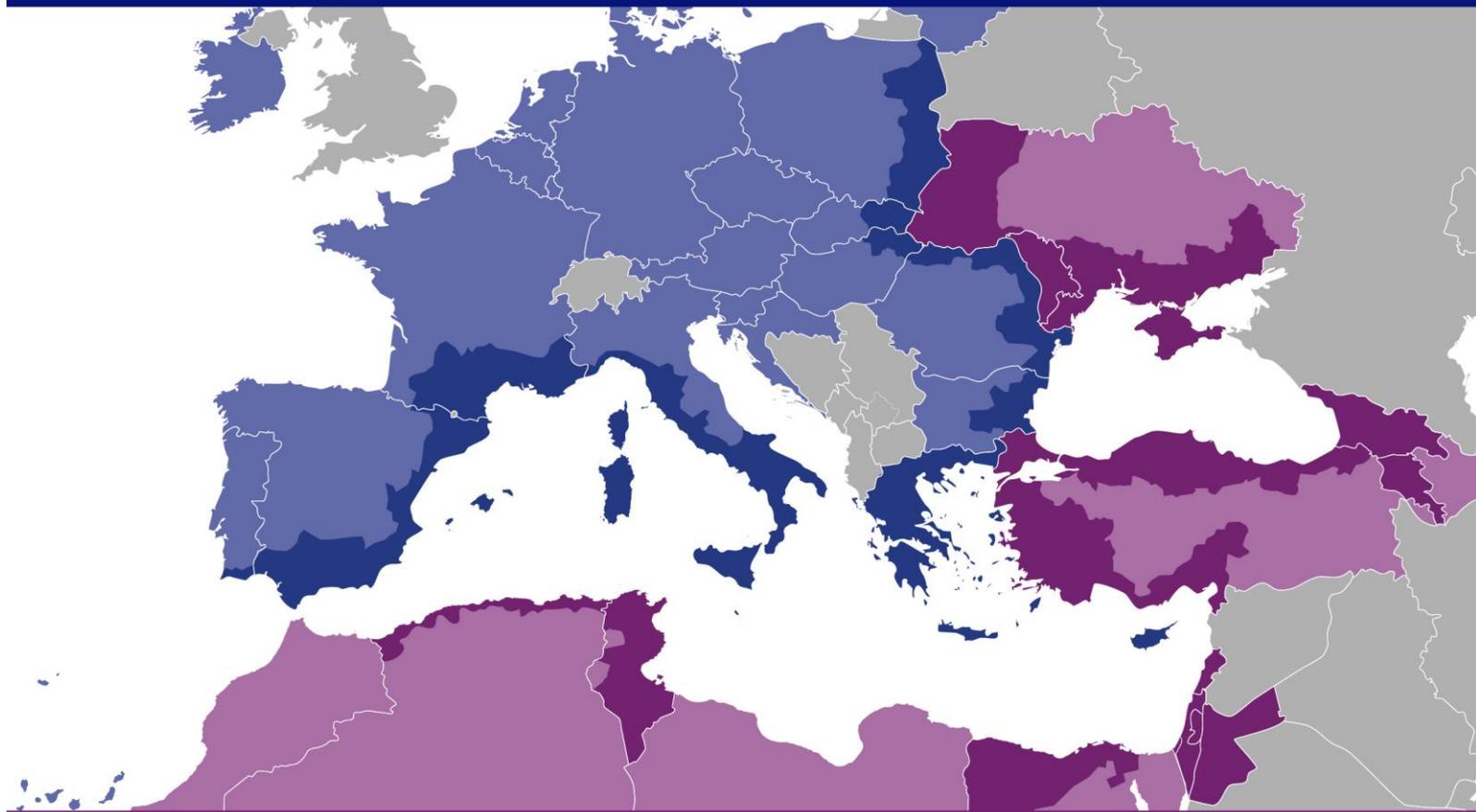


Factsheet on procurement by Jordanian beneficiaries in Interreg NEXT

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Interreg
TESIM NEXT



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1. Introduction

This document is addressed to the Interreg NEXT MED Programme bodies and the Jordanian national authorities. It aims at supporting them in setting out the **instructions to Jordanian public beneficiaries for the full compliance with the procurement rules applicable during the implementation of Interreg NEXT MED projects 2021-2027**. The document may also support the development of adapted checklists on procurement for controllers carrying out the verification of project expenditure.

