



# Competitive Dialogue EU

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# Program

- Introduction
- Procurement strategy
- EU-procurement methods
- Competitive dialogue
- Learning experiences in the Netherlands

# Introduction:

- Marijke Nagelkerke
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# Procurement strategy

- Determining “scope”
- Market assessment
- Risk assessment
- Determining procurement method (Public Private Comparator)

# Determining “scope”

- Project goal
- Scope size
- Buy or in house
- Choice of contract:
  - Bill of quantities
  - Design & Construct
  - DBFM(O)
  - Etc.

# Market assessment

- What contract is chosen?
- Which potential contractors are available?
- Would these parties be interested?  
Based on:
  - Project scope
  - Choice of contract
  - Procurement method
  - Risk profile

# Important risks e.g.:

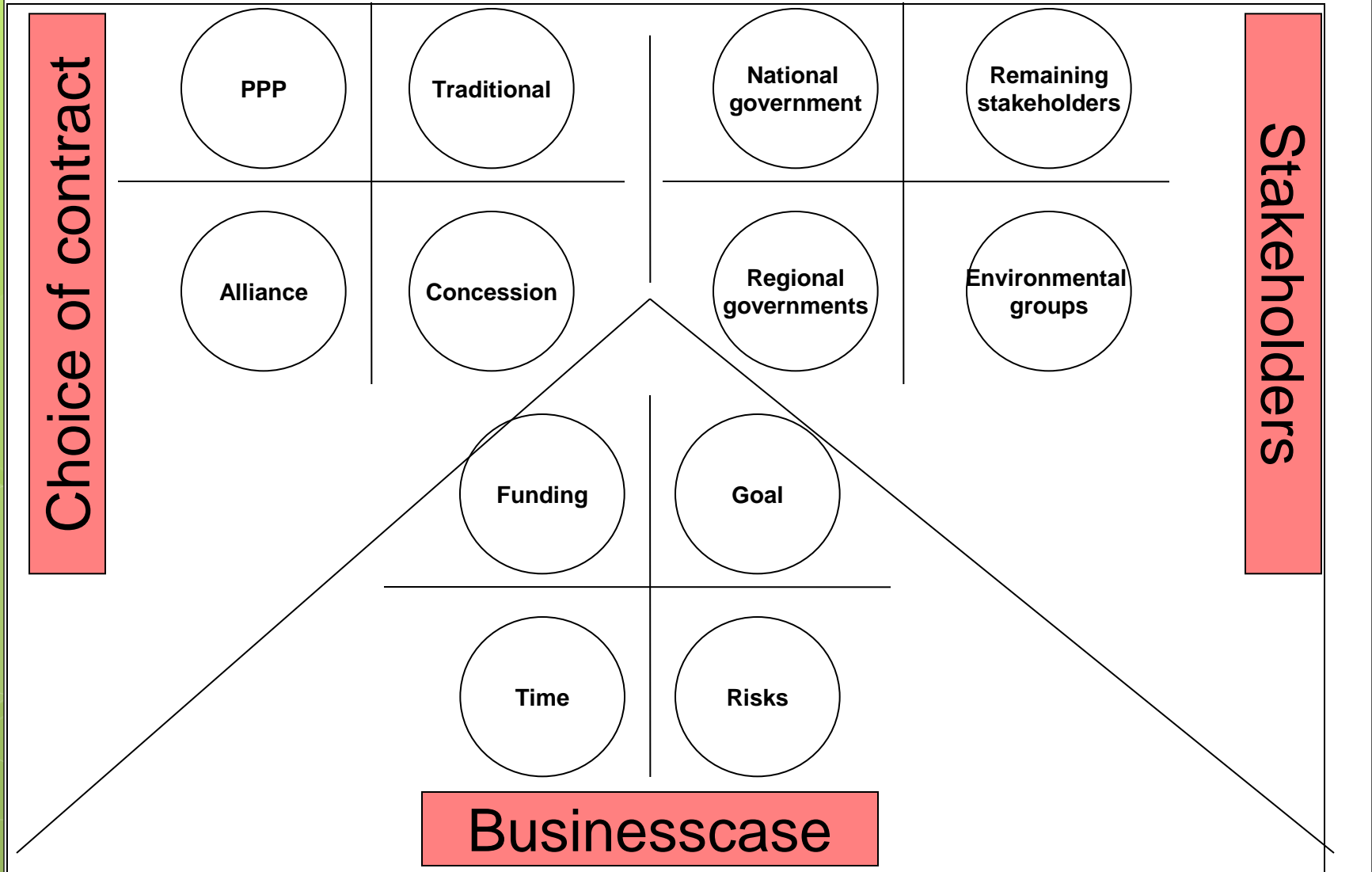
- Reliability contracting authority
- (Foreign) currency risks
- Construction risks
- Transaction costs (tender/deal flow)
- Reliability information (asset management)
- Financing risks
- Quality contract
- Reliability contracting partners
- Stakeholder alignment

