

SRPP Guide

Ensuring socially responsible public procurement

This guide is developed by the Norwegian Agency for Public Management & eGovernment (Difi), on request from the Norwegian Ministry of Children, Equality and Social inclusion.

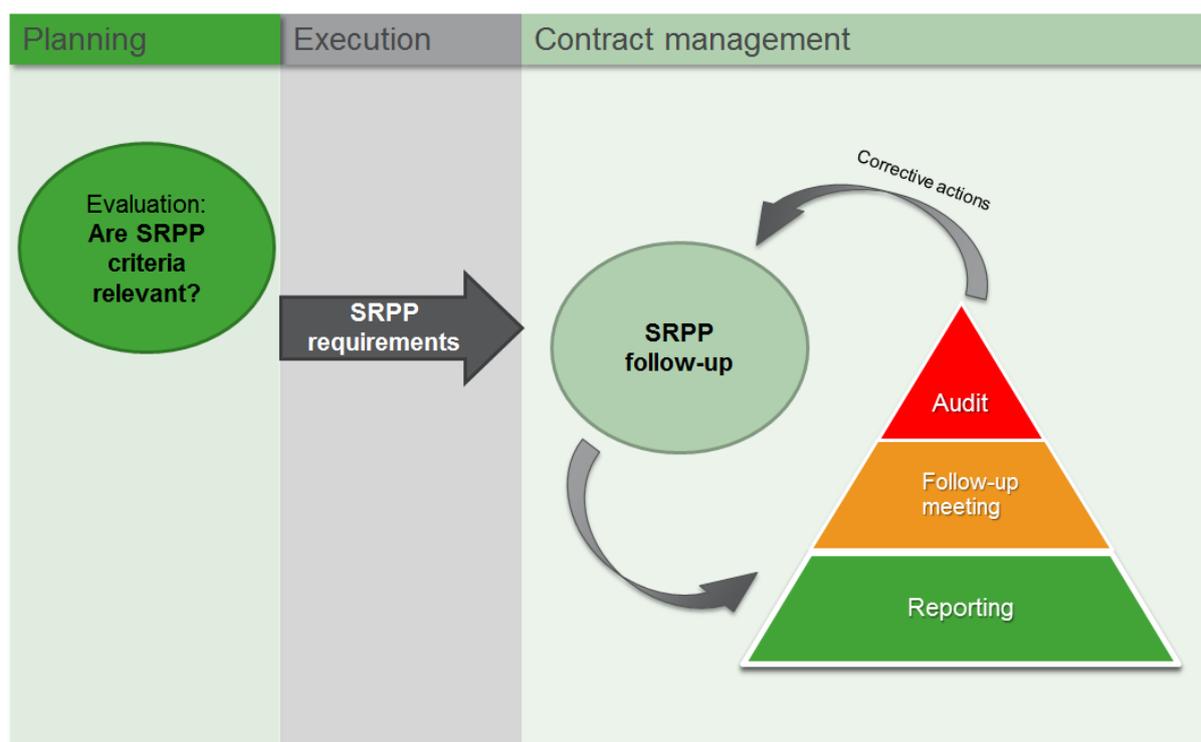


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Socially Responsible Public Procurement (SRPP)

This SRPP guide aims to help public procurers to set and monitor standards for decent working conditions at the production sites where the goods procured for public sector is manufactured by offering a step-by-step approach to include SRPP requirements in the procurement process of the public contracting authority.

Incorporating SRPP requirements in the procurement process is about working to ensure that the goods provided during the contract period are produced under decent working conditions. Based on the procurement process, this guide is based upon a step-wise approach.



SRPP requests from an international and national level

The international SRPP international platform can be found in a set of [Guiding Principles on Business and Human Rights](#) from the United Nations: The principles were unanimously endorsed in 2011 by United Nations Human Rights Council. Among the principles is specified that “*States should promote respect for human rights by business enterprises with which they conduct commercial transactions [...]. States conduct a variety of commercial transactions with business enterprises, not least through their procurement activities. This provides States – individually and collectively – with unique opportunities to promote awareness of and respect for human rights by those enterprises, including through the terms of contracts, with due regard to States’ relevant obligations under national and international law.*” (p. 10)

In [the Norwegian Action plan on environmental and social responsibility in public procurement](#) in 2007, the Norwegian government states the following: “The Government emphasises that the public sector will take social responsibility through its procurement by

contributing to ethically acceptable production, trade and consumption. [...] An important task will be to improve traceability and transparency in the value chain and thus enable procurers to document that the products have been manufactured in an ethically acceptable manner.” (p.4)