As starting point, it is important to remark that Interreg NEXT rules differ from the ones in ENI CBC. The new regulatory framework would allow in principle the use of national legislation and procedures in Jordan, but only when compliant with the provisions of the Financing Agreement, and particularly its Annex II (hereinafter "Annex II"). This is not the case for a significant number of provisions. It is worth mentioning that Article 3.2 of the Jordanian public procurement law (Bylaw no. 8 of 2022 on public procurement and its amendments) authorises the use of the rules of the donor instead of the national legislation.

On the other side, the provisions in Annex II do not tackle all the obligations stipulated in the above-mentioned Bylaw. Therefore, the public beneficiaries cannot apply exclusively Annex II, as they will still have to comply with some national-specific provisions.

Following a thorough analysis, this factsheet provides information about the three relevant aspects for a compliant public procurement by Jordanian public beneficiaries:

- Main differences between the Jordanian law and Annex II and the gaps in the Jordanian legislation.
- Provisions of the Jordanian law to be still complied with.
- The templates which need to be used for the different procurement procedures.

The factsheet takes into consideration the potential extensive administrative burden and time-consuming procurement procedures, as well as the risk of ineligibility of the expenditure due to mismanagement or low understanding of the rules. Therefore, the programme bodies and the national authorities should strive to foster the capacities of the beneficiaries in the shift from their usual procedures to the applicable rules in Interreg.

The document is structured following the content of Annex II but does not replicate its content. This document includes Zip files in annex with the templates mentioned for each procedure.

Even though the document mainly focuses on the differences between the national legislation applicable to public bodies and provides indication on templates available in the ELECTRONIC PUBLIC PROCUREMENT SYSTEM JONEPS, it also includes alternatives for the private beneficiaries.

Private beneficiaries are obliged to comply with the public procurement rules from Annex II to the Financial Agreement. The private beneficiaries may also use the ELECTRONIC PUBLIC PROCUREMENT SYSTEM JONEPS if they wish.



2. Key highlights

The main highlights of each section in this document are the following:

Section	Still compulsory according to Jordanian legislation	Different provisions between national legislation and Annex II	Not provided for by the Jordanian legislation
General provisions	<ul style="list-style-type: none"> • Use of electronic public procurement system JONEPS. • Code of conduct and ethics. 	<ul style="list-style-type: none"> • Key principles. 	<ul style="list-style-type: none"> • Use of Common Procurement Vocabulary (CPV).
Types of procedures	<ul style="list-style-type: none"> • Type of framework contracts. 	<ul style="list-style-type: none"> • Different terminology of the procedures. • Different thresholds and criteria for the choice of the types of procedures. • Minimum number of tenderers for simplified procedure. • Different cases of the use of negotiated procedure and different requirements for the calls of expression of interest. 	<ul style="list-style-type: none"> • Electronic catalogues. • Joint procurement.
Preparation of procurement procedures	<ul style="list-style-type: none"> • Jurisdiction for disputes. 	<ul style="list-style-type: none"> • Technical and professional capacity items. 	
Exclusion, selection and award criteria		<ul style="list-style-type: none"> • Environmental and social requirements. 	
Submission, evaluation and award decision	<ul style="list-style-type: none"> • Composition and number of members of evaluation committees. • Capacities for direct award. • Procedures for complaints by tenderers. 	<ul style="list-style-type: none"> • Deadlines for submission of tenders. • Shorter standstill period. 	<ul style="list-style-type: none"> • Information on the proportion of contracts subcontracted to third parties.
Contract performance	<ul style="list-style-type: none"> • Fines for incompliances during contracting. 	<ul style="list-style-type: none"> • Provisions on contract modifications. • Provisions on retention money guarantee. 	

