AWARDING OF “PARTICULARLY COMPLEX CONTRACTS”. EXAMPLES:

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- IN THE IMPLEMENTATION OF INTEGRATED TRANSPORT INFRASTRUCTURE PROJECTS;
- LARGE COMPUTER NETWORKS;
- PROJECTS INVOLVING COMPLEX AND STRUCTURED FINANCING, THE FINANCIAL AND LEGAL MAKE-UP OF WHICH CANNOT BE DEFINED IN ADVANCE

THE PROCEDURE OF THE COMPETITIVE DIALOGUE

- a) PUBLISHING OF CONTRACT NOTICE SPECIFYING NEEDS AND REQUIREMENTS
- b) SELECTION (WITH A MINIMUM OF THREE TENDERERS)
- c) DIALOGUE WITH SELECTED TENDERERS (POSSIBLE FURTHER REDUCTION OF NUMBER OF TENDERERS BY REFERENCE TO AWARD CRITERIA)
- d) BRINGING TO A CONCLUSION OF DIALOGUE, IDENTIFICATION OF (A) SOLUTION(S) AND INVITATION OF TENDERS
- e) EVALUATION REMAINING TENDERS AGAINST AWARD CRITERIA
- f) [IF NECESSARY CLARIFICATION OR ELABORATION ON THE TENDERS]
- g) FINAL SELECTION

2. THE COMPETITIVE DIALOGUE: AN OPPORTUNITY AND THREATS

1. SHALL CONTRACTING AUTHORITIES WHEN APPLYING THE COMPETITIVE DIALOGUE PAY A FAIR CONTRIBUTION TO THE COSTS OF TENDERERS ?
2. DOES THE COMPETITIVE DIALOGUE INCREASE THE DANGER THAT THE PRINCIPLES OF EQUAL TREATMENT, CONFIDENTIALITY AND TRANSPARENCY ARE NOT BEING SECURED/MAINTAINED ?
3. WILL IT BE HARDER FOR TENDERERS TO PURSUE THEIR RIGHTS REGARDING THE BASIC PRINCIPALS OF PROCUREMENT THAT MUST PROTECT THEM IN THE COMPETITIVE DIALOGUE ?
4. WHEN CAN THE COMPETITIVE DIALOGUE BE APPLIED: THE DEFINITION OF “PARTICULARLY COMPLEX”

3. IN CONCLUSION

POSITION OF TENDERERS: LESS LEGAL CERTAINTY IN THE NEW PROCEDURE OF THE COMPETITIVE DIALOGUE THAN IN THE EXISTING TENDER PROCEDURES ?

AN IMPORTANT CHALLENGE FOR CONTRACTING AUTHORITIES APPLYING THE COMPETITIVE DIALOGUE