

UNICE CONFERENCE

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Public Procurement in Europe 2004

Competitive Dialogue

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Why we need Competitive Dialogue:

- The nature of contracting has changed:
PPP / PFI projects are now quite common
- There needs to be a clearly defined
framework within which discussions with
bidders can take place

When Competitive Dialogue should be used:

- **It applies where “Authorities are not able to objectively define the technical means capable of satisfying their needs or objectives, or they are not able to specify the legal or financial make-up of a project”**
- **It applies to a small but increasing number of projects**
- **This tends to be the largest and most important projects: hospitals, roads and prisons**

How Competitive Dialogue should be used:

- **The Authority should have a clear vision from the start**
- **They should be completely transparent with how they intend to run the competition**
- **They should initiate the dialogue with bidders very early on**
- **They should be sensitive to the expense that bidders will be incurring on Architects' fees and legal fees**

How Competitive Dialogue will work once final tenders have been submitted:

- Final tenders “may be clarified, specified and fine-tuned at the request of the Authority. However such clarification, specification, fine-tuning or additional information may not involve changes to the basic features of the tender, variations in which are likely to distort competition or have a discriminatory effect”

The benefits of Competitive Dialogue:

- **Properly managed it will increase competition**
- **It will enable Authorities to have confidence that the tenders are robust**
- **It will ensure bidding costs are contained because (i) changes to the basic features will not be allowed and (ii) the preparation of detailed drawings and legal documentation will still be delayed until after final bids have been submitted**