3. General provisions

3.1. Still compulsory according to Jordanian legislation

Jordanian public beneficiaries may¹ use the e-platform [JONEPS](#) for the publicity of the procurement procedures while complying with the requirements of Annex II concerning the publicity (see the table below). All the provisions in the Jordanian law on the use of JONEPS are applicable.

For high value contracts, the following thresholds of Annex II shall apply:

Type of procedure	Publication in the Official Journal of the European Union (OJEU)
Services and supplies	EUR 300.000
Works	EUR 5.000.000

For the **publication in the Official Journal of the European Union (OJEU)** the beneficiaries may use the EU's [Tenders Electronic Daily Platform \(TED\)](#) and its [standard forms](#). The publication in JONEPS shall refer to the notice published in the OJEU.

In the case of public procurements in which the value of the contract to be awarded is equal to or greater than the prescribed thresholds, the notice of participation will be sent in electronic form for publication in the OJEU also.

An **award notice** shall be sent when the contract is signed except where, if still necessary, the contract was declared secret, or where the performance of the contract must be accompanied by special security measures, or when the protection of the essential interests of the Union or the country so requires, and where the publication of the award notice is deemed not to be appropriate. The beneficiary shall provide a due justification of any of these circumstances, as stated in point 3.2. of Annex II.

The Jordanian rules are applicable in the obligation to follow the **code of conduct and ethics** in Annex III of the Procurement Bylaw.

3.2. Different provisions between national legislation and Annex II

All contracts financed by a grant contract shall respect the principles of **transparency, proportionality, equal treatment and non-discrimination**. Although the Jordanian legislation contains similar procurement principles, Annex II provides details in its points 1.2. and 1.3., which prevail over the Jordanian law.

¹ Even if the heading refers to compulsory obligations, please note that the use of JONEPS is not compulsory per se, thus the use of "may".



3.3. Not provided for in Jordanian legislation

In order to ensure the respect of the above-mentioned principles, both Annex II and the Jordanian Procurement Bylaw require the use of a compulsory **declaration on honour** for the preparation of a tender, as well as a **financial identification form** and a **legal entity form**. In order to meet this requirement, the Jordanian legislation does not provide a template for any of these three documents though.

We therefore recommend the use of the following templates:

Template	Template ref. ²
Declaration of objectivity, confidentiality and absence of conflict of interest. (for participation in the preparation of a tender)	G1
Financial identification form	G4
Legal entity forms	G5a, G5b & G5c

Another compulsory missing element in the Bylaw are the references to **nomenclatures in the procurement context**, which shall be made using the EU's [Common Procurement Vocabulary \(CPV\)](#), as indicated in Annex II.

4. Types of procedures

4.1. Still compulsory according to Jordanian legislation

Article 49 of the Procurement Bylaw limits the duration of **framework contracts** for a period not exceeding five years and defines two types of such contracts: 1) contractual agreements limited to the contractors with whom contracts have been concluded not allowing the entry of new contractors, and 2) open agreements not limited to the contractors with whom contracts have been concluded and allowing the joining of any new contractor provided that his offer is in accordance with the requirements of the procurement documents at any time during the validity period of the contract. These provisions may be used.

4.2. Different provisions between national legislation and Annex II

Points 4 and 5 of Annex II establish similar procedures than the ones required by the Jordanian law but use a different terminology, as shown in the table below:

Procedure according to Annex II of the Financial Agreement	Equivalent procedure in the Jordanian Procurement Bylaw
Open procedure	Open tender

² Find the templates in the Zip files in annex.



Restricted procedure	Two-stage tender
The procedures involving a call for expression of interest	Two-stage tender
The competitive procedure with negotiation	Limited tender
The negotiated procedure without prior publication	Purchasing from a single source

The **thresholds and criteria for the choice of the procedure**, indicated in several articles of the Procurement Bylaw, such as Articles 39 or 41, are different from Annex II. They cannot be used, as the ones in point 5 of Annex II prevail.

