

Procurement Monitoring Report Template
In view of the Member States' reporting process
under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU

Purpose and key features of the template

- This template aims at facilitating Member States' (MS) reporting in the context of the new procurement directives. The template sets out the scope of the reporting requirements and recommends MS a methodology to gather and systematise the collection of relevant information. Furthermore, it strives to propose a harmonised structure of the reports so as to allow easier comparison of the information provided by the MS.
- The questions in this template are non-binding specifications of the directives' legal obligations on monitoring reports. The template should be followed only as far as possible by the Member State, especially as concerns the availability of quantitative information. When information is not available, this may be noted in the report, possibly together with an explanation of whether there are plans to start collecting such information and including it in the future edition of the report.
- MS' reports will be published on the European Commission website. The information will feed the new Report on the implementation and best practices of national procurement policies in the internal market to be issued by the European Commission. The information provided by the MS will support the policy analysis work of the Commission.
- The template covers all domains for which reporting requirements are defined under the 2014 procurement directives.
- The template contains the following types of questions:
 - i) qualitative descriptions and assessment,
 - ii) supporting documents which provide the evidence for the descriptions and assessment made above,

iii) quantitative indicators.

- In the tables below, the left side contains the name of the information to be submitted, while the right side contains further specifications of what this means. The report should be submitted as a text (.doc) and PDF document based on this template.
- To avoid duplication of reporting obligations and reduce administrative burden, MS are invited to indicate any information/data requested in this template that has been already provided to the Commission via another channel (e.g. procurement irregularities falling within the scope of ESIF funds). When it is the case, please specify these channels, the context of the reporting and the nature of the information already provided.

General information

Scope of reporting
<p>The report should cover the period between 1st January 2017 and 31st December 2017. For quantitative data based on procurement notices, this means that the contract award notice should have been awarded in this period. If an MS has transposed later than on 1st January 2017, the reporting period should still start on the 1st January 2017.</p> <p>If the scope of your report is broader than that indicated in the directives (e.g. because of lower thresholds, broader definition of contracting authorities, contracting entities, or subsidised contracts), please indicate this here. In such a case, for every indicator, information about procurement according to the EU directives and any other information should be presented separately, so that the same information can be compared between EU MS.</p> <p>The new directives on public procurement, utilities and concessions entered into force on 1 January 2017. The "classic" Regulation (implementing Dir. 2014/24/EU) contains both national and EU-thresholds. The national thresholds in Norway are currently ca. 144 000 EUR. All contracts over the national thresholds must be advertised in the Norwegian national database for public procurement, Doffin. Doffin then forwards notices over the EU-thresholds for publication in TED.</p>
General information
<p>Number of procurement procedures (i.e. the number of notices announcing a call for competition)): 9 686 notified calls for competition in total. There were 4 418 calls for competition over the EU-thresholds, and 5 268 calls for competition under the EU-thresholds.</p> <p>Number of awarded contracts: 3 076 contract award notices in total. There were 2 566 award notices over the EU-thresholds, and 510 award notices under the EU-thresholds.</p>

Information on monitoring and reporting bodies

This section should include a list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives and the entities in charge with the drafting of the report to be provided to the European Commission on the results of the monitoring activities.

The Norwegian Office of the Auditor General (Riksrevisjonen). Through auditing, monitoring and guidance they carry out their role to ensure that the community's resources and assets are used and administered in keeping with the Norwegian Parliament's decisions. The Office of the Auditor General has an independent status in relation to government administration, and reports the results of its auditing and monitoring activities to the parliament.

The Municipalities have their system of auditing (kommunerevisionen).

The EFTA Surveillance Authority (ESA) carries out surveillance and ensures that the participating EFTA States Iceland, Liechtenstein and Norway, respect their obligations under the EEA Agreement. ESA has competence to bring a case before the EFTA-court.

It is the Agency for Public Management and eGovernment (Difi), and the Ministry of Trade, Industry and Fisheries that drafted this report.

I. Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds

Estimation of the aggregated total value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds	<p>This stands for the value of procurement informally referred to as "below the EU threshold".</p> <p>This section should include information on the estimated value of procurement as well as the methodology used. The methodology used for the estimation should be explained in Annex I.</p> <p>"Value of procurement" should be understood as the value of the awarded contracts, so as to be comparable with estimates from contract award notices for above-threshold procurement. (Not as, for example, the value of procurement which could have taken place if a contractor was found, i.e. business opportunities, nor on the level of actual spending, i.e. paid invoices.)</p>
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	The Norwegian government does not collect data on the value of procurement of contracts awarded below the EU-thresholds.
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II. Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules

II.1. Qualitative reporting on application of public procurement rules	
Main sources of wrong application or of legal uncertainty	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the most frequent cases of wrong application of the rules and of legal uncertainty - the key causes for the wrong application of the rules and the legal uncertainty, including their relative importance, as well as the circumstances that explain their occurrence. <p><i>Possible relevant (non-exhaustive) elements for consideration may be:</i></p> <ul style="list-style-type: none"> • <i>types of contracting authorities particularly affected by public procurement errors</i> • <i>types of procedures or contracts particularly affected by public procurement errors</i> • <i>recurrent patterns pointing at specific difficulties at a particular stage of the procedure</i> <p>We have not been able to identify available statistics on the most frequent cases of wrong application of the rules, nor on the key causes for the wrong application of the rules and of legal uncertainty. (However, see II.2 below.)</p> <p>The vast majority of complaints on public procurement is handled by the Complaint Board on Public Procurement, and not by the ordinary courts. Most complaints concern the open procedure, mostly because the vast majority of notices calling for tenders indicate the use of the open procedure, but also because difficulties during the procedure to some extent may be challenging to handle correctly under this procedure. Furthermore, exclusion of a bid or a bidder, evaluation of tenders (the use of the award</p>

	<p>criteria), and the possibility to request economic operators to submit, supplement, clarify or complete information or documentation (Dir. 56 (3)) are often the subject of complaint.</p>
<p>Specific legal provisions (from EU or national law) which appear to raise significant problems of application</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the specific legal provisions in question - a description of the type of difficulties identified, if any <p><i>Possible relevant (non-exhaustive) elements for consideration may be:</i></p> <ul style="list-style-type: none"> • <i>lack of consistent application of a given provision by the contracting authorities</i> • <i>high frequency of requests for guidance as to how to understand or interpret a given provision</i> • <i>recurrence of the incorrect application of a given provision</i> • <i>need to issue (additional) interpretative guidance on a given provision</i> <p>The Norwegian Government does not collect information on wrong application or of legal uncertainty in a systematic manner.</p> <p>(However, see II.2 below.)</p>
<p>An assessment on whether a wrong application of rules might exist, by observing patterns of application of the rules which do not by themselves constitute cases of wrong application of the rules, but nonetheless point at structural or recurring problems yielding a sub-optimal outcome.</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - the specific type of problems identified, if any - any possible assessment of the impact of these difficulties on the efficiency of the public procurement process <p><i>Possible relevant (non-exhaustive) elements for consideration may be</i></p> <ul style="list-style-type: none"> • <i>bias towards the systematic use of certain award criteria irrespective of the context (e.g. systematic use of lowest price as award criterion)</i> • <i>overly frequent use of derogatory procedures or shortest possible deadlines</i> • <i>recurrent, particularly low number of bidders or of non-domestic bidders</i> <p>We are not aware of any available source of information that could identify specific provisions (from EU or national law) which appear to raise significant problems of application. (However, see II.2 below.)</p>

II.2 Supporting documents	
<p>Please provide any available evidence of the issues identified under section II.1.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>Audit reports on identified irregularities related to public procurement, including auditors specialising in ESIF irregularities</i> • <i>Existing typologies of the most frequent errors in public procurement</i> • <i>Reports on the most frequent requests for guidance</i> • <i>Additional interpretative guidance documents published in order to clarify legal issues</i> • <i>Policy or other administrative documents discussing issues in relation to the implementation of the rules</i> <p>The legislation implementing the new directives is still quite new (1. January 2017). Therefore, the Ministry is not aware of any audit reports related to the new rules.</p> <p>The Ministry of Trade, Industry and Fisheries has published extensive guidance on the new legislation. See the Ministry's webpage.</p> <p>Agency for Public Management and eGovernment (Difi) also provides extensive guidance on application of the public procurement rules. Their task is <i>inter alia</i> to strengthen the government's work within the field of public procurement. In order to carry out that task, Difi provides guidance on the whole procurement cycle in the form of guidance documents. Difi also provides standard contracts and supporting documents.</p> <p>Difi offers guidance in English about e-procurement, social dumping and socially responsible public procurement. The rest of the site is in Norwegian only. See Difi's webpage.</p> <p>Difi has not identified any most frequent requests for guidance.</p>
II.3. Quantitative indicators	<p><i>This section contains quantitative indicators related to section II.1. Other indicators can also be included in the report.</i></p>