# Risk transfer

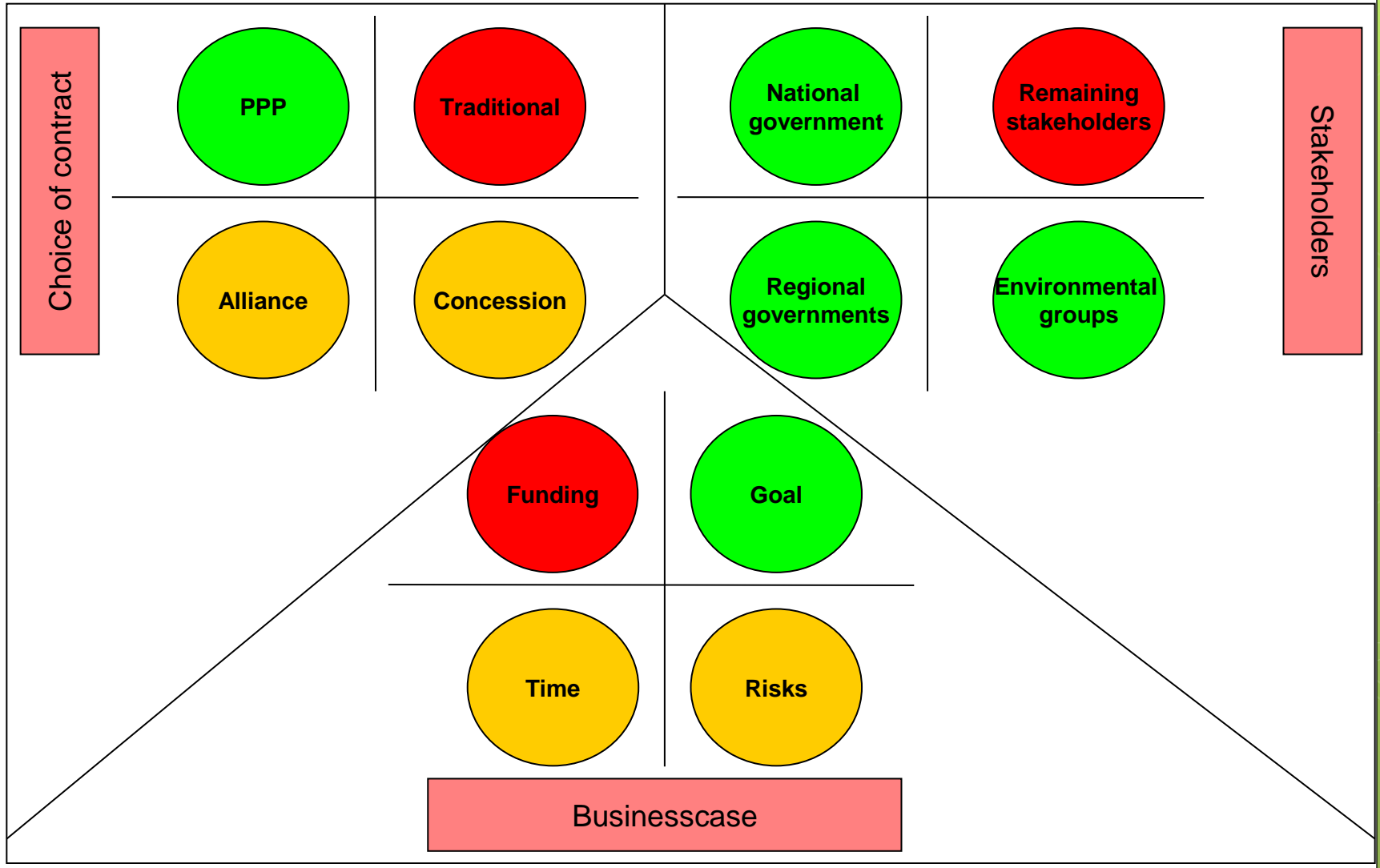
- Transfer risks to the party best able to control the risk. Either by:
  - Preventing risk occurrence
  - Control the consequences of the risk by:
    - Measures
    - Money



