



# **BIM and Public Procurement – Insights from The Netherlands**

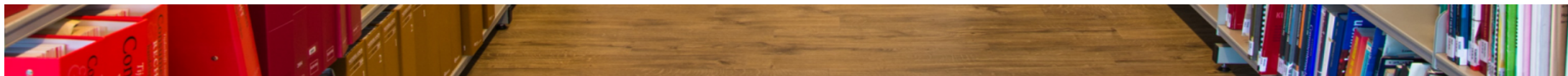
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2017 Annual Conference of the European Society of Construction Law  
University of Fribourg Switzerland



## BIM and public procurement – Insights from The Netherlands

Evelien Bruggeman



# Outline of my presentation

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- An overview of procurement law in The Netherlands
- Three examples of BIM in The Netherlands
- Three aspects of the procurement process and BIM
  - the specifications of the tender: the tender documents and requirements
  - the use of criteria for selection to find a suitable tenderer
  - the award criteria as a means to find the best bid regarding BIM
- Conclusions and final remarks

# Procurement law in The Netherlands

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- Directive 2014/24/EU
- Procurement Act 2016 - *Aanbestedingswet 2016*
- Proportionality Guide 2016 – *Gids Proportionaliteit 2016*  
Bilateral guide, regulations, ‘comply or explain’



# Three examples of BIM in The Netherlands

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- National Road and Waterways Authority, *Rijkswaterstaat the frontrunner*
- The Province of Gelderland  
*a follower*
- Central Government Real Estate Agency, *Rijksvastgoedbedrijf in the early stages of procuring and using BIM*

# The lock programme



Sluis Eefde en Beatrixsluis





# Rijnlandroute





# Traverse Dieren



# The specifications of the tender: three subjects

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- Specifications:  
practical and legal aspects of the tender process and the technical specifications for the project
- Employers Information Requirement (EIR), or *Informatie Levering Specificatie (ILS)*
- Contract documents or contractual clauses regarding BIM
- The use of BIM data room or a BIM model

# Employers Information Requirement (EIR)

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- Programme of Requirements for the digital demands  
*The core of the information demands*
- Technical, process or project management, and commercial requirements
- Forms of the EIR (*Rijkswaterstaat, Rijksvastgoedbedrijf*)

# Contract documents and contractual clauses

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- Extra obligations for the contractor
  - Delivery of a BIM model or BIM data
  - Another working method or process
- Contractual implications of the use of BIM
  - Content: ownership or user rights regarding the model, penalty clauses for late or incomplete data drops etc.
  - Form: other contract documents in the form of appendices, protocols, execution plans or new clauses in existing contracts



# A BIM data room or BIM model

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- BIM model(s) as part of the procurement documents or tender specifications
  - Wishes, sketches, impressions, preliminary designs, alternative solutions etc.
- BIM data room Rijkswaterstaat
  - Models
  - Other digital information (location, supply routes, soil or surface etc.)
  - Based on their OTL
- Two problems:
  - amount of information
  - hierarchy of the information

# BIM and the tender specifications

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- Principle of transparency
- Principle of proportionality (art. 1.10 Aw)

Regulation 3.9A Proportionality Guide (allocation fo risks)

Regulation 3.9B Proportionality Guide (contractual clauses)

Regulation 3.9C Proportionality Guide (deviation of contract models)

Regulation 3.9.1 Proportionality Guide (transfer of intellectual property rights)

# Tender specifications and BIM: conclusions

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BIM can bring new challenges in the procurement phase, such as

- the need for a contracting authority to thoroughly assess how it anticipates using BIM and what data it (really) needs
- the overload of information in BIM models and a data room as part of the tender procedure, causing problems of transparency and hierarchy of information
- the necessity to change standard contractual clauses

# Criteria for selection

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- Grounds for exclusion
- Suitability requirements

# Criteria for selection: grounds for exclusion

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- art. 2.87 lid 1 sub g Aw: exclusion ground for past performance  
*significant or persistent* deficiencies in the performance of any *substantive* requirement under a prior contract

# Criteria for selection: the suitability requirements

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- Limitative enumeration in art. 2.90 Aw.  
*level of technical competence or professional aptitude*
- Relevant subjects for BIM:
  - reference works: essential aspect of the work or a core competence
  - certification and education: personnel and technical resources
  - the use of performance indicators

# Criteria for selection and BIM: conclusions

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- Not yet used in The Netherlands ... BUT
- Increasing importance of BIM for the procurement process
- Offers great potential to find a suitable tenderer



# Award criteria: the BIM Execution Plan

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- The UK BIM Execution Plan (pre and post BEP)  
*practice*
- The Dutch Execution Plan model (*Uitvoeringsplan*)  
*theory*

## The execution plan as a part of the award phase: conclusions

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- Not yet used in The Netherlands
- Gaining momentum due to increasing use and importance of BIM
- Execution Plan model available

# Conclusions

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- The situation in The Netherlands
- Three aspects of procurement
  - Specification of the BIM requirements
  - Criteria for selection
  - Award criteria and the BIM Execution Plan
- The future of BIM in procurement...













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