	<p>The vast majority of complaints on public procurement is handled by the Complaint Board on Public Procurement, and not by the ordinary courts. The Complaints Board operates a webpage with an overview of all their cases where the Board's decisions are also published.</p>
<p>Indicators about the national review system</p>	<p>A list of proposed specific indicators will be drafted in the course of 2017, linked to a future remedies scoreboard, a part of the European Commission's Single Market Strategy. The indicators will be defined on the basis of the findings of a study to be commissioned by DG GROW in 2017 and further discussions with Member States, including in the context of the network of first instance administrative review bodies.</p> <p>A first study commissioned by the Commission services on the subject of procurement remedies is already available at http://bookshop.europa.eu/en/economic-efficiency-and-legal-effectiveness-of-review-and-remedies-procedures-for-public-contracts-pbKM0414023/.</p> <p>This study, together with other materials (including public and ad-hoc consultations), are the basis for the Commission's report and evaluation on the operation of the Remedies Directives.</p> <p>Based on all this, indicators such as the numbers of complaints, the number of appealed procurement procedures, the number of resolved complaints, the number of complaints resolved in favor of the complainant, or the average length of the review procedure could be considered.</p>
<p>Histogram of values of procedures, covering also procedures below the thresholds</p>	<p>Please include histograms of values of procedures (i.e. calls for competition). These should be split at least to one for works and one for supplies and services, ideally also further by types of EU threshold.</p> <p>The aim is to find "spikes" in the distribution of values, indicating a bunching of procedures below the EU threshold.</p> <p>To improve comparability, please use histogram bins with a breadth of EUR 10 000 (or the national currency equivalent).</p> <p>For more information on bunching analysis methodology, please see the Swedish Competition Authority's report http://www.konkurrensverket.se/globalassets/publikationer/uppdraagsforskning/forsk_rap_2015_3.pdf,</p>

in particular section 3.4.2., or the recent article from the American Economic Association available at <https://www.aeaweb.org/articles?id=10.1257%2Fpol.20150511&&from=f>.

The Norwegian government does not collect this information.

III. Prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interests and other serious irregularities

<p>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</p>	
<p>Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - how these actions/mechanisms have been implemented - the key measures that have been put in place <p><i>Possible elements for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>The main assumptions and objectives of the underlying actions</i> • <i>Institutional arrangements made</i> • <i>Existing links between the prevention, detection and remedial actions aspect</i> <p>The EU Directives on public procurement adopted in 2014 have been implemented into Norwegian law. The Norwegian legislation now contains a provision on the mandatory exclusion of economic operators from participation in a procurement procedure where the contracting authority has established, by verifying the information in the ESPD, that the tenderer has been the subject of a conviction for corruption by final judgement or an optional penalty writ.</p> <p>Therefore, when participating in procurement procedures in Norway and filling out the ESPD, the procurement rules require that tenderers have to answer if the legal person, or a member of their board, has been convicted for corruption or accepted an optional penalty writ. If the answer is affirmative, it is mandatory for the contracting authority to exclude the tenderer unless the latter has taken "self cleaning" measures.</p>
<p>Describe the actions undertaken and/or mechanisms put in place to ensure compliance</p>	<p>The information should focus on:</p> <ul style="list-style-type: none"> - how these actions/mechanisms have been implemented

<p>with the new provisions on the prevention, detection and adequate reporting of conflicts of interests</p>	<ul style="list-style-type: none"> - the key measures that have been put in place - presenting the definition of Conflict of interest, if it differs from the definition in the Directives - explaining the reasons for choosing the elements that have been added to the definition of Conflict of interest set out in the Directives - how the Directive requirement of effectiveness of the measures is fulfilled in practice <p><i>Possible elements for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>The main assumptions and objectives of the underlying actions</i> • <i>Institutional arrangements made</i> • <i>Legislative framework</i> • <i>Existing links between the prevention, detection and remedial actions aspect</i> <p>The general rules of the Norwegian legislation relevant to public administration, including rules on conflicts of interest, also apply in respect of public procurement (i.e., sections 6 to 10 of the Act on Public Administration of 10 February 1967 and section 40 of the Act on Municipalities of 25 September 1992).</p> <p>Accordingly, a person may not take a decision, or prepare a decision, if he or she is employed by, or is a member of, the board of directors of an economic operator having an interest in the outcome of the case, or if other particular circumstances may weaken the public's confidence that the case is being handled impartially. Furthermore, a person cannot participate in a tender procedure if he or she is employed by the contracting authority, nor can such a person act as a consultant or representative for a bidder.</p> <p>Furthermore, it is mandatory to exclude economic operators from participation in a procurement procedure when there is a conflict of interest. Therefore, when participating in procurement procedures in Norway and filling out the ESPD, the procurement rules require that tenderers have to answer if there is a situation where there is a conflict of interest. If the answer is affirmative, it is mandatory for the contracting authority to exclude the tenderer unless the conflict of interest can be effectively remedied by other less intrusive measures.</p>
<p>III.2. Supporting documents</p>	