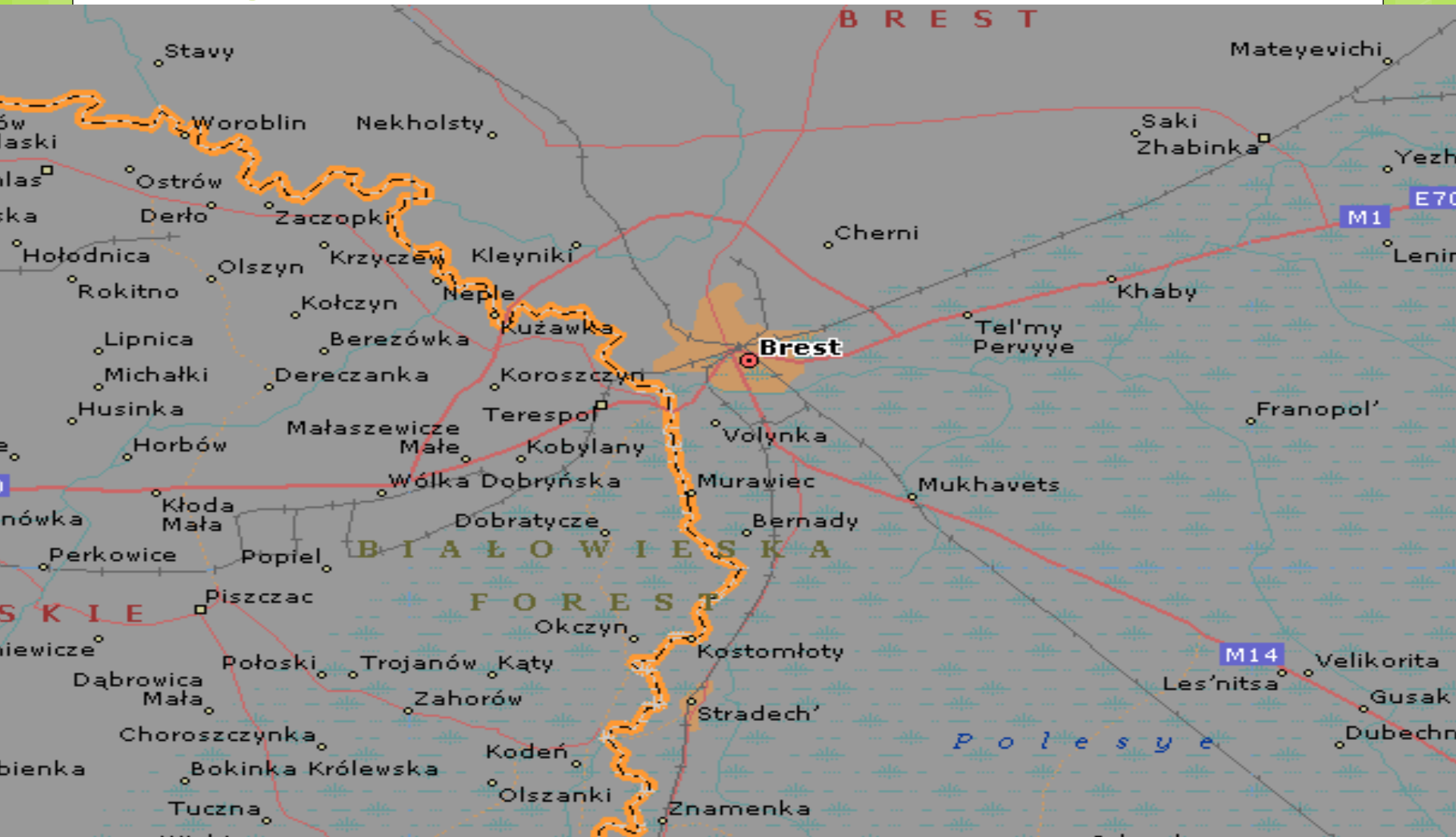
# Assessment framework (example)



