

Competition Culture in Europe: Voices

Project Compass CIC

Edited by Walter Menteth

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Glossary of UK Terms Design Contests and Competitions

Project Compass

In order to progress the mapping of a unified language model for architectural competitions and design contests Project Compass, in this summary draft, record their interpretation of UK terms.

The list of words below, with a particular focus on design contests are some of those considered to be the most confusing in competition discourse. The 'legal

language' found within Directive 2014/24/EU has been referenced to help define and ascribe common meaning, wherever appropriate.

In the interests of transparency further feedback and input is invited to be put forward towards this work in progress, to contribute to informing the results.

(References given to Directive 2014/24/EU below are expressed in short-form as e.g. EU Law Art 82)

ANONYMITY

Anonymity: A key principle in design contest assessment required by EU law Art. 82.¹ Clear instructions should be given to contestants on how anonymity will be maintained and how the authors of shortlisted or prize winning schemes will subsequently be identified.

ASSESSMENT

In a design contest the jury assessment for all procedurally valid submissions is described under EU law Art 80 (1) & 82 as:

1. The jury shall be autonomous in its decisions or opinions.
2. The jury shall examine the plans and projects submitted by the candidates anonymously and solely on the basis of the criteria indicated in the contest notice.
3. The jury shall record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points that may need clarification.
4. Anonymity shall be observed until the jury has reached its opinion or decision.
5. Candidates may be invited, if need be, to answer questions that the jury has recorded in the minutes to clarify any aspect of the projects.
6. Complete minutes shall be drawn up of the dialogue between jury members and candidates.

Publishing the names of the jury members is not required by EU law, but because transparency is a basic principle it is recommended practice to do so.

A technical/advisory panel may also undertake an assessment of submissions, for reporting to the jury, but have no authority over the decision of the jury.

The numbers of people making an assessment in all other competitions is not specified. However, there should always be a minimum of 3 autonomous assessors (5 are recommended) having relevant and appropriate expertise assessing any selection stage to ensure the principles of fairness, equal treatment and non-discrimination, and to secure against corruption.

AWARD

In a public competition, an award is what is announced in a 'contract award notice', EU Law Annex V Part D.

An 'award' is not a term applied to a design contest, where the 'result' is announced within a separate notice that is specific to a 'design contest'.

Upon publication of such an award, a project commission may not arise, and further stages may need to be engaged, particularly for example in the case of 'lots' in a 'framework' and dynamic purchasing systems etc., where such an award may only offer access to future commissioning opportunities (**see:** result, stage).

CLOSED PROCEDURE

A private procedure, or a public procedure below the EU thresholds, where participants may be directly invited by a client or the contracting authority. May also be known as an 'invited procedure'.

COMMUNITY PARTICIPATION

Provides that the principles of a publicly transparent, proportional and fair competition is guaranteed, and is indispensable.

COMMISSION

In architecture a contract when instructions are assigned on agreed terms between an architect and/or team and a client, to enter into the design/production of a project (**see:** award, result).

COMPETITION

In general covers all selection procedures in which parties compete. But competition is a confusing term in international discussions.

The two most important distinctions between the main competition types are how, in principle, they are selected and whether mainly for:

1. the best plan/project design solution – *'Design Solution'*
2. suitable parties or teams – *'Design Team'*

(in the procurement of professional services, or works with professional services)

Under EU Law the public competition procedural types are described by: EU Law Title 11. Art 26[1] for procedures under EU Law Art 27, 28, 29, 30, 31 & 32 by "a call for competition published in accordance with" the Directive. EU Law Title 1. Art 2 [21] & Title 111. Art 78-82 defines Design Contests distinctively and are "put out to competition".

COMPETITION DOCUMENTATION

All documents related to a competition, including the competition brief.

COMPETITION ORGANISER

The party responsible for organising the competition, who may be a professional competition organiser such as an institution, association, private organisation or consultant, a government agency or authority, a procurement hub (in centralised or joint purchasing EU Law Art 37 & 38), or the contracting authority.

CONTRACTING AUTHORITY

In general means the organisation who will make the award which may lead to a commission. Under EU Law Art 2.1[1] a contracting authority means, "the state, regional or local authorities or bodies covered by public law or associations formed by one or more (of them)".