<p>Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>Policy or other administrative documents discussing issues in relation to the implementation of the actions/mechanisms</i>
<p>III.3. Quantitative indicators</p>	<p><i>This section contains examples of quantitative indicators related to section III.1. Other indicators can also be included in the report.</i></p>
<p>Statistical distribution of buyers by frequency of actual competition</p>	<p>For each contracting authority or entity:</p> <ol style="list-style-type: none"> 1) Calculate the total number of contract awards. 2) Calculate the number of contract awards which received only one bid. 3) Divide the second number by the first number. <p>In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%, 10%>, (10%, 20%>, (20%, 30%>, ... , (90%,100%>¹.</p> <p>Please include only buyers with at least three contract awards over the reporting period and exclude all framework agreements as well as contracts based on framework agreements, as their number of bidders may be misleading (e.g. when multiple contract awards are based on the same framework agreement or for framework agreements with reopening of competition).</p> <p>For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: http://link.springer.com/article/10.1007%2Fs10610-016-9308-z.</p> <p>The Norwegian government does not collect this information.</p>

¹ The symbols "<" and "(" indicate whether the endpoint of the interval should be included. For example (40%,50%> approximately means that the interval should contain contracting authorities or entities whose score is larger than 40.001% and smaller than 50.000%. The rest of the intervals are analogous.

<p>Statistical distribution of buyers by frequency of using a negotiated procedure without the prior publication of a call of competition</p>	<p>For each contracting authority or entity:</p> <ol style="list-style-type: none"> 1) Calculate the total number of procedures. 2) Calculate the number of negotiated procedures without the prior publication of a call for competition. 3) Divide the second number by the first number. <p>In the report, in a table, please include the number of contracting authorities or entities whose result from 3) above falls within each of the following intervals: <0%,10%>, (10%, 20%>, (20%, 30%>, ... , (90%,100%>.</p> <p>Please include only procurement procedures which resulted in at least one contract award and include only buyers who ran at least three procurement procedures over the reporting period.</p> <p>For more information about this indicator please see the following article from the European Journal on Criminal Policy and Research: http://link.springer.com/article/10.1007%2Fs10610-016-9308-z.</p> <p>The Norwegian government does not collect this information.</p>
<p>Quantitative assessment of collusion risks</p>	<p>This analysis should be based on a country-specific methodology reflecting the business environment, data available from e-procurement and other platforms, etc. National competition authorities may have information relevant for this analysis.</p> <p>For an example of a collusion analysis methodology, see the following toolkit from the Government Transparency Institute: http://www.govtransparency.eu/index.php/2015/11/13/toolkit-for-detecting-collusive-bidding-in-public-procurement/.</p> <p>The Norwegian government does not collect this information.</p>
<p>Risk of undiscovered conflict of interest</p>	<p>Percent of contracts awarded to companies with concealed ownership structure (i.e. whose ultimate beneficiary owner cannot be verified).</p>

Information for this indicator should be available in central registers of beneficial ownership, which are to be established by all Member States under the 4th Anti-Money Laundering Directive (2015/849 Art. 30) by June 2017.

For more context for this indicator, please see the Commission's Anticorruption Report available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm

The Norwegian government does not collect this information.

IV. Level of SMEs' participation in public procurement

SMEs are defined in the Commission Recommendation (2003/361/EC) as having less than 250 persons employed and an annual turnover of up to EUR 50 million or a balance sheet total of no more than EUR 43 million. Further information is available at http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en.

IV.1. Qualitative reporting on SME participation	
Key challenges encountered	<p>The information should focus on:</p> <ul style="list-style-type: none"> - key challenges encountered in facilitating the participation of SMEs in public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State <p>Public procurement is decentralised in Norway. This means that the individual buying entities have the responsibility themselves to carry out their procurement activities in accordance to the national legal framework.</p> <p>As provided in an OECD survey on Support to SMEs in Public Procurement, The Agency for Public Management and eGovernment (Difi) identifies some areas where SMEs encounter challenges in public procurement. The key challenges are:</p> <ul style="list-style-type: none"> • Access to relevant information • Quality and understanding of the information provided • High administrative burden • Lack of visibility of available contracts of smaller value • Difficulties relating to the size of contracts <p>Some measures are foreseen to overcome these challenges:</p> <ul style="list-style-type: none"> • Early dialogue with the market • Increased knowledge among SMEs on public procurement processes • Increased use of standard contracts • Division into lots