Article 43 of the Procurement Bylaw stipulates that the **minimum number of invitations for simplified procedure** is two, while Point 5 of Annex II requires at least three. Also on this aspect, Annex II prevails.

The requirements and criteria specified in Article 44 of the Procurement Bylaw for a purchase by a single source are different from the ones in point 6 of Annex II for **negotiated procedure without prior publication**. The latter prevails. The same situation is found in Article 47, which is not compatible with point 9 of Annex II on **calls for expression of interest**.

4.3. Not provided for in Jordanian legislation

Joint procurement described in point 13 of Annex II and **electronic catalogues** described in point 11 are not provided for in the Jordanian Procurement Bylaw. However, they may be used in the context of Interreg projects.

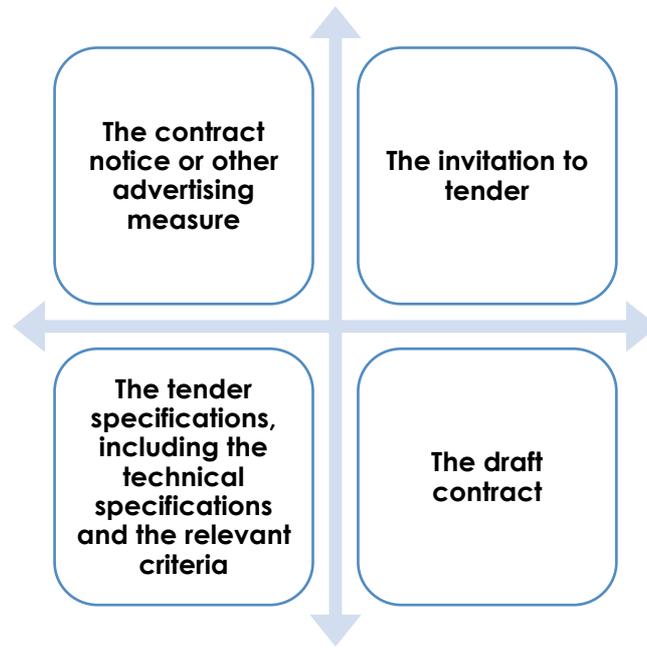
5. Preparation of the procurement procedure

The preparatory stage is critical for a successful procurement process. According to studies, most procurement violations occur due to the lack of thorough preparation for the tender³. Therefore, grant beneficiaries will need to pay sufficient attention to the preparation process and remember that **procurement for Interreg NEXT projects may be different and longer** compared to the usual procurement.

The **procurement documents** shall include the following:

³ European Commission, Directorate-General for Regional and Urban Policy, Public procurement – Guidance for practitioners on the avoidance of the most common errors in projects funded by the European Structural and Investment Funds, Publications Office, 2018, <https://data.europa.eu/doi/10.2776/886010>





Beneficiaries should pay attention to the fulfilment of all the required details. The project beneficiaries may use national or their own templates, but they should check that all the details required in point 14 of Annex II are fulfilled.

5.1. Recommended templates

We recommend the use of the following [templates](#) or the national/own ones after check:

Template	Type of procedure	Template ref. ⁴
Prior information notice for international tenders	Services, supplies and works	I1
Contract notice for international tenders	Services, supplies and works	I2
Award notice for international tenders	Services, supplies and works	I3
Request to participate (restricted)	Services	SV1
Longlist (restricted)	Services	SV2
Shortlist report (restricted)	Services	SV3
Shortlist notice (restricted)	Services	SV4
Contract notice for simplified procedure	Services, supplies and works	SV5, SP1 or WK1

⁴ Find the templates in the Zip files in annex.

