

TOWARDS GENDER RESPONSIVE PROCUREMENT

Practice Note



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ABBREVIATIONS AND ACRONYMS

DAAB	Dispute Avoidance/Adjudication Board
DFID	Department for International Development (UK)
EBRD	European Bank for Reconstruction and Development
FIDIC	International Federation of Consulting Engineers
GDP	Gross Domestic Product
GROW (model)	Goal, Reality, Options, Will
GRP	Gender-Responsive Procurement
ILO	International Labour Organization
LAC	Latin America and the Caribbean
MSME	Micro, Small and Medium Enterprise
NGO	Non-governmental organization
OCP	Open Contracting Partnership
OECD	Organisation for Economic Co-operation and Development
PROLAC	Procurement Unit of the Latin America and the Caribbean, WB
SDGs	Sustainable Development Goals
SEA	Sexual Exploitation and Abuse
SH	Sexual Harassment
SMART (model)	Specific, Measurable, Agreed, Realistic, Time-bound
SME	Small To Medium-Sized Enterprise
SPD	Standard Procurement Document
SPP	Sustainable Public Procurement
UNDP	United Nations Development Programme
WBG	World Bank group
WLC/WLB	Women Led Companies/Business
WOC/WOB	Women Owned Companies/Businesses

WHY MOVING TOWARDS GENDER RESPONSIVE PROCUREMENT?



Diomedes Berroa
Practice Manager / ELCRU

Why is it time to talk about gender response in public procurement? Primarily because gender-responsive procurement is not just about facilitating women's access to the marketplace, it means adopting a broader perspective to include considerations for the other half of the human population into public spending.

Covid-19 proved that the adverse effects of the pandemic are not gender-neutral, representing a setback in Latin America and the Caribbean that disproportionately impacted women. For instance, labor force participation among women in the region had risen from 41 percent in 1990 to 53 percent in 2019. Yet, in the first months of the pandemic, women were 44 percent more likely than men to lose a job. As a result, the regional unemployment rate for women will increase by almost 2 percent in 2020. Furthermore, female return to the labor market has been significantly slower than males. The labor participation rate for women had a historical decline of 5.4 percentage points in 2020; to say, an additional 13 million women in the region lost their jobs.

To build back better and reverse the damaging impact COVID-19 has had on women, we must use all the tools available. Gender-responsive procurement is precisely one of those tools that comprise both a social and economic transformation to support equality. I applaud this effort of the Procurement Unit of the Latin America and the Caribbean region (PROLAC). In these challenging times, it is highly needed to rethink how public procurement can effectively contribute to building a more even playing field for women.

Even when gender-responsive procurement is not new, in the past, we observed a tendency of simplifying its scope to essentially give preference to women-own (WOB) and women-led business (WLB). However, in the light of what we know now, this approach results narrow since new evidence shows that it only benefits less than 1% of the female population. Therefore, it is time to analyze broader gender-response measures that look at suppliers' employment policies to help a more significant number of women and create a positive domino effect.

Additionally, this note results timely-appropriate in a moment of reconstruction since it opens the door to further discussion on gender equality in the region. We hope that this note became a public good for our colleagues in the World Bank, that can contribute to shed some light on how and why it's worth to incorporate gender elements throw-out the different stages of the procurement process. We are aware that further research is needed to determine the economic, social, and structural barriers perpetuating gender inequalities. Therefore, one of the main purposes of this note is to nurture overarching gender-objectives across the Bank.

To design better gender-response procurement measures, a wholesome approach is required to guarantee improved public procurement tools that could effectively incentivize women's participation in the market, benefit as many women as possible, and improve all aspects of women's lives.

PREFACE

This Practice Note contains a set of toolkits to be applied for gender mainstreaming in public procurement. It was developed by Procurement Unit of the Latin America and Caribbean Region team which included Manjola Malo (Procurement Specialist, ELCRU) and Professor Annamaria La Chimia, lead consultant of Charles Kendal and Partners (Consultant). The preparation of the Practice Note was carried out under the general guidance of Diomedes Berroa (Practice Manager ELCRU).

The content of this guidance is intended as a first attempt at operationalizing gender responsive practices within the public procurement system. It is to be perfected over time and through experience and practice.