	<ul style="list-style-type: none"> Announcement of contracts below EU-thresholds
IV.2. Supporting documents	
<p>Please report any available evidence or supporting document for point IV.1, illustrating the measures, achievements or challenges faced, relating to the facilitation of the participation of SMEs in public procurement</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> <i>List and provide a brief description of the policy and legislative initiatives launched to support SMEs participation in public procurement, including the results of their evaluations, where available</i> <i>Specific measures targeting SME participation in different techniques for aggregated procurement (framework agreements, dynamic purchasing systems, and centralised procurement activities)</i> <i>Specific measures targeting the participation of start-ups and scale-ups in public procurement</i> <i>Specific measures ensuring that payment for public contracts are made on time, especially in the case of SMEs</i> <i>Specific measures addressing the payments to subcontractors</i> <i>Existing guidelines or instructions for contracting authorities on how to treat grouping (e.g. consortia) of SMEs</i> <i>Existing guidelines for contracting authorities on the application of 'divide or explain' principle</i> <i>Existing targets for SME participation in public procurement</i> <p>In January 2017, the Minister of Trade and Industry sent a letter to every public authority in Norway encouraging them to use the possibilities in the new legislation and to always consider the SME perspective.</p> <p>Difi provides guidance online for suppliers (including SMEs) on how to participate in public tenders (only available in Norwegian).</p> <p>Additionally, other measures available to public buyers to support SMEs include debriefing suppliers after they have bid for government contracts.</p> <p>Through the operation of the National Programme for supplier development (the Programme), (www.innovativeanskaffelser.no), hands on support is provided to public sector buyers as well as</p>

	<p>private sector suppliers (including SMEs). The Programme acts as an initiator and facilitator to start innovative procurement projects. The main features of these innovative procurement projects are a thorough needs assessment involving users, early market dialogue for suppliers to input on needs defined and possible solutions. Based on the early stage processes involving users and suppliers, the public buyer develops the tender using functional specifications where appropriate so to open up to and foster innovation.</p> <p>Results from more than 100 projects show that these processes mobilise SME suppliers to participate in the procurement process. Also, identified as a challenge, is to progress from good project cases to a normal practice approach in how public buyers carry out their procurement activities.</p> <p>The Programme is co-owned by representatives from both public buyers (central and local level) and private sector suppliers, through the National agency for public management and eGovernment (Difi), the Norwegian Association of Local and Regional Authorities and the Confederation of Norwegian Enterprise.</p>
<p>IV.3. Quantitative indicators</p>	<p><i>This section contains examples of quantitative indicators related to section IV.1. Other indicators can also be included in the report.</i></p>
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section IV.1. above</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>Participation of SMEs in call for tenders above threshold</i> • <i>Number of above-threshold contracts awarded to SMEs and</i> • <i>Total value of contracts above threshold won by SMEs</i> • <i>If additional data is collected in your MS, please report it in order to deepen our understanding about SME participation in public procurement. This might include the number and value of public procurement below threshold won by SMEs</i> • <i>If applicable, current attainment rate of the target set for SMEs participation</i>

V. Information on the practical implementation of national strategic procurement

V.1 Green procurement ('GPP')	Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured." ² A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008.
V.1.1 Qualitative reporting	
Key challenges encountered	<p>The information should focus on:</p> <ul style="list-style-type: none"> - key challenges encountered in promoting green public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State <p>Difi's user surveys indicate that the key challenges encountered in promoting green public procurement is mainly about limited competence about the environmental impact of different goods and services among procurers, and lack of resources in the local government. It can be challenging for both purchasers and environmental advisers to know when and how to ask for green products. Furthermore, lack of a strategic approach to public procurement and leadership involvement is a barrier to GPP.</p> <p>The measures taken to overcome these challenges are found in the government's efforts to build competence programs on GPP, develop guidance, green criteria and tools to be used by purchasers. Furthermore, we are participating in GPP Pilots and sharing best practice among public procurers and suppliers. We initiate dialogue with leaders and arrange meetings and platforms where strategic use of public procurement are discussed by leaders. We are also monitoring and measuring the scope and impact of GPP to highlight the benefits of GPP both when it comes to costs and environmental impact.</p>

² Commission Communication (COM (2008) 400) "Public procurement for a better environment"

<p>V.1.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the promotion of green public procurement.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> <i>National definition of 'green' and 'green public procurement'</i> <p><i>We use EU COMs definition; "A process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured."</i></p> <ul style="list-style-type: none"> <i>Information about National action plans or similar documents on GPP in your Member State and the stage of their implementation. Target for the uptake of GPP and the way it is defined i.e. for overall procurement, for specific product groups, by value, by number of contracts.</i> <p><i>GPP is mentioned in different White Papers and Governmental strategic plans for green growth and green business. The mandate given to Difi is to strengthen the competence of public contractors so that they can reduce negative environmental effects of public procurement and contribute to more climate friendly solutions.</i></p> <ul style="list-style-type: none"> <i>Any obligations to include green requirements in the tender documents and the authorities for which they apply</i> <p><i>The new procurement legislation, implementing the 2014 Directives, places stronger demands on purchasers to take environmental and social responsibility into public procurement (§5). Accordingly, public authorities must develop an overall public procurement policy with the aim to reduce adverse environmental effects and promote climate friendly solutions – where this is relevant. This includes assessment of life cycle environmental costs of the procurement.</i></p> <ul style="list-style-type: none"> <i>Any recommendations concerning the use of specific selection criteria, technical specifications/award criteria/performance clauses which public authorities or contracting entities wishing to procure green can include in their tender documentation. Categories of products for which these are relevant and the relevant website, if possible.</i> <p><i>Difi is working on a digital guidance for green criteria's to be used for a variety of products. https://kriterieveiviseren.difi.no/en This tool is still under development.</i></p>

