Public Procurement in Norway: A Guide

This document serves as an introduction to public procurement in Norway, with a focus on the acquisition of eTendering systems and services. It aims to guide potential suppliers on the requirements for delivering such systems to Norwegian public authorities. The document highlights Norway's unique position of not being an EU member but still adhering to EU procurement regulations through the EEA Agreement. It details the role of Doffin, Norway's central procurement database, as the essential link between suppliers and public authorities.

The document is authored by DFØ (The Norwegian Agency for Public and Financial Management) in dialogue with Sykehusinnkjøp.

What is unique with public procurement in Norway?

Norwegian is not an official EU language.

Norway is not an EU member but adheres to EU procurement regulations through the EEA Agreement. Notifications above the threshold value must be published in at least one official EU language. TED then translates into other official languages. In Norway, notifications must also be available in Norwegian on Doffin. Since Norway is not a member state, Norwegian is not an official EU language. Norwegian contracting authorities must ensure notifications are available in Norwegian and at least one other official EU language before submission to Doffin.

Doffin has transitioned from offering paid manual translation to free machine translation service. With the EU language used being legally binding for above-threshold notifications, it’s of the upmost importance to quality control these machine translation proposals. For national forms below the threshold, Norwegian is the legally binding language.

Doffin as eSender

Doffin, the central database for public procurements in Norway, plays a crucial role as the main link between contracting authorities and potential suppliers. Its origins trace back to the implementation of Norwegian public procurement regulations in 2001, necessitating a system to collect and distribute procurement information, leading to Doffin's establishment.

In the European context, services that submit notifications to TED (the European public procurement journal) are termed eSenders. According to Norwegian regulations, only Doffin is authorized to convey notifications to TED, making it the sole eSender in Norway. Unlike in other European countries where various entities can act as eSenders for their clients, in Norway, submissions must go through Doffin. To streamline this process, Doffin's APIs are designed to closely mirror those of TED.

Other regulation specific to Norway

eForms regulate forms above the threshold value. Below the threshold, Doffin uses its own national (voluntary) forms, created by adapting forms 4, 16, and 29 into new versions N4, N16, and N29, with some validation rules removed. These forms can be submitted to Doffin but not to TED.

Additionally, all contracting authorities must consider the environmental and climate impact of their procurements, and as a rule environment is to be weighted by at least 30% in awarding contracts. DFØ has expanded the list of award criteria types to indicate compliance with this regulation in individual procurements. Guidance on which fields and values to use is available on anskaffelser.no.

Openness and transparency in public administration are strongly emphasized in Norwegian law, and public procurement falls under the regulations governing this: the Archives Act and the Freedom of Information Act. Compliance with these laws was digitized early in Norway, and the norm is to request integration with locally installed case/archive solutions. This usually happens through the Noark-WS standard. The Archives Act is under revision, so here there are opportunities to think anew through what is known as archive by design where these requirements are built into the eTendering platform instead of being an external integration (this is mentioned below).

Implementation guide

The implementation guide outlines necessary functionalities that eTendering systems must provide to be eligible for Norwegian public authorities:

1. ESPD:

- Request creation (developing a self-declaration form).

- ESPD response (supplier's self-declaration).

2. Notices:

- Integration with Doffin.

- Translation of notifications.

- Notification format (eForms).

3. Optional: Other technical integrations and standard usage, including eCertis, eBevis, and formats for catalogues, orders, and invoices (EHF).

Technical formats and services

European Single Procurement Document (ESPD)

1. ESPD Request: Support for creating an ESPD request as part of procurement documents, attached to a bid. Ideally, much of the ESPD request content should be based on national regulations for the chosen procurement and templates/standard values based on the organization's strategies. The ESPD document serves as a technical standard to uniformly convey these requirements.

2. ESPD Response: Provide an interface for suppliers to create an ESPD response (self-declaration) to be included with a bid for a competition. Currently, Norway lacks a national service for suppliers to do this, so it must be provided by the eTendering solution.

What is ESPD?

The European Single Procurement Document (ESPD) serves as preliminary proof that a supplier meets qualification criteria and selection standards. It's required for procurements above threshold and under threshold for procurements regulated by the supply legislation.

The form, standardized across the EU/EEA must be filled electronically. Post the European Commission's ESPD service discontinuation in 2019, Norwegian market tools must support ESPD creation and completion by both contracting authorities and suppliers. For detailed guidance on ESPD and related regulations, refer to the Ministry's website[1] and the procurement regulation chapter on ESPD[2].

The electronic ESPD must follow the EHF format specification, with technical specifics available on DFØ's Anskaffelser.dev. More information is available on our webpage[3].

eForms – the new format for notifications

eForms is the notification standard for public procurement procedures in the EU. The publication office provides an eForms SDK that provides the structure, validation, and representation rules of what is considered a valid eForms notification. The SDK is updated on a regular basis and each version has a limited lifespan (typically 12 months).

