

This is how your company can document its reliability

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As a company you have the right to document your reliability if a public contracting authority assesses that your company is subject to one or more grounds for exclusion. This can occur during a procurement process as well as during an ongoing contract.

If a contracting authority assesses that your company is subject to a ground for exclusion, the contracting authority is obliged to inform you hereof and request that your company submits documentation for its reliability. This means that you have the opportunity to document that your company has implemented sufficient measures to effectively prevent further negligence and behaviour which caused the exclusion. The dialogue with your company is primarily handled by the contracting authority. It is the contracting authority that makes the final decision on whether your company has demonstrated its reliability in a sufficient manner or not. For procurements published after January the 1st 2023 the contracting authority is obliged to obtain an advisory opinion regarding companies' documentation of their reliability from the Danish Competition and Consumer Authority. This obligation applies when your company is subject to one or more grounds for exclusion and your company either has the prospect of being awarded the public contract, the contracting authority has assessed that it is necessary to obtain documentation for reliability during the procurement procedure, or your company has an ongoing contract with the public authority. The contracting authority receives an advisory opinion from the Danish Competition and Consumer Authority which the contracting authority can use as a basis for the final decision. However, the contracting authority is not obliged to do so.

Sufficient documentation

To document the company's reliability, you must submit the following to the contracting authority:

- contact information to the company's contact person, and
- documentation for reliability including relevant attachments (in Danish or English).

You must submit sufficient documentation for the measures taken by the company. The documentation must be forwarded within the appropriate time limit set by the contracting authority. The Danish Competition and Consumer Authority bases its advisory opinion regarding your company's reliability on the documentation submitted by your company.

If the contracting authority considers the documentation as sufficient, your company will not be excluded. If, on the contrary, the contracting authority considers the documentation not to be sufficient, the contracting authority must exclude your company.

Declarations of intent alone is not sufficient documentation

Documentation must show that concrete measures have been taken in the company to support that the company's misconduct, which concerns the ground for exclusion, will not be repeated.

It is on the contrary not sufficient to only submit declarations of intent regarding the company's implementation of certain measures. The measures that the company has taken and wishes to document must be relevant and proportionate in the light of the circumstances that led to the exclusion.

Documentation for paid compensation

In situations where your company has been imposed or has undertaken to pay compensation for possible damage caused by the negligence or misconduct covered by the ground for exclusion, your company must submit documentation for this.

Relevant documentation could e.g. be:

- A receipt for payment
- A declaration from the parties who have received the compensation or an auditor's statement showing that the compensation is paid.

Documentation for active collaboration with the investigating authorities

If your company's actions have been subject to an investigation from an investigating authority, you must document that you to the extent necessary have clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authority.

Your company can document its active collaboration with an investigating authority e.g. by submitting:

- A statement from the relevant authority
- An explanation from the company (this could given the circumstances be enough supplemented by a solemn declaration)

Documentation for appropriate technical, organisational, and personnel measures

Furthermore, your company must document that it has taken appropriate technical, organisational, and personnel measures to prevent further criminal offences or misconduct covered by the grounds for exclusion. Relevant documentation can e.g. be reporting and control systems, a compliance policy, dismissals, etc.

Your company's documentation must enable the contracting authority and the Danish Competition and Consumer Authority to determine and consider, whether the measures are new to the company compared to the time of the offence covered by the ground for exclusion, and how the measures are implemented in the company's business operations.

A company can submit both:

- Process documentation showing the process and the intent behind the specific measure and
- Initiative documentation showing the specific measure and which initiatives the company has taken to embed the specific measure.

Example of a measure and documentation

A company can for instance implement a compliance policy, containing guidelines which apply to all employees. The relevant content of the compliance policy depends on the specific ground for exclusion.

Process documentation could be:

Documents which show what has been discussed in relation to the establishment of the compliance policy, including what the purpose of the policy was, e.g. email correspondence or minutes of meetings and/or workshops.

Initiative documentation could be:

The specific compliance policy and the documentation for the implementation of the policy including the compliance with the policy by the employees, e.g. through education and test material.

If your company disagrees with the contracting authority's decision

You can file a complaint to the Danish Complaints Board for Public Procurement if you disagree with the contracting authority's assessment of your company's documentation for its reliability. Be aware of deadlines for filing a complaint to the Danish Complaints Board for Public Procurement.

Forms make it easier for you

On the Danish Competition and Consumer Authority's homepage you can find forms which can be used in connection with your company's documentation for its reliability. The forms will guide you to consider the relevant factors which the contracting authority must use to assess your company's documentation for reliability.

Download the forms:

- [Form regarding a company's unpaid overdue debt to the public authorities \(docx\)](#)
- [Form regarding a company's general documentation for reliability \(docx\)](#)

Visit the Danish Competition and Consumer Authority's homepage and read more about the assessment of reliability

On the homepage you can access a Q/A-module with the most frequently asked questions and answers about assessments of reliability. Only in Danish.

- [Frequently asked questions - in Danish](#)

Center for offentlig konkurrence

Konkurrence- og Forbrugerstyrelsen

Carl Jacobsens Vej 35

2500 Valby

Tlf. +45 4171 5000

E-mail: kfst@kfst.dk

www.kfst.dk