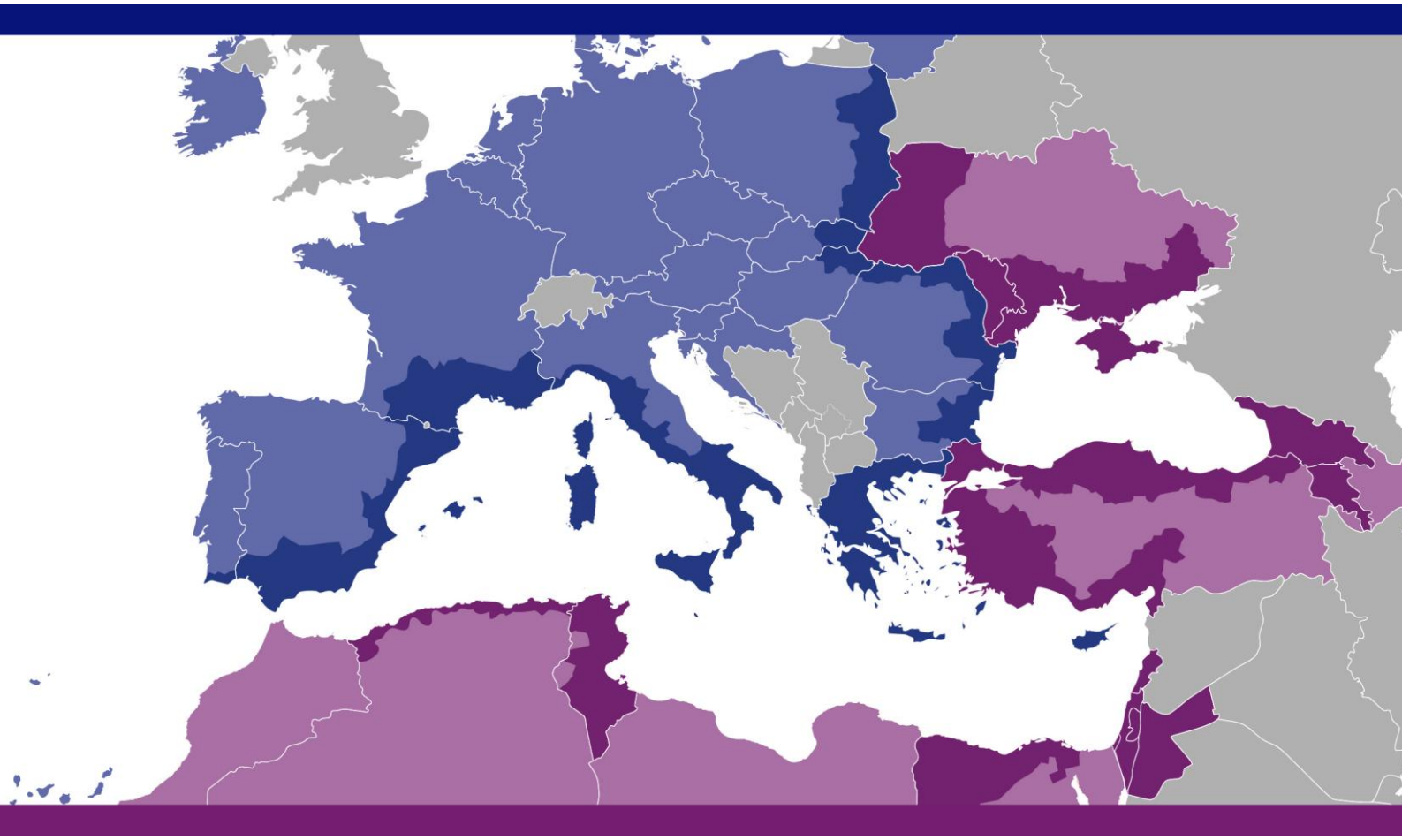
Factsheet on procurement by Egyptian beneficiaries in Interreg NEXT

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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 Egyptian national authorities. It aims at supporting them in setting out the **instructions to Egyptian 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 a 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 Egypt, but only when compliant with the provisions of the Financing Agreement, and particularly its Annex II (hereinafter "Annex II"). As this is not the case for some important provisions, it is worth mentioning that Article 1 of the Egyptian Issuance Law explicitly permits the enforcement of provisions contained in international agreements, as it is the case. Therefore, the provisions of Annex II prevail in case of difference and are applicable in case of absence of national rules. The relevant legislation on procurement is **Law No. 182 of 2018 and its Executive Regulations No. 692 of 2019**, together with the Rules on Standard Terms and Models issued by the General Authority for Government Services.