# Sample preparation



# Targets/ambitions alleviating congestion problems Brest



# Case 1: procurement strategy Brest:

- Source of increasing traffic flow:
  - The increase of commercial traffic to and fro Warszawa
  - The increase of inhabitants of the city of Brest.
- Cost estimate most straightforward solution :
  - \$ 500,000,000.—.
- Important stakeholders:
  - The city of Brest is the most important stakeholder. It does not however support the most straightforward and cheapest approach to link the M1 to the E30 on ground level which leads straight through the city itself.
- Other stakeholders:
  - Neighbouring residents are against heavy traffic to close to their homes.
  - Environmental groups oppose the realisation of a highway through nature areas in the vicinity of Brest.
- **Questions:**
  - **What would be your targets/ambitions for this specific project?**
  - **What would you have to do to realise these targets/ambitions (CSF)?**

# Available EU-procurement methods (works):

Directive 2014/24/EU

- Open procedure
- Restricted procedure
- Competitive dialogue
- Competitive procedure with notification
- Negotiated procedure without notification
- Innovation partnership

# Basic assumptions EU procurement

- Equal treatment
- Transparency
- Objectivity
- Proportional demands

# Competitive dialogue

- The competitive dialogue enables the contracting authority to hold a dialogue to identify and define the means best suited to satisfying its needs

# EU-rules for the competitive dialogue

- The provisions on the competitive dialogue are fairly limited
- Examples:
  - Mandatory notification of tender
  - Start of dialogue with a minimum of 3 candidates
  - Use of EMAT as award criterion
  - Confidentiality of solutions
  - Successive stages possible
  - Clarification/negotiation may not lead to changes of essential aspects



# EU-rules as a format

- Non-EU members could chose to adopt the rules one on one
- Different choices result in different effects
- Question one should ask:

**Choice equals desired effect?**

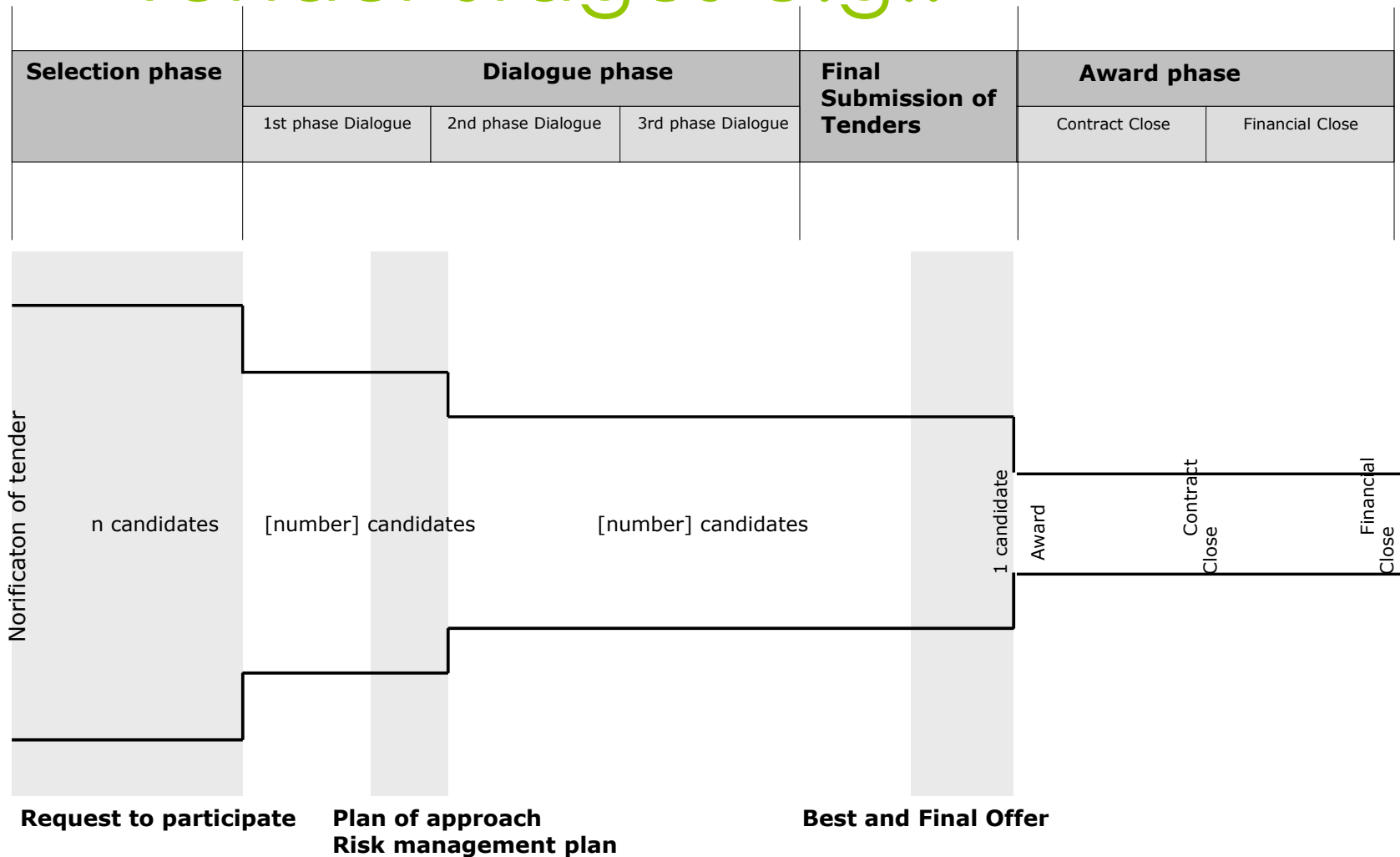
# Reasons for Competitive Dialogue

- Possibility to discuss all aspects of the contract
- Room to discover the various solutions the market can offer
- Need for a more flexible procurement method when impossible to define the technical solutions and/or financial/legal solutions

# Procedural steps

- Notification of tender
- Selection of candidates
- Dialogue in stages
- Possible limitation number of solutions
- Declaration “conclusion of dialogue”
- tenders may be clarified, specified and optimised
- negotiations with the identified tenderer provided this does not have the effect of materially modifying essential aspects of the tender /procurement

# Tender stages e.g.:



# Targets of the dialogue:

- Open dialogue with candidates (transparency)
- Clarification of the requirements and contract stipulations
- Optimal use of the innovative power of the private sector
- Scan possible solutions
- Balanced distribution of risks
- Increase the chance of a valid offer

# Possible topics for the dialogue

- Optimal cooperation
- Project finance
- Listed risks
- Risk management plan
- Limiting traffic congestion
- Stakeholder management
- Design
- Environmental effects
- Sustainability

# Importance selection criteria:

- Getting the best contractors for the job
- Based on for example:
  - Experience
  - Track-record
  - Financial position

# Importance of award criteria

- Getting the best offers possible
- Based on for example:
  - Value for money
  - Best solution for the problem
  - Best design
  - Innovative solution
  - Sustainability

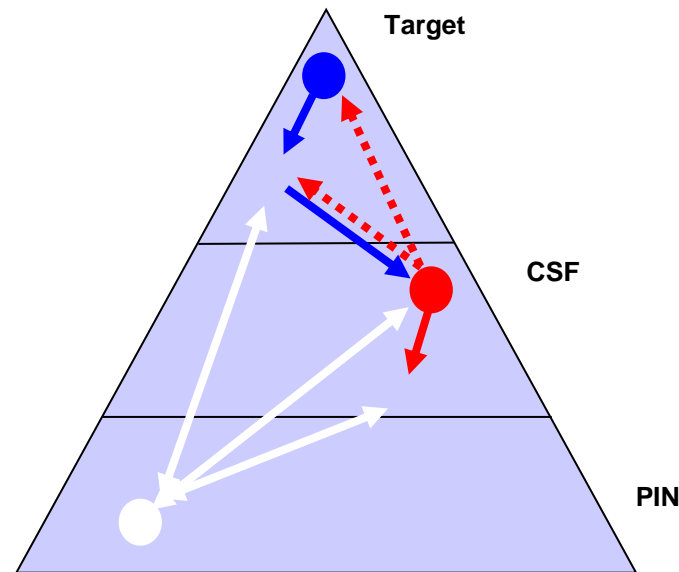


# Determining criteria:

- In proportion to the contract (scope and content)
- Prevention of discrimination
- Prevention of distortion of competition
- Transparency in criteria and notification
- Sufficiently distinctive to be able to determine best offer
- Not too many criteria
- Linked to Critical Success Factors project