COMPETITION PUBLICATION

A competition will be announced if the value of the procurement is above EU thresholds in OJEU (the Official Journal of The European Union) on the EU digital portal TED (Tenders Electronic Daily).

A competition will also be published on a national portal (in countries where there is a national portal) and this may also publish notices above and below thresholds. Some countries lack a national portal, sometimes commercial platforms are used as well or instead, and competitions are also frequently published in the specialist press.

Private competitions maybe published on digital portals and/or in hard copy.

A list of portals is available on thefulcrum

www.thefulcrum.eu/news/thefulcrum/design-contest-portals-by-country

COMPETITION REPORT

1. Covers all types of reporting irrespective of the value of the competition and whether it is a public or private procedure.

2. Under EU Law Title 11. Art 26[1] procedures, this may also cover the feedback that is given for all types of public competition submissions [under the Remedies Directive](#)².

It is also sometimes known as competition feedback (**see:** jury report).

CONFIDENTIALITY

Confidentiality is required in order to maintain anonymity and ensure that there is no influence over the jury or the assessment procedure. Those making a bid are not permitted to identify themselves until such time as the results are announced.

CONTEST NOTICE

Under EU Law Art. 79 [1], and Annex V Part E, this is a specific type of public notice, to be published on TED (Tenders Electronic Daily) in OJEU (the Official Journal of The European Union) for a public design contest above EU thresholds. Some countries with their own national portals also appear to require that when advertising public design contests below thresholds a distinct notice is issued. There is no apparent distinction below thresholds for how this form of competition may be advertised otherwise.

DESIGN CONTEST

A public procedure which enables the contracting authority to acquire, mainly in the fields of town and country planning, architecture and engineering of data processing, a plan or design selected by a jury after being put out to competition with or without the award of prizes (World Trade Organisation General Procurement Agreement Art XV 1(j)).

There are specific minimum requirements for peer review and anonymity (EU Law, Art. 2[21] & 78).

In WTO & EU Law the word 'contest' has a unique meaning that does not occur elsewhere in any unrelated articles.

A contracting authority shall organise Design Contests only within the terms described under EU Law Art. 80 [1].

For a private competition or competition below threshold held in any other circumstances a design contest is required to have at least the same minimum requirements that provide equivalent anonymous adjudication by peer review.

DESIGN COMPETITION

A design competition may cover any public or private competition above or below thresholds in which there is a design submission that forms part of a competitive assessment and a selection process made, at any or all stages.

DESIGNATED CONTACT

The designated contact is the only representative person from the competition organiser who can be contacted by competitors.

DEVELOPER

A developer is anyone or any organization that takes the financial risk of investing in the construction and development of a building project.

DEVELOPER COMPETITION/DEVELOPMENT COMPETITION

A competition for a project which is intended to be built that seeks a developer's plan and financial bid under any selection procedure. The call for competition will be aimed at investors, contractors or developers, and is most likely to be released as a 'works' notice. Because it is typically not issued as a 'service' notice many such competitions aren't transparent to architects. Typically, the opportunity to develop the plot or building will then be awarded to or further negotiated with the winner.

DEVELOPER CONTEST/DEVELOPMENT CONTEST

Similar to a developer competition but following a contest procedure and issued under a contest notice for services, but in this case the designers/professional team may lead the bid and take the investment risk, with or without a developer. It is assessed anonymously and on the quality of the design bid submission. Typically the opportunity to develop the plot or building will then be awarded to or further negotiated with the winner. This is a technique that has been used particularly successfully for infill development.

ELIGIBILITY

Eligibility refers to who can and cannot enter any public or private competition, wherever any criteria are specified, by meeting those criteria. This may be by means of qualification and/or by supplementary requirements. Restricting eligibility reduces competition access.

EXPRESSION OF INTEREST (EOI)

Any competitor who responds to a call for competition 'expresses interest' by making a submission. An expression of interest (EOI) may be a short and simple document requiring illustration that does not include core compliance requirements sought under EU Law for some competition procedures, and may be used for assessment and selection of a shortlist. A Pre-Qualification Questionnaire (PQQ) is a term which has particular requirements from Directive 2014/24/EU and Annex V Part C which includes 11[c] &/or 15, and for this reason is more specific than an EOI.

HONORARY MENTION

A special mention in the jury report, where no prize, fee or commission is involved.