	<ul style="list-style-type: none"> • Any information on environmental labels, environmental management systems or standards <p><i>Difi has developed new guidance on use of environmental labels in GPP</i></p> <ul style="list-style-type: none"> • Any recommendations to use the 'green procurement' criteria developed by the European Commission, respectively for which product groups. If different criteria are recommended, please specify whether they are similar to/inspired by the EU criteria <ul style="list-style-type: none"> ○ When developing new GPP criteria, Difi mappes what is already existing in the EC. • Activities in the area of capacity-building for procuring green (institutionalised or ad-hoc training, helpdesks, etc.)
<p>V.1.3. Quantitative indicators</p>	<p><i>This section contains examples of quantitative indicators related to section V.1. Other indicators can also be included in the report.</i></p>
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.1.1 above. To the extent possible, these indicators should be further</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> • <i>Percentage of public procurement procedures incorporating green criteria out of the whole volume of procurement at national level and if available, for the GPP product groups (e.g. http://ec.europa.eu/environment/gpp/eu_gpp_criteria_en.htm) for which monitoring is being done, measured by number and value</i> <p><i>Difi has conducted zero-point surveys in the field of building and construction and transportation which gives us an indication of the proportion of public procurement that is green. Our findings show that there are environmental requirements in about 25 percent of all the public procurements within these categories.</i></p>

grouped by type of legal problem.	
V.2 Socially responsible public procurement ('SRPP')	Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility.
V.2.1 Qualitative reporting	
Key challenges encountered	<p>The information should focus on:</p> <ul style="list-style-type: none"> - key challenges encountered in promoting socially responsible public procurement, if any - measures taken to overcome them - difficulties still existing in the Member State <p>Surveys (informal) show that especially risk-analysis and following-up on SRPP are considered key challenges by contracting authorities in promoting socially responsible public procurement. Furthermore, lack of knowledge on the topic of social responsibility is also considered a challenge.</p> <p>Difi provides guidance to contracting authorities on SRPP, mainly on how to promote respect for human rights in procurements and on pay and working conditions in public contracts. The guidance is available online, and includes how-to guides on SRPP, templates, risk analysis tools, information about regulations, information about high risk product groups, and more. Difi also offers an e-learning course on how to follow up pay and working conditions in public contracts. This is available online, and free of charge. Furthermore, Difi offers seminars/courses with SRPP related topics. The information online is mainly only available in Norwegian, however, there is also some information in English: https://www.anskaffelser.no/socially-responsible-public-procurement</p>
V.2.2. Supporting documents	
Please report any available	<i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i>

<p>evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.</p>	<ul style="list-style-type: none"> • <i>National SRPP definition</i> • <i>List and brief description of national policy initiatives launched in the area of SRPP</i> • <i>Any obligation to include socially responsible criteria or contract performance clauses in the tender documents imposed by your national system, and the contracting authorities or contracting entities which are required to comply</i> <p>Business and Human Rights. National Action Plan for the implementation of the UN Guiding Principles was adopted in 2015. Chapter 2.5 states that the State’s procurement practices should reflect the UN guiding principles. As stated in the National Action Plan, the Government will continue the efforts to develop measures to promote respect for international human rights in public contracts.</p> <p>Web-link for download: https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/mr/business_hr_b.pdf</p> <p>The Government’s strategy for combating work-related crime was adopted in 2015. Web-link for download: https://www.regjeringen.no/contentassets/4f7ae70171bd480682b8dafddadaf311/strategy_for_combating_work-related_crime.pdf</p> <p>Procurement is mentioned as an important measure to prevent criminals from gaining entry to working life. Revised strategy came in 2017: https://www.regjeringen.no/contentassets/18425e5b42f84340b02fbb74bdb90b19/revised_strategy_for_combating_work_related_crime.pdf</p> <ul style="list-style-type: none"> • <i>Any information on social labels in use</i> <p>Only raw data. Available on request.</p>
<p>V.2.3. Quantitative indicators</p>	<p><i>This section contains examples of quantitative indicators related to section V.2. Other indicators can also be included in the report.</i></p>