In the White paper Nr. 36 (2008-2009)¹ it is emphasised that public procurers are important market actors in terms of emphasising ethically sound business conduct, for instance by requesting their suppliers to adhere to fundamental ethical requirements. When public procurers give weight to immaterial characteristics such as an ethical conduct, they will receive more sustainable products and, in terms, will be able to deliver better service to the public. (s.5)

This is again emphasised in the [White paper Nr.10 \(2008-2009\)](#): The Norwegian government “wants the consumption and production of goods and services to be as sustainable as possible. The public sector must take the lead by purchasing goods that have been manufactured in accordance with the highest ethical and environmental standards.” (p.24)

The goal, hence, both addressed by the national governmental principle and by the UN Guiding Principles on Business and Human Rights, that SRPP requirements should be adapted within the framework of public procurement.

General EU principles on public procurement

Like all public procurement requirements, SRPP requirements must be compatible with EU principles on public procurement:

The principle of Competition means that public contracting authorities must stimulate a fair competition. Therefore it is necessary to not only require a socially responsible production in tenders, it is also necessary to follow-up upon the requirements.

The equal treatment and non-discrimination principle means that all tenderers must be treated equally and be subject to the same conditions. The selection of SRPP requirements that are to be imposed must be made in a competitively neutral manner in which all tenderers are treated equally. This principle ensures that no tenderer is directly or indirectly discriminated against on the grounds of nationality. For example, potential tenderers should not be discriminated against because of their operations in specific countries or regions, even if there are known problems (e.g. with child labour) in the area. Furthermore, procurers cannot boycott countries where, for example, there are known violations of human rights.

The transparency principle means that the procurement process must be transparent and predictable. The principle also means that the tender documents must be clear and contain SRPP requirements that are relevant to the purpose of the procurement. This includes having the contract clearly specify how the requirements are to be followed up on.

The proportionality principle means that you cannot impose more stringent or different requirements than are necessary to achieve the purpose of the procurement. The general rule is therefore that there should be a relationship between the requirements and the subject-matter of the contract.

¹[White paper Nr. 36 \(2008-2009\)](#) is only available in Norwegian.

Step 1: SRPP anchoring

It is very important that SRPP is soundly anchored within your organisation in order for the organisation to work in a systematic and structured manner on socially responsible procurement. SRPP resources and a SRPP budget should be created.



When SRPP is to be integrated into the procurement process, a number of issues should be considered. Your organisation must not only decide how it should work on SRPP, but must also clearly define roles and responsibilities which should be stated in:

- *A decision memorandum.* This can be brief and general, but must provide an overview of what the organisation is committing to.
- *A strategic plan* should explain what SRPP will look like in your particular organisation, and how you intend to work on the issue.
- *An implementation plan* should then focus on mapping the necessary steps to implement the action plan.

Specific objectives and time frames will give you something to measure by, to see if the targets set were realistic so that they can either be further developed or revised.

Use existing processes

To prevent SRPP becoming a special interest at the periphery of the procurement process, it is useful to have an overview of all existing processes that are relevant to the procurement. A good way to integrate SRPP in your organisation is to merge SRPP with existing procurement processes. By incorporating SRPP requirements into existing checklists, guidelines, reporting systems, communication procedures, etc., SRPP likely to become a mainstreamed part of the procurement process.

Step 2: SRPP Planning

In this step you will get advice on how to include SRPP requirements in the procurement planning phase. You should consider whether product you are going to procure is associated with a high risk of ILO core conventions breaches during the production phase. If there is such a risk, SRPP requirements should be used for award criteria and posed in SRPP contract performance clauses.



Risk assessment – high risk products

A SRPP risk assessment helps your organisation identify and prioritise the most important focus areas. In the context of socially responsible trade in public procurements, this means a focus on SRPP requirements for the procurements that carry a high probability of involving violations of basic working conditions and human rights.

The level of risk of violations will be higher in certain product categories, and not all requirements will be equally applicable to all procurements. Difi has made a list of products with documented frequent breaches of core ILO conventions in the production phase. Among the products on the high risk list are **building materials** (such as wood products, natural stones); **food products** (e.g. coffee, chocolate, bananas, sugar); **furniture**; **garments** (e.g. clothes and shoes); **ICT equipment** (e.g. computers and telephones); **medical equipment** (e.g. disposable medical supplies) **office – and school supplies** (e.g. pens and staple machines), **sport equipment** and **toys**.