On the other hand, the provisions in Annex II do not tackle all the obligations stipulated in the above-mentioned legislation. 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 Egyptian public beneficiaries:

- Main differences between the Egyptian legislation and Annex II and the gaps in the national rules.
- Provisions of the Egyptian legislation 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 available templates, it also includes alternatives for the private beneficiaries.

Private beneficiaries are obliged to comply with the public procurement rules from Annex II to the Financing Agreement.

2. Key highlights

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

Section	Still compulsory according to Egyptian legislation	Different provisions between national legislation and Annex II	Not provided for by the Egyptian legislation
General provisions	• Public procurement portal. • Declaration of objectivity, impartiality and confidentiality.		• Use of Common Procurement Vocabulary (CPV). • Templates for financial and legal identification forms.
Types of procedures		• Terminology of the procedures. • Criteria for the use of negotiated procedure without prior notification. • Publication requirements.	• Missing specific procedures.
Preparation of procurement procedures	• Ex-ante approval of tender documents. • Use of standard national templates by public bodies. • Setup of a technical committee.		
Exclusion, selection and award criteria	• Registration requirements for economic operators.	• Requirements for exclusion, selection and award criteria. • Domestic preferences.	
Submission, evaluation and award decision	• Composition of Opening and Award Committees (evaluation committees).	• Deadlines for submission of tenders. • Threshold for evaluation committee. • Complaint mechanism and standstill period.	• Template for declaration on honour.
Contract performance	• Contract performance penalties and delay fines.		

3. General provisions

3.1. Still compulsory according to Egyptian legislation

Article 20 of the Egyptian Law mandates the **publication** of all contracting procedures on the **public procurement portal** including the contracting method, the justifications for selection, the evaluation method, and all other required data. All procurement procedures require **publication** under the Egyptian legislation, **except for those related to national security or emergencies**.

Article 37 of the Executive Regulations adds detailed rules for publication, requirements for the inclusion of all data and adherence to time limits. It also permits publication in widely circulated newspapers when necessary.

These provisions fulfil the requirements of Annex II regarding publicity, ensuring access to information for all bidders, and procedural transparency.

Additionally, the Egyptian beneficiaries (public and private) shall comply with the requirements of Annex II concerning the publicity at EU level, that is, in case of public procurement procedures in which the value of the contract to be awarded is equal to or greater than the prescribed thresholds shown in the table below, the notice of participation will be sent in electronic form for publication in the OJEU also.

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 Egypt in whatever mean shall make a reference 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 Egyptian legislation provides **templates for the declarations of objectivity, impartiality and confidentiality**, both for the participation in the preparation of a tender and for the participation in the evaluation of a tender. They are compulsory for public bodies. We recommend using the same for private bodies, but they can also use template G1 in TESIM's compilation of templates.

3.2. Not provided for in Egyptian legislation

Point 2.3 of Annex II indicates that the references to **nomenclatures in the procurement context** shall be made using the EU's Common Procurement Vocabulary (CPV), as indicated in Annex II.

Under Egyptian legislation, bidders are required to submit a **Financial Identification Form** and a **Legal Entity Form**. However, no official templates are provided for these documents. Accordingly, the use of the following templates is recommended:

Template	Template ref.[1]
Financial identification form	G4
Legal entity forms	G5a, G5b & G5c

4. Types of procedures

4.1. Different provisions between national legislation and Annex II

Points 4 and 5 of Annex II establish similar procedures than the ones required by the Egyptian 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 Egyptian Procurement Law
Open procedure	**Open tender**
Restricted procedure	**Restricted tender / Two-stages tender**
The procedures involving a call for expression of interest	**Call for expression of interest**
The competitive procedure with negotiation (simplified procedure)	**Not provided for**
The negotiated procedure without prior publication	**Direct order**
Payment against invoice	**Not provided for**

Although not mandatory under Annex II for certain procurement procedures, it is recommended, as a good practice, to request at least three offers or quotations for any type of procedure.

[1] Find the templates in the Zip files in annex.



Article 62 of the Law provides for a so-called "direct order", which is equivalent to the **negotiated procedure without prior publication** indicated in Point 6 of Annex II. The **criteria** for the use of such procedure are different though, and the ones in Annex II prevail.