<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows:</i></p> <ul style="list-style-type: none"> <i>Number of public procurement procedures incorporating socially responsible award criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU)</i> <p>There is no data available on the number of public procurement procedures incorporating socially responsible award criteria.</p> <ul style="list-style-type: none"> <i>Number of public procurement procedures reserved to sheltered workshops and economic operators in line with article 20 of the Directive</i> <p>There is no data available on the number of public procurement procedures reserved to sheltered workshops and economic operators.</p> <ul style="list-style-type: none"> <i>Number of public procurement procedures for the provision of health, social or cultural services as referred to in article 77.1 reserved to organisations fulfilling the conditions listed in article 77.2.</i> <p>There is no data available on the number of public procurement procedures for the provisions of health, social or cultural services reserved to organisations fulfilling the conditions listed in article 77.2</p> <p><i>Number of public procurement procedures incorporating socially responsible contract performance clauses criteria. Please specify how many of those are regulated under the 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU)</i></p> <p>Difi and Ethical Trading Initiative Norway (ETI Norway) conducted a survey on the use of socially responsible contract performance clause criteria. The survey looked at whether contracting authorities stipulated requirements on compliance with basic human rights in the supply chain, such as ILO's core conventions, within procurements of five high risk product categories (goods). The results from the survey can be found here (available in English): https://www.anskaffelser.no/sites/anskaffelser/files/ieh_and_difi_report_2009_2016.pdf The survey shows the development in the use of such requirements from 2009-2016. In 2016 requirements on compliance with ILO's core conventions or stricter were used in 51 % of the procurements that were part of the survey (n= 255). Please notice that this survey looks at the use of such requirements before the implementation of the new procurement Act in Norway, which came in to force in January 2017.</p> <p>Difi has conducted a survey on the use of requirements on pay-and working conditions in procurements of cleaning services and building and construction. The results show that 59 % of the procurements (n=277) fulfil the requirements in accordance to the</p>
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	<p>requirements in the Norwegian regulation on pay and working conditions in public contracts. The results is available here (only in Norwegian): https://www.anskaffelser.no/sites/anskaffelser/files/undersokelse_lonns-og_arbeidsvilkar_offentlige_kontrakter.pdf</p> <p>There is no data available on the use of socially responsible contract performance clauses criteria used in public procurement procedures regulated under 'light regime' of Title III Chapter I (Articles 74-77 of Directive 2014/24/EU and Articles 91-94 of Directive 2014/25/EU).</p>
V.3 Public procurement of innovation	<p>An innovative solution is defined in 2014/24/EU Art.2 (1.22) as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions.</p>
V.3.1 Qualitative reporting	
Key challenges encountered	<p>The information should focus on:</p> <ul style="list-style-type: none"> - key challenges encountered in promoting innovation procurement, if any - measures taken to overcome them - difficulties still existing in the Member State <p>Some key challenges acting as barriers to a widespread use of procurement for innovation have been identified in Norway:</p> <ul style="list-style-type: none"> • Lack of strategic positioning and use of public procurement <ul style="list-style-type: none"> ○ Lack of management focus and understanding of the strategic importance and potential of procurement (moving away from the view of procurement as a back office activity to a strategic activity). There is still much to be done in public sector to establish links between strategic goals for the organisations and how procurement activities should contribute to achieving the goals, i.e. through getting in place a procurement strategy that is followed by action plans and assessment of effectiveness. • Lack of cross sector/multidisciplinary working methodologies and practices in procurement processes <ul style="list-style-type: none"> ○ To promote innovation through the procurement process requires early stage efforts and activities such as needs assessment involving users and other stakeholders. Traditionally this is not the way public buyers organise their procurement process. The traditional way represents more of a relay-organisation whereas to promote innovation, a tandem bike process creates the right conditions for co-creation. ○ The management and facilitation of multidisciplinary working methodologies might require new skillsets and competencies for both management level and operational level in the public entities

- Culture of no or low risk
 - Traditionally public sector is risk averse and public procurement is associated with a culture where no risks should be taken. Comprehensive focus on legal framework limitations act as a barrier for procurement officers to utilise the possibilities provided by the framework. In addition, there are very low incentives for public employees to promote innovation through procurement. It is usually not demanded by management and hardly rewarded when achieved.
 - Risk averseness is sustained by fear of negative media attention
- Lack of knowledge about possibilities for innovation in the procurement framework
 - Lack of knowledge about innovation potential in the planning stage, competition stage and contracts stage of the procurement process. This includes i.e. the use of market dialogue, performance based specifications
- Lack of knowledge about innovation
 - Generally, innovation is not a topic public sector employees have good knowledge and competencies about. This lack of knowledge include knowledge about what promotes and acts as barriers to innovation, and how to work with needs and user involvement
- Outsourcing of procurement activities to consultants act as a barrier to innovation
 - Particularly in building and construction, a large part of buying entities outsource the procurement process by hiring consultants and technical expertise. Unless the buying entity is very competent in how to “order” these kind of services, the hired consultant has a high degree of influence over how to plan and perform the process. The business model of a consultant is often based on reuse of well-known solutions and processes, which acts as a barrier to innovative solutions. As a result, in the absence of clearly demanded innovative solutions and effects from the public entity as the client, very little room for innovation is found in the tenders and resulting solutions.