This is not an exhaustive list and will continuously be updated. When you procure goods involving a labour intensive production, and this product is not on the list of high risk products, you are advised to make market research and confer with expert organisations on the state of the working conditions in the production. We recommend the following organisations for further research:

- Business and Human Rights Resource Centre: [Product specific reports](#)
- International Trade Union Confederation: [Trade union rights violations in 2011](#)
- U.S Department of Labor: [Goods produced by child labor or forced labor 2011](#)

Where in the tender can SRPP requirements be used?

When procuring products with high risk of breaches of the ILO core conventions and the national law of the production country in relation to minimum wage, overtime and EHS SRPP requirements should be included in the tender.

When you will procure high risk products, there are various opportunities for including demands for decent working conditions into public procurements. The judgement of [C-368/10](#) (Commission v Netherlands) underlines the link between the subject matter of the contract and socially responsible production. The general advocate, states in her opinion on C-368/10 that: *Of course the taste of sugar does not vary depending on whether it was traded fairly or unfairly. A product placed on the market on unfair conditions does however leave a bitter taste in the mouth of a socially responsible customer.*

SRPP contract performance clauses

[SRPP contract performance clauses](#) are mandatory requirements that must be met by the supplier during the contract period. SRPP contract performance clauses include the ILO core conventions and the national law of the production country in relation to minimum wage, overtime and EHS.

SRPP contract performance clauses should also include the administrative regulations, transparency and sanctions. You can download a template on SRPP contract performance clauses [here](#) (In English: <http://www.anskaffelser.no/anskaffelser/dokumenter/sosiale-kontraktsvilkaar>).

SRPP Award criteria

The judgement in the case [C-368/10](#) (Commission v Netherlands) demonstrates that using SRPP award criteria to give weight to socially responsible production within public procurement is in line with the EU directives on public procurement. SRPP Award criteria stimulates the supplier market towards socially responsible supply chain management since the public contracting authority give a value to socially responsible production in the tender. SRPP Award criteria are expressed as the tenderers competitive ability on meeting the ILO core conventions and the national law on minimum wage, overtime and EHS at the production sites.

Read more about how SRPP award criteria can be used in the reports below:

http://www.landmark-project.eu/fileadmin/files/LANDMARK-legal_guidance-www.pdf

http://www.landmark-project.eu/fileadmin/files/LANDMARK-good_practices_FINAL.pdf

http://www.respiroproject.eu/fileadmin/template/projects/respiro/files/RESPIRO_Guides/RESPIRO-Textiles-final-www.pdf

Read more here on examples of ICT-procurement where award criteria have been used:

<http://makeitfair.org/en/procure-it-fair/best-practices>

SRPP Selection criteria

When using SRPP contract performance clauses, SRPP selection criteria are used in order to verify that the tenderers will be able to fulfil the SRPP contract performance clauses. The SRPP selection criteria require the tenderer to have technical systems and management systems in place for safeguarding a socially responsible production process at the production sites. There are variations on how certain industries are maturing in relation to socially responsible supply chain management. Therefore you will only be advised to use qualification criteria when there is a relatively high market maturity (such as food products, textiles and garments) for socially responsible supply chain management.

SRPP selection criteria have been used by various public procurers in Europe. In Norway SRPP selection criteria have been for instance been used by the Norwegian Defence Forces and by the [South-East Norway Regional Health Authority](#).

Read more about how SRPP selection criteria can be used in the reports below:

Read more on how SRPP award criteria can be used in the reports below:

http://www.landmark-project.eu/fileadmin/files/LANDMARK-legal_guidance-www.pdf

http://www.landmark-project.eu/fileadmin/files/LANDMARK-good_practices_FINAL.pdf

http://www.respiroproject.eu/fileadmin/template/projects/respiro/files/RESPIRO_Guides/RESPIRO-Textiles-final-www.pdf

Read more here on examples of ICT-procurement where award criteria have been used:
<http://makeitfair.org/en/procure-it-fair/best-practices>

Step 4: Follow-up

In this step you will get advice on the implementation of the SRPP requirements you stipulate.

Precedential case law from the European Court of Justice implies that public contracting authorities cannot impose requirements that they have no intention or ability to follow up on. Furthermore, follow-up of the requirements ensures credibility. Without follow-up, the procurement risks being in breach of the principle of equal treatment and of distorting competition, since the suppliers may not meet the requirements imposed but can still deliver on the contract.

