

Competitive Dialogue – a practical guide

Michael Burnett with Martin Oder

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Dialogue – the foundation for partnership

Any procurement process and especially one based on the European Union's Public Procurement directives could sound like a very dull subject for any book. However, we know that public procurement is critical to both the domestic economy and to the success of public services. The UK public sector procures over £79bn of public services a year from the private sector according to the de Julius review in 2008. Public infrastructure and increasingly complex public services are being procured from the business and third sectors. As public expenditure becomes tighter and public expectations for high quality services increases the effectiveness of public procurement will become even more critical.

Procurement should not be confused with commissioning. The latter is about determining need and aspirations and the outcomes required to address these. It also involves deciding the optimum manner of securing the services to achieve these outcomes. In some cases procuring services from the business and third sectors will be the means of implementing commissioning decisions.

Therefore procurement practice has to be effective and efficient.

Competitive Dialogue was created by the 2004 Public Procurement Directives as a new and more flexible solution for public authorities wanting to award contracts for complex infrastructure projects. It has been used for complex service procurements as well as for infrastructure across the public sector in the UK. Competitive dialogue has attracted as many hostile or unfriendly critics as it has advocates. Many in the public and provider communities see it as too bureaucratic and expensive in terms of both financial cost and opportunity cost for those engaged in the process. Many providers believe that their bids are simply used as consultancy proposals by their prospective clients and/or that the client side simply takes the best from all the bidders and make a composite solution based on this when it issues its invitation for the best and final offers. Providers may feel that their intellectual copyright is at risk.

In his recent book, *Competitive Dialogue – a practical guide*, Michael Burnett, PPP expert at the European Institute of Public Administration (EIPA), states that “not all methods of using it have proved to be equally effective in promoting value for money for the public sector”. And he continues, “objective advice for public sector decision makers on when and how to use Competitive Dialogue effectively is hard to find”. He is very right but his book written with the support of Martin Oder addresses this gap.

After assessing the different approaches used so far, the authors conclude there are clear trends showing how to implement Competitive Dialogue more effectively. “Of course we have had to learn good practice by doing” says Burnett, but he concludes “it’s time now to learn the lessons of how Competitive Dialogue has been used so far to be able to use it better in the future”.

Some of the questions which the book addresses include “is Competitive Dialogue a better procurement route than the Restricted Procedure or the Negotiated Procedure?”; “What does the public sector need to do to plan the effective use of Competitive Dialogue?”; “How can the public sector best use the flexibility which the procedure provides?”, “What needs to be done at EU and national level to enable public authorities to make the right choices?” These and other questions are answered in ways that should be readily understood by senior public managers and politicians who have to take responsibility for their organisations’ procurement strategy and projects without being seemingly condescending to procurement specialists.

Competitive dialogue when applied in a timely and effective fashion can provide the basis for long term sustainable partnerships between provider and client. When it is badly applied it can lead to sow the seeds of antagonistic relations between client and provider. Therefore, we have to get it right.

The Treasury is currently reviewing its advice on Competitive Dialogue but not its guidance or the regulations. It is essential that the public sector and the provider communities are to become more confident of when and how to use the process. The key is to ensure that the public sector client is absolutely sure of what it wants to secure and the parameters for the outcomes of its procurement. Therefore we have to recognise that the success of procurement lies in the effective application of strategic commissioning.

Burnett concludes with a truism “No-one has ever claimed that using Competitive Dialogue is an easy option but the stakes in terms of the need to improve Europe’s infrastructure and services and the effective implementation of key European policies, such as compliance with environmental legislation and the completion of the Internal Market, at an affordable cost are too high for it to fail.”

In his book he has added to our understanding of the Competitive Dialogue process and if the book is read and its guidance is followed there could be significant improvements in public sector procurement outcomes.

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