Also, identified as a challenge, is to progress from good project cases to an approach where these activities normal practice approach in how public buyers carry out their procurement activities.

As one supporting measure to these challenges the National supplier development programme (www.innovativeanskaffelser.no) was established in 2010. The Programme is co-owned by representatives from both public buyers (central and local level) and private sector suppliers, through the National agency for public management and eGovernment (Difi), the Norwegian Association of Local and Regional Authorities and the Confederation of Norwegian Enterprise.

The Programme’s role is to initiate and facilitate procurement of innovation projects, both procurement of R&D and procurement of innovative solutions. The main features of these innovative procurement projects are a thorough needs assessment involving users, early market dialogue for suppliers to input on needs defined and possible solutions. Based on the early stage processes involving users

	<p>and suppliers, the public buyer develops the tender using functional specifications where appropriate opening up to and foster innovation.</p> <p>As an additional measure in 2018, Innovation Norway has made some financial support available to public buyers wishing to procure R&D through the procedure innovation partnership.</p>
<p>Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement.</p>	<p><i>Possible relevant (non-exhaustive) documents for consideration may be as follows (please provide a link to the document, and if possible, a summary of the document in English, if the document is in another language):</i></p> <ul style="list-style-type: none"> • <i>National Action Plan and/or targets for innovation procurement and its stage of implementation. Information on how are they defined.</i> • <i>Any additional provisions for innovation procurement in your national legislation that go beyond the provisions in the EU public procurement directives (e.g. more detailed definition of innovative solutions and/or R&D, specific provisions on innovation procurement Art 33 of 2014 EU State aid rules on R&D&I)</i> • <i>National guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement)</i> • <i>National activities on capacity-building on innovation procurement (institutionalised or ad-hoc training, helpdesks, etc.)</i> • <i>Information about outcomes e.g. impact on demand side (increase in quality and/or efficiency of public services), impact on the supply side (increase in sales/company growth, intensified investments in R&D/innovation and/or IPRs), wider market impacts (number/value of contracts awarded to SMEs, amount of contracts awarded to non-domestic providers)</i> <p>Difi provides national guidelines available online for public entities on innovation procurement (www.anskaffelser.no – only available in Norwegian).</p> <p>Difi, both through its ownership of the Programme and independently, offers capacity-building on innovation procurement.</p> <p>Several of the projects carried out with the support of the Programme have been the subject of analysis to identify effects; the analysis include effects on comparing the process to an “ordinary” procurement, estimation of effects of scaling the process nationally, estimation of effects on suppliers’ ability to innovate etc.</p>

VI. Replicability

This section should provide information allowing anyone to fully replicate the quantitative results presented in the report.

Links to datasets used to prepare the report	The Commission recommends publishing the source data as open data, e.g. as is the case for the Tenders Electronic Daily database at http://data.europa.eu/euodp/cs/data/dataset/ted-csv .
Files used to obtain the results from the datasets	This section should include for example the scripts or code for the relevant statistical software or the Excel files used.

Annex I:

Methodology for estimating the value of procurement which would have been covered by the directives if its value had exceeded the relevant thresholds

1. Classification and methodology

Indicate the basic characteristics of the methodology used by selecting from the options below. Description of the methodology is to be given in the subsequent section.

1.1. General approach:

- a) [data available under national publication requirements]
- b) [sample-based estimates]
- c) [combined]

Please note that in our opinion using existing administrative data is preferable, as it implies both lower administrative burden (no additional data collection is necessary) and higher data quality.

If a sampling approach is taken, both the source of the sample and the sampling methodology, provided in the following subsection, must be able to withstand careful scrutiny. This ensures that the estimate is representative of the whole Member State.

1.2. Source of data:

Scope:	above national publication thresholds [✓]	below national publication thresholds [✓]
Source of data: [e-notification platforms]		
[e-submission platforms]		
[invoices]		
[budgets]		

[other]		
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2. Methodology description

Indicate, amongst others, information on the sources of data, approaches taken to deal with possible missing data and erroneous data, and representativeness of the sample used (if a sample-based approach was taken). If methodology is different depending on the thresholds or source of data, please clearly indicate this, including the relevant thresholds.