# Concepts used in a competitive dialogue 1:

- **CSF:** Activities or processes of (major) importance to the achievement of the project's target(s). Decisive factors. The project's success is determined by use of the CSF.



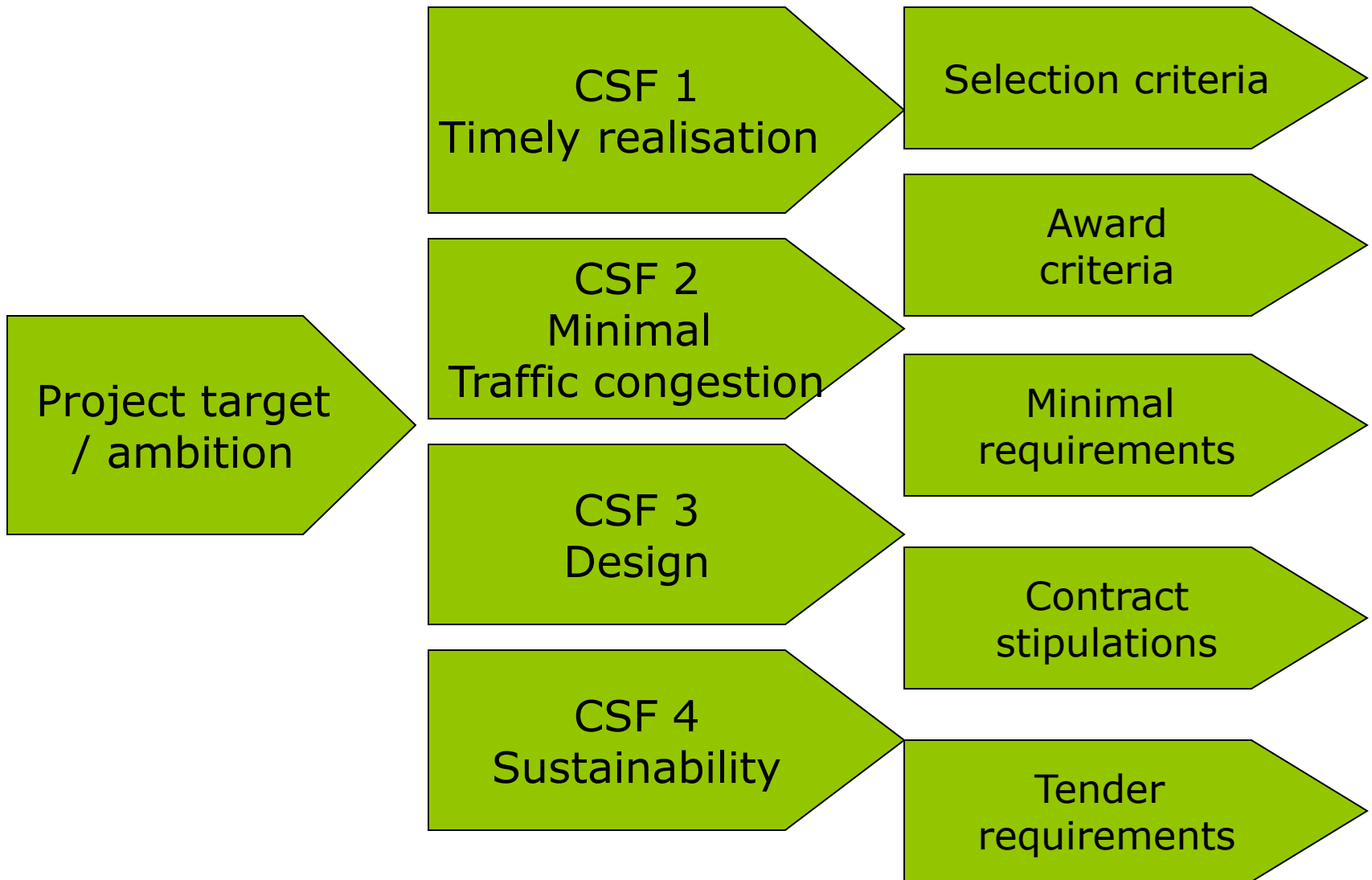
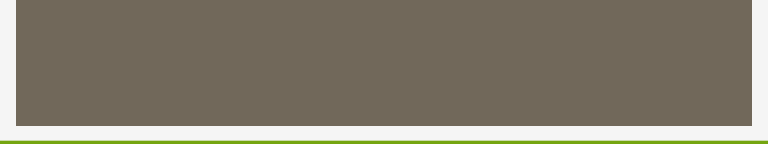
- **Performance-indicator** the fulfilment of the CSF will be measured with the use of a performance-indicator (PIN).