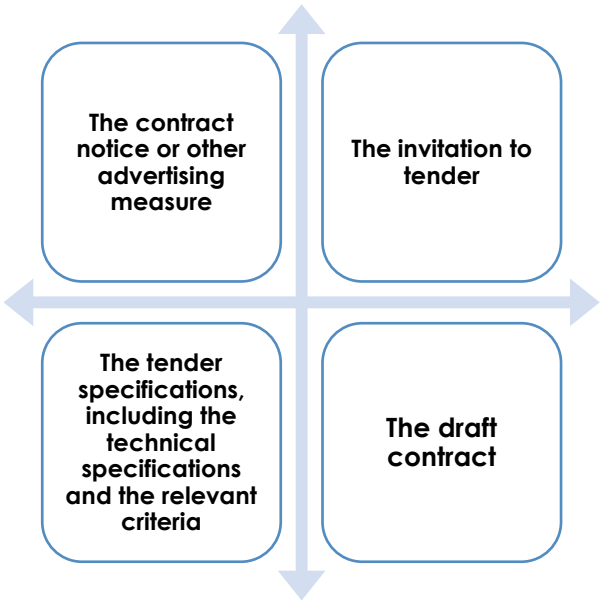
The Egyptian Law does not provide for thresholds for the different types of procedure according to publication obligations. This is not the case in Annex II, as simplified procedure, single tender and payment against invoice do not need any publication. Egyptian public beneficiaries can use these procedures without publication, as Annex II prevails in terms of publicity. However, there is no impediment to publishing them, if the beneficiary considers that it provides more transparency.

4.2. Not provided for in Egyptian legislation

As can be seen from the table above, two types of procedures are not provided for in the Egyptian legislation: simplified procedure and payment against invoice. For the rest, no other gaps have been identified.

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 tender[2]. 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. Annex II stipulates the following **procurement documents**:



[2] 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

5.1. Recommended templates

We recommend the use of the following **templates** or the national/own ones after checking with point 14 of Annex II. The use of templates in TESIM's compilation is limited to private beneficiaries or templates that the Egyptian legislation does not provide for.

Template	Type of procedure	Template ref.[3]
Prior information notice for international tenders in OJEU	Services, supplies and works	I1
Contract notice for international tenders in OJEU	Services, supplies and works	I2
Award notice for international tenders in OJEU	Services, supplies and works	I3
Request to participate (restricted)	Services	Use national, own template or SV1
Longlist (restricted)	Services	SV2
Shortlist report (restricted)	Services	SV3
Shortlist notice (restricted)	Services	Use national, own template or SV4
Contract notice for simplified procedure	Services, supplies and works	SV5, SP1or WK1
Instructions to tenderers for open and restricted	Services, supplies and works	Use national, own template, 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

[3] Find the templates in the Zip files in annex.

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 Egyptian beneficiaries will need to check the full compliance with point 16.

5.2. Still compulsory according to Egyptian legislation

The ex-ante **approval of the tender documents by the competent authority**, as stipulated in Article 19 of the Executive Regulations, remains as compulsory for public bodies, as well as the use of the standard national templates. In accordance with the Rules on Standard Terms and Models issued by the General Authority for Government Services, **public beneficiaries must use national templates**. However, it is important that they check that all the details required in point 14 of Annex II are fulfilled and added, if need be, which may lead to the modification or addition of some elements to the standard national formats.

In the case of **publication in OJEU**, the public beneficiaries must use the EU standard templates for that purpose, while keeping the national ones in the national e-platform and newspapers.

Article 19 of the Executive Regulations establishes the provisions for the **setting up of a technical committee** responsible for the preparation of tender documents. The committee must be composed of qualified experts, responsible for the preparation of the technical specifications and the selection and award criteria.

6. Exclusion, selection and award criteria

6.1. Still compulsory according to Egyptian legislation

Article 85 of the Law establishes the **requirement for the economic operator to register** in order to participate in public procurement procedures. This obligation, which remains in force, is complemented by Article 174 of the Executive Regulations, with detailed provisions on the registration, classification and accreditation of these economic operators.

6.2. Different provisions between national legislation and Annex II

The **exclusion, selection and award criteria** are established in several articles of the Law and its Executive Regulations but are not identical to the requirements in points 18 and 21 of Annex II, which prevail.

Article 19 of the Law establishes **domestic preferences** for goods of Egyptian origin. This rule is against the applicable EU legislation indicated in the basic acts listed in Article 2 of the Financing Agreement. Therefore, **no domestic preference is allowed**.

7. Submission, evaluation and award decision

7.1. Still compulsory according to Egyptian legislation

The Law establishes two committees once the bids are submitted, the Opening Committee and the Award Committee. All the provisions regarding the **composition of these committees** are applicable.

