

# Introduction to Master Class

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## Session content

- Introduction to programme
- Introduction to Master Class leaders
- Competitive Dialogue - Experience to date
- Legislative framework
- Use of Competitive Dialogue



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## Programme

- Current context – Public procurement and COVID 19
- Process overview
- Planning and preparation
- Legal framework overview
- Implementation
  - Choice of procedure
  - Selection of candidates
  - Dialogue/negotiation
  - Tender evaluation/winning bidder selection
  - Post award

## Introduction to Master Class Leaders – Michael Burnett

- Chartered Accountant (25+ years in public procurement)
- Author (with Martin Oder), “Competitive Dialogue and Negotiated Procedures – A Practical Guide”, EIPA, 2015
- Author, “Public-Private Partnerships - A Practical Guide”, EIPA, 2007
- European Commission Stakeholder Expert Group on Public Procurement Member, 2012-2018
- OECD Network Senior PPP/Infrastructure Officials Member since 2012
- Director, EIPA European PPP Forum 2005-20

## Introduction to Master Class Leaders – Martin Oder

- Partner, Haslinger Nagele Law Firm, Vienna since 2002
- Procurement Lawyer, Freshfield Bruckhaus Deringer Law Firm, Vienna and Brussels, 1995 to 2002
- Magister Juris (Law Degree), Universities of Vienna and Salzburg
- Master's Degree in European Community Law, College of Europe, Bruges
- Author (with Michael Burnett), "Competitive Dialogue and Negotiated Procedures - A Practical Guide" (EIPA)
- Advises public and private sector on public procurement and compliance



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## Experience of Competitive Dialogue

- Competitive Dialogue as a practical solution to award of complex contracts
- Has been shown to bring benefits when implemented effectively
- Not always implemented effectively (long timetables, high bid costs, difficulty for awarding bodies to achieve objectives)
- Sufficient experience now to highlight effective implementation



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## Benefits of Competitive Dialogue – 1

- “Both (the public and private sectors) are in agreement that the process is capable of maintaining sufficient competition”
- “Competitive Dialogue has successfully addressed the issue of protracted post-preferred bidder discussions”
- “Competitive Dialogue has improved procurement outcomes by enabling the public and private sectors to develop and deliver more appropriate, bespoke, value for money outcomes”

## Benefits of Competitive Dialogue – 2

- “Improved communication during the dialogue (leading to) better design and innovative solutions”
- “Enhanced competitive tension during dialogue (leading to) better value for money/agreement on all vital commercial issues while there is still competition”
- “Better price discipline with less room for “price creep” at the post-preferred bidder stage”

## Benefits of Competitive Dialogue – 3

- “It should be recalled that use of the Competitive Dialogue has significantly increased in terms of contract values over the past years. It has shown itself to be of use in cases where Contracting Authorities are unable to define the means of satisfying their needs or of assessing what the market can offer in terms of technical, financial or legal solutions” (Recital 42, Directive 2014/24/EU)

## Legislative framework

- New rules for Competitive Dialogue in Directive 2014/24/EU
- Competitive Procedure with Negotiation - New procedure introduced in Directive 2014/24/EU
- Introduction of Competitive Dialogue in special sectors in Directive 2014/25/EU

## Use of Competitive Dialogue

### EXAMPLES INCLUDE

Medical equipment, research studies transport services, green energy product testing, ambulances supply/maintenance, building construction, road tunnel construction, data transmission services, telecommunication services, educational software supply, software development services, communications equipment, Wide Area Network supply/services, ambulances supply/maintenance, building construction, waste incineration services, insurance services, integrated testing facilities, nuclear waste treatment, land reclamation scheme, environmental services, power/heating plant construction, electricity meter supply, healthcare services, hydraulic installations, mixed residential/other construction, national transport fare system



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