As a public contracting authority, you can work with your direct suppliers. Procurement regulations do not allow purchasers to impose requirements on their supplier's subcontractors. However, you can require that the supplier makes such requirements for their subcontractors. This is best done by involving your direct supplier in the communication of your requirements.

Requirements that are made in the form of SRPP contract performance clauses should be followed up on in the contract period. The contract should detail when such follow-up is to

take place. This is also a necessity in relation to the principle of equal treatment of the tenderers.

The order of the follow-up:

1. *The self-assessment.* Collect and evaluate the supplier's self-report form. Requirements for such reporting should be included in the contract. Request documentation and verification where relevant.
2. *Status meetings with the supplier.* Contact the supplier after receiving the supplier-reporting form. Take the opportunity hold a conversation with the supplier as part of the existing contract meetings.
3. *Supplier visit/inspection.* Do an audit in the first link of the production chain (procedures, etc. at the supplier), and/or a social audit further down the production chain.



First follow-up stage: Self-assessment questionnaire

The goal of a self-assessment form is to analyse the socially responsible supply chain management of the supplier, i.e. the systems the supplier has to safeguard that the ILO core conventions and the national legislation of the production country. The purpose of a self-assessment is to get an indication of compliance with the SRPP requirements.

A third party certification means that a third party verifies that a product or a production site meets the certification requirements of socially responsible production. Examples of such certification schemes are Fairtrade, Utz Certified, and SA8000. If the supplier is selling a product which is certified, or if the supplier is using certified productions sites, you do not have to continue to the second follow-up stage.

Second follow-up stage: Supplier meeting

It is important to have an open dialogue with the supplier about the requirements that have been set. A status meeting with the supplier should be held after you have analysed the self-

assessment questionnaire. It is useful to ask for documentation or more information where the self-report is incomplete or unclear.

A corrective action plan should be created for suppliers reporting unsatisfactory on socially responsible production measures, or who provide incomplete or unclear information. This corrective action plan should be discussed at a supplier meeting and a deadline should be set to when the corrective actions necessary ought to be completed.

Third follow-up stage: On-site inspections

It may be relevant to perform an inspection in one or more of the production sites where the products are manufactured. Inspections may be relevant in cases where there are unsatisfactory results from the corrective action plan.

The on-site inspection on the production sites should be carried out by a qualified inspector with experience from inspections in the context and country of the production sites. Ideally, inspections should be performed by someone who speaks the local language and is familiar with the local culture.

An inspection visit should include:

- Guided tour of the workplace
- Interviews with employees (preferably off-site)
- Disclosure of wage slips, work contracts, time sheets
- Access to procedures, practices and documentation on training
- Interview with union representatives (or workers representatives in case unions are lacking)

Fourth follow-up stage: Re-inspections on production sites

It is important that the contracting authority handles any deviations from the on-site inspections of the production sites in a systematic and structured manner.

However, the regulatory constraints on public procurement mean that there are certain restrictions on how a contracting authority can work with suppliers to achieve improvements. The method for public contracting authorities to contribute to corrective actions necessary at the production sites is by requesting suppliers to prove that the necessary corrective actions at the production sites are fulfilled.

Where deviations are detected, the inspection should lead to an agreement with the supplier about a corrective action plan. Schedule a date for re-inspection to control the results from the corrective action plan.

It is recommended to have the supplier take the responsibility for and the cost of a re-inspection with a third party auditor, if corrective action has to take place at the production site after the initial inspection made at the cost of the contracting authorities. This should be specified in the [SRPP contract performance clauses](#).

In addition, the action plan should include how the measures will be verified, and by whom. For some measures (e.g. improvement of safety in the workplace such as unblocking blocked fire exits or the installation of security equipment) it may suffice that the corrective actions are documented with photos or a statement about the work that has been performed (e.g. a copy of the confirmation that the machinery has been maintained). For other types of

deviations (such as following up illegal working hours, payment minimum wages or procedures for checking legal working age), it is necessary to arrange a follow-up inspection at the supplier's facility.

The public contracting authority should have a policy for handling corrective actions – and a time table for the implementations of corrective actions at the production sites. The supplier will be responsible for ensuring that the corrective actions at the production sites are carried out in time.

Remember that the goal of improvement measures is to improve the situation for individuals working at the production site. For example, if child labour is detected, it may worsen the child's situation if s/he loses the job. This may mean that dismissal is not necessarily the best solution. Instead, arrangements should be made with the producer to ensure that the child receives an education, safe job assignments and reduced working hours so that the child has the opportunity to participate in education and development.