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 II[4], which are different from those indicated in the Egyptian Law:

Procurement type	Time limit in the Annex II to Financial Agreement
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.**
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.**
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.**
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.

Article 60 of the Executive Regulations (related to article 28/ Law No. 182) stipulates the setup of an **evaluation committee** for all procedures regardless of the value, while Annex II only requires such committee for procedures over EUR 20.000. The latter prevails, even though public beneficiaries may setup the committees for any procedure to enhance the procurement principles.

Article 69 of the Executive Regulations establishes a short administrative system for **complaints** before contract award. However, the deadlines are shorter than the **standstill period** indicated in point 27 Annex II. Therefore, the procedure in the Egyptian legislation is valid for Interreg project beneficiaries, provided that the minimum deadline between electronic communication of the decision to tenderers and the signature of the contract, that is, the 10-days standstill period stated in Annex II, is respected.

[4] In urgent cases other time limits may be authorized.

7.3. Not provided for in Egyptian legislation

There is no standard template for the **declaration on honour on exclusion and selection criteria** for tenderers.

7.4. Recommended templates

National templates for the declaration of impartiality, confidentiality and absence of conflict of interest must be used by public bodies. Private ones may use their own or the one in TESIM's compilation. We strongly recommend the use of the template for the **declaration on honour** for the exclusion situations stated in point 18 of Annex II[5], as it is fully compliant with the requirements established therein.

Template	Template ref.[6]
Declaration of impartiality, confidentiality and absence of conflict of interest. (for participation in the evaluation of a tender)	Use national, own template or 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 checking with Annex II. In the case of the financial and legal entity forms, in absence of standard formats, we recommend the use of own or TESIM's templates.

Template	Type of procedure	Template ref.[7]
Financial identification form	Services, supplies and works	Use own template or G4
Legal entity form	Services, supplies and works	Use own template or G5
Administrative and compliance grid	Services, supplies & works	Use national, own template, SV8, SP3 or WK5
Evaluation grid	Services, supplies & works	Use national, own template, SV9, SV10, SP4 or WK6
Tender submission form	Services, supplies & works	Use national, own template, SV11, SV12, SP5 or WK3

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

[6] Find the templates in the Zip files in annex.

[7] Find the templates in the Zip files in annex.

Tender submission form & technical offer (single tender)	Services, supplies & works	Use own template, ST4, ST5 or ST6
Technical specifications	Works	Use national or own templates
Design documents, including drawings	Works	Use national or own templates
General information about the tenderer	Works	Use national or own templates
Financial statements of tenderer	Works	Use national or own templates
Technical qualifications of tenderer	Works	Use national or own templates
Experience as contractor	Works	Use national, own or PRAG template
Staff to be employed	Works	Use national, own or PRAG template
Professional experience of key staff	Works	Use national, own or PRAG template
Equipment & vehicles	Works	Use national, own or PRAG template
Work plan & list of subcontractors	Works	Use national, own or PRAG template

We recommend the following **templates for evaluation**:

Template	Type of procedure	Template ref.[8]
Opening checklist	Services, supplies & works	Use national, own template, EV1 or EV2
Administrative compliance grid	Services, supplies & works	Use national, own template, SV8, SP3 or WK5
Interpretative note on financial offers	Works	Use national, own template, WK10
Evaluators grid	Services, supplies & works	Use national, own template, EV3, EV4, SP4 & WK6

[8] Find the templates in the Zip files in annex.



Evaluation report	Services, supplies & works	Use national, own template or EV5, EV6 & EV7
Report for negotiated procedure without publication	Services, supplies & works	Use national, own template or NP1
Evaluation report (single tender)	Services, supplies & works	ST7
Award decision	Services, supplies & works	Use national, own template or EV8
Contract award notice	Services, supplies & works	Use national or own template
Notification letters	Services, supplies & works	Use national or own template
Cancellation notice	Services, supplies & works	Use national or own template

8. Contract performance

8.1. Still compulsory according to Egyptian legislation

Article 48 of the Law establishes the provisions on **contract performance penalties and delay fines**, mentioned in Annex II as "liquidated damages of failure to comply with its clauses". As Annex II only provides for a generic obligation to specify them in the contract, the provisions in the Egyptian legislation apply.

8.2. Recommended templates

We recommend the following **templates for contract performance**:

Template	Type of procedure	Template ref.[9]
Contractor's assessment form	Services & supplies	Use national, own template, SV13 or SP8
Performance guarantee	Supplies & works	Use national, own template, SP7 or WK7
Pre-financing guarantee	Works	Use national, own template, WK8
Retention guarantee	Works	Use national, own template or WK9

[9] 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