# Concepts used in a competitive dialogue 2:

- **Requirements:** minimal demand which have to be met in order to submit a valid offer.
- **Award criteria:** through award criteria candidates will be able to distinguish themselves from one another, e.g. by offering:
  - more quality than required;
  - A faster realisation of the project;
  - Better stakeholder management;
  - a lower price;
  - Etc.

# Concepts used in a competitive dialogue 3:

- **Dialogue documents:** documents to be submitted by candidates on e.g. the proposed solution, design, plan of approach etc. as stipulated by the contracting authority as a basis for the dialogue meetings. The dialogue documents may be a part of the final offer to be submitted by the candidates.
- De dialogue documents can pertain both (minimal) requirements and award criteria.



# The competitive dialogue is:

- Complex (functional specification)
- Time consuming
- More expensive

# So why bother?

- Profiting from knowledge and innovative power of the private sector
- More value for money
- Better solutions



## A 2 Maastricht

Intertwining public decision procedure with tender:

- Time gain
- Better solution
- Cooperation with most important stakeholder the municipality Maastricht



## A12 Lunetten- Veenendaal

DBFM-contract with  
one of the CSF: “less  
traffic congestion”

- More value for money
- More than 2 years faster delivery
- Satisfied stakeholders





## Public transport cubicles Amsterdam

Combination of public transport cubicles and advertising

More value for money -> practically all the costs of placing, maintaining and cleaning the cubicles are covered by the income from advertisements



## A 4 Steenbergen

Realisation of an aqueduct previously thought too expensive

Better alignment of interests of contracting authority and the most important stakeholder

## Case 2: procurement strategy Brest

- The connection between the E30 and M1 will be realised.
- With regard to the targets and ambitions as formulated during the discussions on case 1
  1. **What would be your 2 most important CSF for the project?**
  2. **What would be 2 minimum requirements for the project?**
  3. **Name 2 award criteria**
  4. **What information would be needed to discuss the CSF, requirements and award criteria during the competitive dialogue?**

# Learning experiences in the Netherlands

- BAFO in two stages in the present financial climate (short validity period)
- Smaller number of dialogue topics
- Higher level of abstraction contract requirements
- Reducing number of solutions through plan of approach / risk management plan
- Specialist consultations
- Digital data
- Kick-off meeting when starting the dialogue
- Tender protocol with clear working arrangements and division of roles within the tender teams

# Focus points 1

- Interaction between the specialist consultations, dialogue meetings and formal information documents
- Communication between parties in general and with the stakeholders in particular
- Distinctive and clear award criteria
- Clear requirements of the candidates' tender documents
- Quantity and quality of the data of the contracting authority

## Focus points 2

- Clear project targets (up-to-date)
- Clear project scope
- Create room for flexibility/innovation
- The project team has to be sufficiently prepared
- Take the capacity of the private sector into account in relation to the number of tenders in progress
- Control project interfaces

## Focus points 3

- Control of tender process through e.g.:
  - Tight schedule in time and personnel
  - Proper security of the exchange of information (guarantee confidential information)
  - Tight control of the reliability of the information
  - Clear backstop in case of emergencies



Thank you for  
listening