Step 5: Communication and reporting

There are many advantages of communicating the work that the organisation does on SRPP internally (employees) and externally (community, politicians, suppliers, users etc.) Transparent SRPP communication also ensures predictability for the supplier market.



External communication

Good external communication can have a number of benefits for your organisation:

- *Making the SRPP work visible.* Where the work on SRPP is a result of political statutes, the reports will show how your organisation works to comply with these. Because you are a public organisation, your focus on SRPP may be of interest to many.
- *Reputation.* It is very difficult to guarantee that a product has been produced 100% socially responsible, even when the product is certified. Being able to demonstrate systematic work and good processes are thus means to safeguard good working conditions at the production sites. In addition, the visibility of the work has positive effects on reliability and trustworthiness.
- *Influence suppliers and the supplier market.* External communication about SRPP and the SRPP requirements your organisation sets in tenders will strengthen the public sector's role as a demanding customer aiming for socially responsible procurements. Socially responsible production will hence become a competitive driving force among public sector suppliers.
- *Openness and transparency.* Be transparent about the entire SRPP process. Transparency is the best way to gain credibility among your stakeholders.

Internal Communication

Efficient internal communication can ensure that employees know what SRPP obligations the organisation has assumed. This can increase the internal SRPP commitment and skills. In turn, this will contribute to SRPP being broadly anchored within the organisation.

Good internal communications will contribute to:

- *Ensure that policies and strategies are followed*, i.e. that the organisation is complying the SRPP strategy- and implementation plan.
- *Employee involvement*. When everyone in the organisation knows about the work on SRPP, it enhances SRPP mainstreaming in the procurement process.

Communication channels

Use existing channels communication channels. This increases the chances that employees will notice the information. Intranet, websites, meetings and reports may be ways to spread SRPP information within the organisation.

Reporting

Reports can be used to show progress for external and internal stakeholders. It is useful to report annually on the work that has been done on SRPP. Producing an annual SRPP report will help the organisation communicate the current SRPP results and how to pursue in the future.

Organisations with external reporting requirements

If public contracting authority is a member of an initiative to promote SRPP, it is often a requirement that it reports on social responsibility. These organisations may impose requirements on how often reports must be submitted, and some will also specify what the report must cover. The UN Global Compact is an example of an initiative in which the members undertake regular reporting: <http://www.unglobalcompact.org/>

Organisations with no reporting requirements

For organisations without external requirements to comply with, we recommend that a report is structured around SRPP commitments and goals. This will make it clear to you how you are doing on reaching your targets.

Reporting can meet several objectives:

- To communicate progress on SRPP.
- Establish a basis for comparison and measurement of progress.
- Consider how the work has developed in relation to the target.
- Provide a basis for reassessment of the SRPP strategy.

Integration of reporting on SRPP in other reports

There is also an opportunity to combine reporting on SRPP with other reports, for instance in general annual reports. The advantage of this is that the report will mainstream SRPP by including SRPP the context of other activities and priorities within the organisation.

SRPP guidance for suppliers

There are a number of sources where suppliers can find more information and help to implement responsible supply chain management:

[The UN Global Compact](http://www.unglobalcompact.org/) is an initiative for businesses and public organisations. Global Compact is based on ten principles covering human rights, labour standards, environment and anti-corruption. Signing the Global Compact means that the organisation works operates in line with the ten principles:

<http://www.unglobalcompact.org/>

[The European Commission's DG Enterprise and Industry](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/sme/index_en.htm) has, among the CSR information directed to business – [Sustainable and Responsible Business](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/sme/index_en.htm) - a programme especially directed towards informing SMEs about socially responsible supply chain management – [SMEs and CSR](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/sme/index_en.htm): http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/sme/index_en.htm

[Ethical business in practice](http://www.etiskhandel.no/English/index.html) is a guide developed by the Ethical business initiative. The guide shows how organisations can work systematically and purposefully on human rights and working conditions in their supply chains, whether they have direct contact with the producer or are acting through an agent or importer:

<http://www.etiskhandel.no/English/index.html>

<http://www.ethicaltrade.org/>

[The CSR compass for the private sector](http://www.csrcompass.com/) is an online platform for responsible supply chain management, aimed particularly towards guiding SMEs towards a socially responsible production:

<http://www.csrcompass.com/>

[CSR Europe](http://www.csr-europe.com/), is a European business association specialised in giving advice on responsible supply chain management. [CSR Norway](http://www.csr-norway.com/) is the Norwegian branch of CSR Europe.

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