

Special Danish rules

In Denmark, there are special rules for public procurement tenders in regard to voluntary use of environmental management systems and ecolabel requirements and the documentation for compliance. These special rules follows from the [Danish Procurement Act](#) and are explained below.

The key message is that a contracting authority shall always accept other relevant documentation from the tenderer, even if the tenderer does not have the required ecolabel or environmental management system and the resources spent by the contracting authority are found in a specific assessment not to exceed the resources which the contract authority would have been required to spend in order to verify that the tenderer were in possession of the required label to an inexpedient degree. For a Danish text please see the [Guide to the Procurement Rules](#) published by the Danish Competition and Consumer Agency.

You may find further information in Danish about the Danish special rules in the Guide to the Procurement Rules published by the Danish Competition and Consumer Agency.

Environmental Management Systems (EMS)

In accordance with the Danish Public Procurement Act contracting authorities may require that a certificate be issued by an independent body as evidence of compliance with environmental management system requirements.

In addition, in accordance with the Danish Public Procurement Act, other suitable documentation must always be accepted, if:

- 1) A candidate or tenderer cannot obtain the required certificate for an environmental management system or an environmental management standard or a similar certificate within the time limit stipulated for reasons which are not attributable to that candidate or tenderer, or
- 2) A candidate or tenderer does not have the required certificate for an environmental management system or an environmental management standard even if it could have been obtained within the fixed time limit, and the contracting authority finds that the measures suggested correspond to the measures required in relation to the environmental management system required or the environmental management standard, and the resources required from the contracting authority in this connection or a specific assessment exceed to an inexpedient degree the resources which the contracting authority would have to spend on verifying that the tenderer has the required environmental management system or the required environmental management standard.

With regard to No. 1), the preliminary work on the Danish Public Procurement Act emphasised that other documentation may be regarded as suitable if a reasonably informed and normally prudent contracting authority is able to decide, without disproportionate use of resources, that the measures proposed by the tenderer are equivalent to the measures required under the environmental management system or standard.

Reasons which are not attributable to the tenderer could include that the deadline for tenders is shorter than the time it takes to obtain a certificate.

Other suitable documentation could be verified documentation or declarations from a third party or a manufacturer. The tenderer has the burden of proof in showing that the suitable documentation is

sufficient for verifying that the tender meets the requirements, and the contracting authority may not lay down formal requirements for this documentation.

According to the preliminary work on the Public Procurement Act and in relation to No. 2) that the resources required from the contracting authority may not to an “inexpedient degree” exceed the resources spent on verifying that the tenderer has the required environmental management system or standard:

This means that the contracting authority should not have to spend more than one hour extra to evaluate the tenderers documentation compared to the time it would take to check whether the tenderer has the necessary certificate.

Ecolabels

In accordance with the Danish Public Procurement Act, other suitable documentation of compliance with ecolabel requirements must also be accepted, if a tenderer does not have the required label, even if it was obtainable within the time limit stipulated, and the contracting authority is satisfied that the label requirements are fulfilled, and the resources spent by the contracting authority are found in a specific assessment not to exceed the resources which the contract authority would have been required to spend in order to verify that the tenderer were in possession of the required label to an inexpedient degree.

According to the preliminary work on the Public Procurement Act, “inexpediently degree” means that the contracting authority needs to spend more than one extra hour on evaluating that the tenderer has taken the necessary measures than would have been necessary to evaluate whether the tenderer has the necessary label.

Other suitable documentation could be verified documentation or declarations from a third party or a manufacturer. The tenderer has the burden of proof in showing that the suitable documentation is sufficient for verifying that the tender meets the requirements, and the contracting authority may not lay down formal requirements for this documentation.