The traditional way to allow end users to create notifications is to provide an editor, ideally with as much information as possible prefilled. Once completed the technical representation of the notice (in XML format) can be validated to verify that it will pass as a valid notice that can be submitted for publication. OP recommends that this is implemented using a “metadata driven” architecture that uses the information in an eForms SDK to build

[1] Nærings- og fiskeridepartementets nettsider
[2] anskaffelsesforskriften kapittel 17
[3] For KGV: Hvordan integrere ESPD og eCertis i fagsystem? | Anskaffelser.no

these user interfaces in a dynamic manner to enable easy transitions from one version to the next.

We recommend that you also consider providing an "embedded notification"/”notification by design” architecture where much of the content is integrated into the system's use, so users only need to input information once. The notification should always summarize the procurement's key information already present in the system.

The following functionality must be provided to support the Norwegian market:

a. Integration with Doffin: All Norwegian contracting authorities must announce notifications through Doffin, which aims to have an API similar to TED's with minimal national adaptations, simplifying integration for suppliers.
b. Notification Translation: Notifications must be in Norwegian and an official EU language. KGV providers should support bilingual handling, translation, and quality assurance by the contracting authority. Doffin offers a voluntary, free automatic translation service.
c. Notification Format and Introduction to eForms: eForms, introduced in October 2023 for above threshold procurements, standardize notification formats for contracting authorities, as per EU regulation 2019/1780.

More about notifications as a concept

A notification in public procurement is a key tool to ensure contracting authorities adhere to principles like competition, equal treatment, predictability, and verifiability. By issuing notifications, authorities can reach a broad market, allowing all interested suppliers to submit bids. The main rule is that procurements estimated above EEA threshold values must be notified. Notifications for EEA threshold-exceeding procurements must be published on Doffin and TED, with Doffin being the only authorized eSender in Norway for forwarding notifications to TED.

The new EU notification form format is central to the digital transformation of EU public procurements, enhancing data quality and analysis through a unified standard and terminology. These forms facilitate and necessitate ongoing content updates and adjustments, offering more flexibility than previous standard forms. Properly implemented, this new format aims to increase business opportunities within the public sector, reduce administrative burdens for purchasers, support data-driven decision-making, and enhance the transparency of public procurements.

The operationalization of the new notification format is managed by the Publication Office (OPg) through a Software Development Kit (SDK), containing data structures, visualization rules, and validation criteria. A notification complies if it meets all validation rules of a current valid version of the SDK. DFØ has created a Norwegian extension for this SDK to support content in Norwegian, including translations and rules for national forms.

The Publication Office (OP) strongly recommends using a "metadata-driven" solution architecture for eForms, meaning using the SDK to dynamically generate notifications rather than customizing existing forms. This approach aligns with the SDK and OP's examples, offering easy updates but potentially introducing instability if the OP's updates contain errors.

More information and documentation about Doffin and the use of eForms in Norway can be found on Github[4]

Other Technical Integrations and Use of Standard Formats in the Procurement Process

The following integrations and use of EHF (with the exception of invoices) are not regulatory requirements.

eCertis - overview of documentation evidence in other countries

eCertis is a free web-based lookup via a website from the European Commission to get an overview of the documentation evidence applicable to the different EU/EEA countries in the procurement process.

eCertis is particularly relevant for cross-border procurements where the contracting authority does not know which documentation is applicable for the country they have received an offer from. On the same website, as a Norwegian supplier intending to submit an offer to a public contracting authority in another country, you can check which Norwegian documentation evidence you need to submit in a qualification process.

The service is operated by the European Commission, and the information from each country is updated by each member country. For Norway, it is DFØ (The Norwegian Agency for Public and Financial Management) that updates the information.

You can use eCertis as a lookup via a website, but it is also possible to set up an integration with eCertis. The integration is free of charge and is a REST API. See the link below for a description of the API.

Relevant links

- eCertis - Overview of the documentation evidence applicable in all EEA countries: eCertis (europa.eu)
- eCertis - develop yourself (REST API description): ecertis multi-domain web services rest api (europa.eu)

[4] anskaffelser/eforms-sdk-nor (github.com)

Formats for Catalog, Order, and Invoice (EHF)

EHF ("Electronic Trade Format") is a Norwegian adaptation of Peppol BIS ("Business Interoperability Specification"), both of which are technical standard formats for exchanging in the invoice process. The objective of using EHF/BIS is to standardize communication between different organizations' financial and resource management systems (ERP) and to make it independent of the supplier. EHF is developed under the auspices of DFØ (Directorate of Finance).