IDEAS CONTEST

A specific type of design contest, where there is an objective of acquiring conceptual proposals or solutions, which are only generally described and defined, and which does not usually involve any intention to actually build the winner's project. Ideas contests may cover any type of design beyond architecture to include interiors, products, processes or particular tasks etc. Wherever an ideas contest has a value above EU thresholds it must be managed according to the requirements for a design contest. Most ideas contests, however, are below thresholds and they may be indistinguishable, in commonly used language, to other forms of competitions (**see:** design contest).

INVITED PROCEDURE

An 'invited procedure' above EU thresholds may only be used by private clients, because this is discriminatory, not advertised publicly and lacks transparency. Where EU Treaty principles apply, invited procedures should not be used below public contracts thresholds, for all but far lower nationally specified values, generally for the same reasons (**see:** closed procedure).

JURY

In a design contest, a jury will assess the submissions. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification or an equivalent qualification (EU Law Art 81). A natural person is an individual, as opposed to a legal person (i.e a business).

JURY REPORT

The document in which the jury shall record and report its ranking of projects for any competition having a jury. It is also the report for a design contest under EU Law Art 82 [3] that "shall record (the juries) ranking of projects, signed by its members, made according to the merits of each project, together with (the juries) remarks and any points that may need clarification" and issued on conclusion of the procedure (**see:** Competition Report).

LICENSED ARCHITECT

In Europe, architects are legally protected by their function and/or their title. But not all EU/EFTA countries appear to protect the profession of architect by law, or to do so equally. In some of these countries, it appears that those who want to participate in procedures where a licensed architect is required have to seek cooperation with an architect who is licensed. See also: Directives 2005/36/EC & 2013/55/EU on the recognition of professional qualifications.

OPEN PROCEDURE

An open procedure is one where any eligible party can enter, can be organised in one or more stages, and can be a design contest. Although the regulations for being above EU thresholds state that in both open and restricted procedures, 'Any economic operator may submit' EU Law Art 27[1] & Art 28 [1], a restricted procedure has more specifically defined and structured and criteria, under Annex V Part C 11-18, that require a second stage.

PARALLEL COMMISSIONING

Parallel commissioning is where multiple teams are invited to submit appraisals and feasibilities evaluating propositions, often with pre-defined themes. There is no further commission for the selected teams beyond the parallel commission. Parallel commissioning can therefore be particularly useful to public authorities for informing the preparation of a consensual brief and before starting the required procurement processes that apply above the EU thresholds. Parallel commissions may be placed through a design contest and/or prior to inviting a design contest.

PREQUALIFICATION/PQQ

Made in response to a call for competition, and typically as part of a restricted procedure, the prequalification or 'PreQualification Questionnaire' (PQQ) stage is made under Directive 2014/24/EU using a notice Annex V Part C that includes 11 [c] &/or 15, requiring extensive 'core compliance criteria' as well as many additional questions.

The prequalification stage is used to thin down the numbers who progress to the next stage by shortlisting from the responses to the prequalification. The second stage may be called the Invitation to Tender or ITT stage. As questions about a practice size, capacity and experience are frequent, use of this restrictive approach favours established practices. Reportedly used most frequently in France and the UK.

PRIZE

As applicable to design contests, a prize may be awarded as either prize money and/or an assignment/a commission (project contest only) and/or gaining the right to (re)develop a building or area (development contest only).

PROJECT BRIEF

An analysis and description of the project parameters. Following the gathering of data, a description of what is known of a project's context, parameters, performance and programme. Options may be appraised, the contracting authority and stakeholder's vision and ethos articulated, and priorities clearly determined. The knowns and unknowns should be described appropriately in sufficient and proportionate detail for the type, size and scale of the project. The project brief is a part of the competition documentation.

PROJECT CONTEST

A specific type of design contest (as defined above), where there is an expressed intention to build and where the object is to procure from qualified professionals a solution to a clearly defined task, and carry it through to completion.

PROJECT COMPETITION

Any competition, other than a design contest or project contest, having the expressed intention to build a solution to a clearly defined task, and the express intention to carry it through to completion.

REGULATED COMPETITION

A competition wherever EU or national regulations are to be applied. Many European nations also regulate their competitive practices below EU thresholds.

