

Competitive dialogue

Abstract

The aim of the thesis is to present the legal regulation of the Competitive dialogue as one of the possibilities how to execute a PPP project with focus on the construction of highway infrastructure. Competitive dialogue is one of the types of procurement procedure which allows the contracting authority to negotiate a project solution with suppliers before the preparation of the tender dossier.

The first part of this thesis summarizes the general characteristics of public procurement, the public contract itself, the development of legislation in the Czech Republic after 2004 and the principles that must be observed throughout the public procurement process, and selected concepts related to the construction of highway infrastructure such as public works contract, “above-limit” public contract and public contracting authority.

The core of this thesis aims to presenting an analytic way the competitive dialogue. Competitive dialogue has been incorporated in the Czech legislation since 2006 and its introduction was closely related to its regulation at the EU level, where the mechanism of the competitive dialogue had been regulated in the 2004 directives. The content of this part is an analysis of the development of Czech legislation, mechanism of competitive dialogue under different legislations and its regulation within the European Union in the New Procurement Directives of 2016. Competitive dialogue has three phases - (i) opening, submission of applications for participation and assessment of qualifications, (ii) own competitive dialogue and (iii) call for tenders and actions to end the procurement procedure.

The third part of the thesis deals with the assignment of PPP project through a competitive dialogue, where the PPP project stands for cooperation between the public and private sectors. In the Czech Republic, PPP is mainly referred to as an alternative for the necessary completion of the backbone motorway network. The current legal framework could aid to more frequent use of competitive dialogue, as the legal regulation of public procurement and concessions have been unified into one legal act and simplified the procedure for the contracting authority in the competitive dialogue.

The last chapter deals with the current tender for the completion of the D4 motorway. This public contract was awarded by the Ministry of Transport of the Czech Republic through a competitive dialogue procedure and is in its third phase. PPP D4 could, given the course so far, be the first successful Czech PPP project to build a motorway infrastructure, after previously failed attempts in the form of D47 and D3 motorways.

The concluding part of this thesis evaluates the legal regulation of the procedure with competitive dialogue and the suitability of its use for a PPP project, which could be used for the completion of the Czech motorway network.