EHF consists of a family of formats that support catalogs, ordering/orders, and invoices. The use of ordering and invoice systems that support EHF messages conveyed through the Peppol network can increase efficiency, control, and contractual loyalty, and constitutes a solid data basis for analysis and data-driven contract governance.

The use of EHF invoice when sending invoices to the public sector is regulated by law, and an invoice can be rejected if this requirement is not met.

For more information and documentation on EHF:

Elektronisk handelsformat (EHF) | Anskaffelser.no

eBevis

eBevis is a service for electronically obtaining documentation evidence for Norwegian businesses from certain public registers. eBevis was launched in April 2019, making business information from the Brønnøysund Registers and details about outstanding debts from the Norwegian Tax Administration available to contractors through the service.

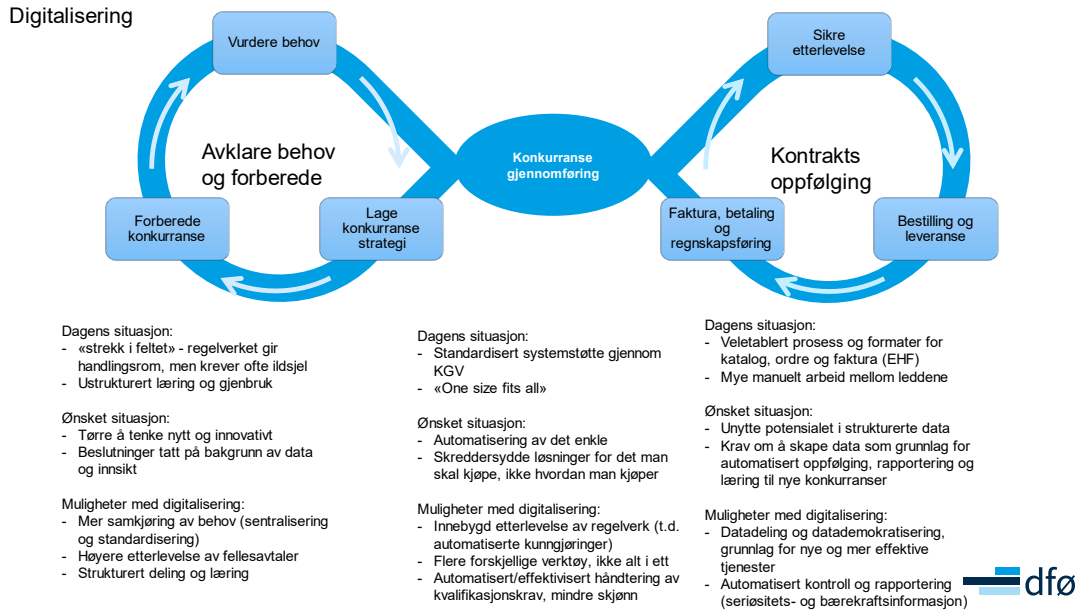
In the spring of 2022, extended tax information in risk procurements as well as functionality for lookups in the Cleaners Register and the Staffing Enterprises Register from the Norwegian Labour Inspection Authority became available through the eBevis service.

In the spring of 2023, eBevis was further enhanced with information about businesses approved for car care, wheel changes, and wheel storage (the Car Care Register), as well as information about garages approved by the Norwegian Public Roads Administration.

eBevis is API driven and only allows access to data through an eTendering platform integration.

In connection with the work on the Norgesmodell initiative (Norway Model – contract standards for social and ethical responsibilities) and the development of digital wallets, efforts are being made to further strengthen eBevis with more information, as well as new ways to utilize the content.

The future of transformed digital procurement – a sneak preview.



Digitalization and the use of data are key to achieving the goals of efficient and sustainable use of societal resources. Digitalization and insights from data lead to more effective control of the requirements posed in the procurement process, such as those related to environmental, labor, and wage conditions. This poses entirely new challenges for public procurers and sets new standards for how we should think about digital support systems in the future. At DFØ we generally refer to this as the transition to data-driven procurement.

The speed of digitalization challenges the existing regulatory framework. One example is the relationship between the Archives Act and public procurement. Traditional thinking about archives results in cumbersome integrations between eTendering platforms in the cloud and locally installed archive systems. The paradox is that the regulations are set up for the deletion (discarding) of much of this data later to free up space. If taken literally, this removes the very data foundation that new technologies, such as artificial intelligence, need. It's important to recognize the consequences of yesterday's requirements when procuring new solutions and, not least, to understand the scope of action one has to exploit new technologies. For the archive example given, the National Archives has introduced the concept of "embedded archiving" ([Embedded Archiving Guidance](https://www.arkivverket.no/arkivutvikling/innebygd-arkivering/veiledning-for-innebygd-arkivering#!#step-innledning)), which allows for avoiding complex technical integrations while laying the groundwork for the use of forthcoming technologies.