Part I.

Background and Methodology

1. INTRODUCTION: AIMS AND OBJECTIVES OF THE PRACTICE NOTE

The Practice Note 'Towards gender responsive procurement' (hereafter referred to as 'Practice Note') aims to provide a practical tool for World Bank staff to devise policies and implement new strategies to support gender equality through public procurement. It provides an introduction to gender and procurement -both in terms of benefits and of obstacles to its realization- and it gives practical advice on how to devise inclusive and gender-responsive procurement systems. Finally, it informs WB staff and other procurement practitioners on how to implement gender-friendly criteria throughout the procurement process. Specifically, the Practice Note aims to understand how to operationalize and mainstream gender elements in procurement at the policy level -in terms of policy reforms for beneficiary countries- and at the contract level -for Bank financed operations throughout the procurement cycle. The content of this Practice Note is non-mandatory and it is intended as a first attempt at operationalizing gender responsive practices within the public procurement system. It is to be perfected over time and through experience and practice.

The Practice Note is divided into two parts. **The first part** gives details on the method used for conducting the study and provides some background information on why using procurement to promote gender equality is vital for the economy and for society. Further, it identifies the challenges in operationalizing gender and procurement. Importantly, this part clarifies that procurement is not gender-neutral and that 'gender blind' procurement (procurement that neglects the gender dimension of public purchases) risks compromising gender equality and can cause harm to women.¹ The aim here is to provide a background to contextualize the Toolkit developed in Part II; making sure that the findings in this section feed directly into the strategy adopted to devise the toolkit/methodology proposed.

The second part of the Practice Note contains a toolkit (hereafter referred to as Toolkit) to operationalize gender equality and empower women through public procurement. The Toolkit provides a step-by-step guide on how to develop a gender-responsive procurement system and how to implement criteria that foster gender equality within the procurement process. It also includes sets of indicators to monitor and measure whether the actions have achieved the objectives sought and whether the policy pursued, and the gender triggers used, have been effective.

The Toolkit is organized into three main pillars, that aim at operationalizing gender inclusive policies throughout the procurement system and at providing Bank staff with the tools to work with client countries to implement gender equality policies in a holistic and comprehensive way. The three pillars look at: 1) the legislative, regulatory, and policy framework (Pillar I); 2) the institutional apparatus (Pillar II); and 3) the procurement cycle itself (Pillar III). This third pillar looks at the procurement cycle from planning to tendering, contract execution and monitoring and it could be implemented as a standalone pillar by Bank staff when implementing procurement projects.

The Toolkit is aligned to modern practices on the assessment of public procurement systems and is inspired by the many Guides and Methodologies recently published by international institutions, such as the EU, the OECD, UN Women, and by international NGOs (notably the OCP), and national governments. Some preliminary information on the methodology has been included also at the beginning of the Toolkit, to facilitate the use of the Toolkit as a standalone instrument by the Bank when advising countries. Ultimately, the Toolkit is envisaged as an instrument for government officials, procuring entities, aid agencies, and other stakeholders to operationalize and mainstream gender equality through public procurement.

The Practice Note is aligned, as far as possible, to the World Bank Group Gender Strategy (FY 2016-2021): Gender Equality, Poverty Reduction, and Inclusive Growth.

2. METHOD: DESK REVIEW AND ENGAGEMENT WITH STAKEHOLDERS

The study is based on a thorough literature review of existing work on gender and procurement with a special focus on women. Information was collected through the World Bank PROLAC unit, and through other sources external to the Bank, to give a full and comprehensive picture of the materials and resource available in this field.

The past decade has marked the recognition of the strategic role that public procurement can play to foster women's participation in the economy. This recognition has resulted in a proliferation of initiatives -i.e., new legislation and policy statements- and in the publication of new studies on gender and procurement supporting the idea that public procurement can be an effective policy tool to promote gender equality. The many initiatives implemented to support women's economic empowerment through public procurement have been carefully analyzed during the first part of the desk review with a view to build on the wealth of materials published in recent years -including legislation, recommendations, academic and NGOs studies, and other policy documents that have been examined during the desk review.