Instructions to tenderers for open and restricted	Services, supplies and works	SV6, SP2 or WK2
Instructions to tenderers for simplified procedure	Services, supplies and works	SV7, SP2 or WK2
Request and information for tenderers (single tender)	Services, supplies & works	ST1, ST2 or ST3
Tender guarantee	Supplies	Use national or own template
Tender guarantee	Works	Use national or own template
Draft contract	Services, supplies & works	Use national or own template, but check compliance with point 14 of Annex II
Technical specifications	Supplies & works	Use national or own template, but check compliance with point 16 of Annex II

5.2. Still compulsory according to Jordanian legislation

The procurement documents must include the **jurisdiction of the Jordanian courts**, as indicated in Article 84 of the Procurement Bylaw. However, the courts will have to consider the disputes pursuant to the provisions of Annex II and the still compulsory provisions of the national legislation.

5.3. Different provisions between national legislation and Annex II

Article 9 of the Procurement Bylaw requires **qualifications and capabilities for the tenderers**, but the provisions in points 18 to 20 of Annex II are not included. The provisions in Annex II prevail and should be taken into consideration.

Regarding the **draft contract**, the beneficiaries must ensure that all elements in point 14 of Annex II are included. The same should be done with the **technical specifications**. The Jordanian beneficiaries will need to check the full compliance with point 16.

6. Exclusion, selection and award criteria

6.1. Different provisions between national legislation and Annex II

Article 8 of the Procurement Bylaw establishes some generic **environmental and social requirements**. Nevertheless, the procurement documents must include the obligation of compliance with “*applicable environmental, social and labour law obligations established*



by Union law, national law, collective agreements or the applicable international social and environmental conventions listed in Annex X to [Directive 2014/24/EU](#)", as indicated in point 12 of Annex II.

7. Submission, evaluation and award decision

7.1. Still compulsory according to Jordanian legislation

	<p>For procurements above EUR 20.000, Annex II establishes that an evaluation committee is compulsory. Several articles in the Procurement Bylaw specify the bodies, the composition and the number of members of the evaluation committees (Articles 61, 68 to 74). These articles are applicable. In case that a procurement over EUR 20.000 does not need an evaluation committee according to Jordanian law, it will anyway have to be set up.</p>
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Article 59 of the Procurement Bylaw describes the **capacities of Secretary Generals and Managers in direct award**. These capacities are applicable but the thresholds for direct award in point 4 of Annex II prevail over those in Article 59.

Article 50 of the Procurement Bylaw describes the **provisions for complaints**. Considering that Annex II has no provisions on this topic, national legislation may be applied⁵.

7.2. Different provisions between national legislation and Annex II

The beneficiaries must follow the **requirements concerning the minimum time limits for submission of tenders** stated in Annex II⁶, which are longer than the ones in Article 27 of the Jordanian law:

Procurement type	Time limit in the Annex II to Financial Agreement	Time limit in the Jordanian Procurement Bylaw
Service contracts	The minimum time between the day following the date of dispatch of the letter of invitation to tender and the final date for receipt of tenders shall be 50 days .	No specific requirements apply to service contracts. Time-limits are set only per type of procurement.
Restricted procedures	The time limit for receipt of requests to participate shall be no less than 30 days from the date following that on which the contract notice is published. The period between the date following that on which the letter of invitation is sent and the final date for the receipt of tenders shall be no less than 50 days .	30 days for international tenders.

⁵ As per footnote 1.

⁶ In urgent cases other time limits may be authorized.

Open procedures	The time limits for receipt of tenders, running from the date following that in which the contract notice is published, shall be at least 90 days for works contracts and 60 days for supply contracts .	
Local open procedures	The time limits for receipt of tenders, running from the date when the contract notice is published, shall be at least 60 days for works contracts and 30 days for supply contracts .	21 days for local tenders.
Simplified procedures	Candidates shall be allowed at least 30 days from the date of dispatch of the letter of invitation to tender in which to submit their tenders.	No specific requirements apply to service contracts. Time-limits are set only per type of procurement.

Jordanian law defines a **standstill period** between 5 to 7 business days. Nevertheless, the provisions in point 27 of Annex II shall be applied, that is, a duration of 10 days when using electronic means of communication and 15 days when using other means.