RESULT

A term specific to a public design contest where the results are reported in 'the notice of results of a design contest' Art 79, 52(1)-(6), 52 and Annex V Part F. Upon publication of this 'result', a project commission may not necessarily arise and it may be subject to a further negotiation stage EU Art 32 (**see:** Award, Stage and commission).

SIGNING OFF THE BRIEF

In a design contest the jury has responsibility for evaluation, confirming and assigning their agreement to the brief and conditions, having checked the appropriateness of texts, the declaration of intent, performance requirements, evaluation criteria (and their importance), programmed timescales, stages, and numbers to be shortlisted and honoured along with all supplementary information intended to be provided.

Any proposals for change and jury decisions for completeness and in readiness for publication should be reported back to the client/contracting authority before the brief is signed off and the contest launched.

TECHNICAL/ADVISORY (REVIEW) PANEL

In a design contest the jury can delegate a check on the performance requirements/demands to a technical (review)/advisory panel, because it may be appropriate for a separate panel of independent professionals to review and appraise the proposals against the stated project parameters. On the jury's request the technical review can be made in stages corresponding to the jury's depth of examination. A report of the panel's findings will be made available to the jury to help inform the decision-making process.

THINNING

A term applied to any process of selectively reducing the numbers of eligible candidates at any competition stage. (**see:** prequalification/PQQ)

STAGE: OF A CONTEST/COMPETITION

In a public competition notice the type of competition and its selection criteria defined by EU Law determine the number of stages. The details are described in the competition documentation.

But because public competition procedures are formally concluded by 'an award', and a design contest by a 'result' – that is not always 'a contract commission' – different descriptions may exist for the number of stages following the issue of a competition/contest call.

A 2 stage design contest 'result' may be followed by a 'negotiated procedure without prior publication', while a competition 'award' onto a 'framework' may require those on the framework to subsequently tender via a 'mini-competition' before achieving a commission.

Following any competition call a prequalification stage is not considered to be a 'competition' stage by some, because of the meaning implied by its title.

Meanwhile, for all participating parties any procedural stage requiring a distinct input/submission between entry to a competition and the contract commission may be thought as separate stages, because they take time and economic cost.

In this respect the 'legal language' provided specifically within a competition notice/design contest notice falls short in reflecting the procedure undertaken by participants.

This publication has tried to determine the stages described both within the notices and any additional stages leading directly to a contract commission, to provide better insight into the overall simplicity, time and economic cost of appointment.

(**see:** award, competition notice, contest notice, result)

YOUNG ARCHITECT

Generally thought to mean any architect below 35–40 years old, although there is no clear definition for this term.

Although discrimination, by age, is generally not allowed by law, specific groups may by interpretation possibly be allowable under e.g. EU Law Art 80 (**see:** Chapter 5 & 6).

References:

1 Council of the European Union. (2014, February 26). Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC. Retrieved December 12, 2017, from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0024>

2 Council of the European Union of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to

the application of review procedures to the award of public supply and public works contracts, with M1 (1992), M2 (2007), & M3(2014) amendments. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01989L0665-20140417> (accessed 10-05-2018)

3 World Trade Organisation Government Procurement Agreement www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm

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About Project Compass CIC

Project Compass CIC is an independent, not-for-profit UK Community Interest Company based in London. Its purpose is to contribute to enhancing professionalism in public sector construction procurement that improves outputs for UK construction culture through support, research, expertise, guidance and analysis. It aims to promote and improve opportunities to create a high quality built environment by making access to procurement easier, simpler, fairer, and more economical and transparent.

Project Compass is part of the european architectural procurement network **thefulcrum**, working in partnership with Architectuur Lokaal in The Netherlands on a range of initiatives and services, allowing comparative analysis and expertise to be drawn upon.

www.projectcompass.co.uk provides free-to-use search and notification functions for public sector notices above OJEU thresholds, along with industry intelligence from its Sesame online analytics tool that derives data from its comprehensive database of past and current OJEU notices. Currently under development are its Compass facilities to provide and promote best practice online project procurement guidance and practice.

Project Compass's endeavors to advance better procurement culture and practice in architecture and construction are sustained by voluntary contributions from supporters and industry.

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Project Compass CIC co. reg. No.8529139

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ISBN: 978-0-9931481-5-6 (print)
978-0-9931481-6-3 (pdf)

E1 May 2018