Particular attention was paid to studies that have examined the challenges faced by women led companies/business (WLC/WLB²) when accessing the public procurement marketplace, and those that explore the 'challenges and opportunities to empower women-led businesses (WLBs) in public procurement.' Careful consideration has also been paid to studies that focus on 'the wider challenges of shaping gender-responsive procurement (GRP) policies' and those that report on the experiences of entities and authorities that have implemented policies aimed at fostering gender equality and procurement in practice.³

An attempt to include in the review studies that based their analysis on data on gender and procurement was also made, but the availability of such studies is scarce. The desk review has revealed that with the exception of one interesting study,⁴ focused exclusively on the analysis



of data on gender and procurement in the European Union, the vast majority of the studies consulted do not include significant analysis of data on gender and procurement. This is because the availability of such data is limited since governments and procurement institutions tend not to collect gender-disaggregated data. Indeed, the literature review has revealed, there is a great need to strengthen the collection of gender-disaggregated data worldwide. This is undoubtedly a first important finding that emerges from the desk review. The merit of studies based on data analysis is linked to the possibility these studies give to formulate specific and targeted recommendations, to identify sectors that should be prioritized and where major efforts are needed. It would therefore be beneficial to promote the collection of gender disaggregated data more widely and the publications of studies based on those data.

Once the initial desk review was completed, interviews with interested stakeholders were conducted. Participants to the interviews included representatives of women's groups and civil society associations, government officials, and procurement practitioners operating in Latin America. Several stakeholders were interviewed during two workshops held in December. Individuals and organizations consulted included procurement officials in Latin American countries, experts in procurement and gender, and advocates from women's groups and associations. Consultation with stakeholders was aimed at establishing a baseline of current practices and initiatives to understand whether and how gender-specific requirements are already included in some tenders.

It emerged clearly from the consultation and the desk review that a broad notion of gender-responsive procurement needs to be embraced to fully understand the multilayered effects and impact of public procurement on gender equality. It also emerged clearly that careful attention to intersectionality was regarded as important to properly account for the different experiences of all women. Thus, whenever possible, this Guide includes considerations related to intersectionality, explaining the importance of understanding the different barriers women face because of other characteristics they experience such as race, social class, religion disability, migration status etc. However, limited data and information are available on some intersectionality aspects such as social conditions, race, religion and therefore it is difficult at this stage to design policies that fully take intersectionality into account at this first stage of the guide. Going forward it is envisaged that gender disaggregated data should also include information linked to other intersectionality elements to be able to better protect all women.

Finally, and following recent work on facilitating women's economic engagement and empowerment (especially work focused on digital financial instruments⁵) it was felt necessary to include in the analysis -and in the Toolkit- an explicit mention to the economic, social and institutional structural barriers -including the 'human capital factors and the social norms' that perpetuates gender inequalities. Such a holistic approach is necessary to ensure that the tools identified to incentivizing women's participation in and engagement with the public procurement cycle will benefit all women and all aspects of women's lives, with positive repercussions on human capital, social inclusion and agency. To this effect, whenever possible and relevant, reference has been made to the specific work of the LAC Gender Innovation Lab. The Bank LAC country gender scorecard was used as a baseline to identify red flags linked within the country economy that go beyond procurement. This was done to identify the institutional and structural barrier that exist in each country to identify factors of higher risk, is important to draft actions help mitigate those risks.

Limitations

First, it is important to note that gender is a broad, non-binary concept that transcends biological and sexual differences between men and women, including different identities, perceptions, and expressions. Comprehensive gender procurement policies should strive to move beyond a binary vision and binary construct of Gender identity to remove the additional obstacles, biases, and barriers that non-binary and trans people suffer in the workplace. However, data is very limited in this area and further work is needed to understand the impact and effects that procurement policies could have for non-binary and trans people and to formulate policies that adhere to a broader and more comprehensive notion of Gender protecting the rights of trans people to work and exercise economic activities without fear of abuse and harm and without discrimination.