The procurement documents in use today are shaped by being designed for and by humans. By ensuring that the information in the documents is more structured and standardized, it becomes easier to develop and exploit the information with technology. Structured information created early in a process forms the basis for value creation later.

Technological advancements create new possibilities and influence both what we procure and how we go about it. Below are some selected areas that the DFØ intends to highlight in the time to come.

With regulations, we must adapt – the EU as the directive locomotive

The EU's "Green Deal" has provided impetus for the transition to a more sustainable future. There is considerable regulatory development happening in the EU in the areas of climate and environment, which affects both the procurers and all businesses that deliver products and services to the public sector.

The Sustainability Directive sets the framework for strategies, plans, and reporting from each business, and the Ecodesign Regulation introduces requirements for documentation of value chains and other sustainability aspects, for example, through digital product passports.

For public procurement, this presents both advantages and disadvantages. The regulations are characterized by a close link between law, digitalization, and the use of data. This creates data that should be reused when the public sector procures to avoid duplicate reporting and duplication of work for suppliers. The challenge is to set the right requirements for the competition and the contract so that this is information that can be made easily available to the contracting authority in standardized formats so that the information can easily be included in both the evaluation of offers and for continuous contract governance.

Artificial Intelligence

Artificial Intelligence (AI) is the "engine" for data-driven thinking. Said simply, AI solutions are systems that either support us, influence us, or partially or wholly replace us in decision-making processes. This is done through the use of algorithms, statistical models, and machine learning applied to extract insights from large amounts of data, both structured and unstructured. In recent years, there has been tremendous development in generative AI (like ChatGPT), where the technology is also used to create new content based on insights.

The use of AI in public procurement is still in its early stages, but the potential is significant. Some conceptual examples include:

- Conducting studies, analyses, and surveys (AI for retrospective insights)
- Setting the right and comprehensible requirements (AI as a sparring partner)
- Predicting the consequences of requirements (AI as a crystal ball)
- Extracting information from procurement documents (AI for quality announcements)
- Translating procurement documents into multiple languages (AI as a translator)
- Automated supervision of compliance with contract requirements (AI as a control mechanism)
- Gaining insights into what works and what doesn't (AI as a mentor)

Facilitating the use of AI requires thinking from the outside in. The strength of AI is that it is based on collective experience, not the individual one. One should consider when using AI to streamline the production of content in current solutions (e.g., creating documents), support content enrichment (e.g., translating into multiple languages), process content (e.g., creating summaries and announcements), or analyze content (e.g., predicting). This requires different types of expertise and solutions from suppliers, access to information and data for learning, and creates complexity that can be cost-driving.

Distributed Trust and Sharing Solutions

Blockchain technology is finding its role in the vast technological landscape. At the heart of this transformation is the secure management of identity for both individuals and businesses (like a "bankid" for businesses), where this identity can be linked to guarantees and certificates issued by third parties in a way that ensures they are always authentic and up-to-date. This concept is often referred to as a "digital wallet" and is being driven forward in Europe by the eIDAS 2.0 directive.

Within public procurement, the potential of this technology is significant, especially in contract governance. One of the major upcoming challenges is how to ensure that the ever-new requirements for integrity and sustainability are adhered to. Current solutions are largely based on one-time delivery of (sometimes large amounts of) documentation, which require substantial resources to produce and often specialist expertise to assess. Any subsequent follow-up during the contract period occurs through data sharing, inspections, or other forms of review/oversight.

Digital wallets could facilitate this work being performed by third parties, easily reusable across multiple markets, and always up-to-date. A concrete example of how digital wallets might affect procurement monitoring is the tax certificate. Today, either the supplier retrieves a tax certificate from the Tax Administration and then delivers it to the contracting authority, or the contracting authority requests consent to obtain this documentation through eBevis (for Norwegian contracting authorities).

Digital wallets allow the supplier to "forward" their tax status automatically to the contracting authority, without sharing documentation. In practical terms this means that a supplier with no outstanding taxes or fees might have an "OK" status, so that the contracting authority does not need to obtain further documentation. For a supplier with outstanding taxes or fees they might have a "needs assessment" status, where the contracting authority must obtain and assess the documentation. Similarly, in the contract management phase, as long as a supplier retains an "OK" status, the contracting authority need not take any action, but if there are changes on the supplier's part that affect the status, the contracting authority receives an automatic alert and must re-evaluate. The contracting authority can then move from regular monitoring and control to reactive management of discrepancies.

This simple pattern can be applied in multiple areas and will be particularly effective in discussions of sustainable transition. Certificates and attestations that can be handled in this way could include everything from Eco-friendly certifications, ISO27001 certifications to auditor-approved sustainability reporting in connection with the Corporate Sustainability Reporting Directive (CSRD).