7.3. Not provided for in Jordanian legislation

The Jordanian law does not request the information in the **proportion of the contract** or the framework contract which the proposed contractor intends **to subcontract to third parties** as part of the evaluation report, as indicated in point 26 of Annex II. This piece of information is compulsory and must be added.

7.4. Recommended templates

In absence of national templates, we recommend the use of the following templates for the **declaration on honour** for the exclusion situations stated in point 18 of Annex II⁷.

Template	Template ref. ⁸
Declaration of impartiality, confidentiality and absence of conflict of interest. (for participation in the evaluation of a tender)	G2
Declaration on honour on exclusion and selection criteria. (for tenderers)	G3

Moreover, we recommend the following [templates for tender submission](#) or the national/own ones after check with Annex II:

Template	Type of procedure	Template ref. ⁹
Financial identification form	Services, supplies and works	G4

⁷ This requirement may be waived for very low-value contracts, that is, not exceeding EUR 15.000.

⁸ Find the templates in the Zip files in annex.

⁹ Find the templates in the Zip files in annex.



Legal entity form	Services, supplies and works	G5
Administrative and compliance grid	Services, supplies & works	SV8, SP3 or WK5
Evaluation grid	Services, supplies & works	SV9, SV10, SP4 or WK6
Tender submission form	Services, supplies & works	SV11, SV12, SP5 or WK3
Tender submission form & technical offer (single tender)	Services, supplies & works	ST4, ST5 or ST6
Technical specifications	Works	Use own templates
Design documents, including drawings	Works	Use own templates
General information about the tenderer	Works	Use own templates
Financial statements of tenderer	Works	Use own templates
Technical qualifications of tenderer	Works	Use own templates
Experience as contractor	Works	Use own or PRAG template
Staff to be employed	Works	Use own or PRAG template
Professional experience of key staff	Works	Use own or PRAG template
Equipment & vehicles	Works	Use own or PRAG template
Work plan & list of subcontractors	Works	Use own or PRAG template

We recommend the following [templates for evaluation](#):

Template	Type of procedure	Template ref.¹⁰
Opening checklist	Services, supplies & works	EV1 or EV2
Administrative compliance grid	Services, supplies & works	SV8, SP3 or WK5
Interpretative note on financial offers	Works	WK10
Evaluators grid	Services, supplies & works	EV3, EV4, SP4 & WK6
Evaluation report	Services, supplies & works	EV5, EV6 & EV7

¹⁰ Find the templates in the Zip files in annex.



Report for negotiated procedure without publication	Services, supplies & works	NP1
Evaluation report (single tender)	Services, supplies & works	ST7
Award decision	Services, supplies & works	EV8
Contract award notice	Services, supplies & works	Use your own template
Notification letters	Services, supplies & works	Use own templates
Cancellation notice	Services, supplies & works	Use your own template

8. Contract performance

8.1. Still compulsory according to Jordanian legislation

Article 89 of the Procurement Bylaw stipulates the possibility of fines for delays or other incompliances of the contractual obligations. In the absence of such provisions in Annex II, these provisions of the national legislation should be used.

8.2. Different provisions between national legislation and Annex II

The provisions on the **increase or decrease of quantities or durations of contracts** stipulated in Article 86 of the Procurement Bylaw cannot be applied, as they are not in line with the provisions of point 30 of Annex II, which prevails.

Also the provisions in point 31 on **guarantees** prevail over the provisions in the Procurement Bylaw, such as the ones in Articles 15, 16 and 36 and SPDs.

We recommend the following [templates for contract performance](#):

Template	Type of procedure	Template ref. ¹¹
Contractor's assessment form	Services & supplies	SV13 or SP8
Performance guarantee	Supplies & works	SP7 or WK7
Pre-financing guarantee	Works	WK8
Retention guarantee	Works	WK9

¹¹ Find the templates in the Zip files in annex.



Annexes in Zip files

G_General templates

I_International tenders

SV_Service tenders

SP_Supply tenders

WK_Works tenders

EV_Evaluation templates

ST_Single tender

NP_Negotiated procedure