Finally, the concepts of Women Owned/Women Led Companies/Business are often employed in discourses about gender and procurement, however there is no universally accepted definition of a woman owned and women-led company/business and therefore comparisons within and between countries are difficult and often unsatisfactory. It is therefore always important (for Bank staff and for any procurement official approaching this topic) to pay attention to national definitions of women-led/women-owned companies/businesses and to make sure such definitions are satisfactory. Traditional definitions of Women Owned Companies/Businesses (WOC/WOB) and Women Led Companies/Businesses (WLC/WLB) focus on ownership and control of a company and usually consider WOC/WOB all those companies owned by women by at least 51%, and WLC/WLB all companies controlled and managed by women by at least 51% (by control it is usually meant that women are CEO or members of administrative board.)⁶ However, no consolidated and universal definition exists so a country-by-country approach needs to be endorsed. Most importantly, procurement officials should be alert to the risk of 'tokenism and abusive use of the definition'. Many studies show that this has been a problem in some countries (see for instance the example of South Africa but also the USA in relation to SMEs).

3. WHY USING PROCUREMENT AS A GENDER EQUALITY TOOL?

3.1. Introduction

Public procurement accounts for around 15% of GDP in most countries. In 2021, it totaled over 13 trillion Dollars worldwide. In Latin American countries, more than 450 billion dollars were spent in procurement in 2017, with procurement accounting for over 29% of government budget. The government and its entities are key market agents -they regulate the market, and they influence demand and supply through their purchasing power. With such a strong market power, public procurement is now widely recognized as a strategic policy tool to achieve a multiplicity of economic, social and environmental goals, beyond the mere acquisition of the goods and services necessary to governments and government entities to fulfil their functions.⁷ The purchasing power of governments as big or mega buyers and their unique and unilateral power to regulate the public marketplace, make of public procurement a strategic tool to leverage innovation and support the achievement of broad social, environmental and economic goals.⁸ Indeed there is agreement in the literature and between policy makers that it is no longer possible to measure the efficiency of procurement systems in terms of economic gains only⁹ and that instead it is necessary to look at the broader goals that policymakers can achieve through public procurement and the impact that public purchases have on ALL citizens, no one excluded.¹⁰ As Ruiz argues it is important to look at public procurement as a means for improving the 'quality of life of those who are included in development'¹¹ so that, to use the UN motto, 'no-one is left behind.'

Historically, the idea of mainstreaming a gender perspective into different policies and programs, with a view to promoting gender equality, dates back to the late '90s within the context of development policies.¹² The Beijing Platform for Action states: '*... the United Nations system and all other relevant organizations should promote an active and visible policy of mainstreaming a gender perspective, inter alia, in the monitoring and evaluation of all policies and programmes.*' (UN Institutional Mechanisms, 1995, para. 292). For some international institutions (and arguably also for the Bank) mainstreaming a gender approach throughout their policies and programs (including procurement) is more than just an optional undertaking, it is a necessity and a commitment.¹³

The endorsement of Agenda 2030 and the adoption of the Sustainable Development Goals (SDGs)¹⁴ have further consolidated the recognition of public procurement as an essential instrument for sustainable development. In many countries and for many international institutions Sustainable Public Procurement (SPP) is now a clear policy goal. Latin American countries have been implementing SPP for a long time 'with different types of strategies and results.'¹⁵

It is as part of the sustainable development agenda that great attention has been paid to the strategic role that public procurement could play to advance gender equality. Indeed, public procurement is key to obtaining ALL the SDGs, including SDG 5 linked to fostering gender equality.¹⁶ For example by facilitating women's access to economic activities and leveraging better working conditions for women.

Gender inequality remains high in all countries. Despite women often being more qualified than men they continue to be paid less, be less represented in powerful positions within companies and within the state (with a limited number of women accessing high political and public offices). They tend to work more in the informal economy and continue to be paid the highest share of unpaid reproductive work. Too often they continue to be targets of discrimination in the workplace and of gender-based violence. The pandemic of COVID-19 has also shown that women are also more vulnerable to shocks, bearing the hardest costs of the economic and social damages that it has caused.

Through the provisions of public goods and services contracting authorities can affect the wellbeing of people in their countries and can affect the power imbalances that exist within communities. For example governments and public buyers can help women's economic and social agency by supporting female entrepreneurial initiatives and improve women's working conditions in companies that supply for the state, and they can also improve women's quality of lives -and the very possibility that they are able to take up economic activities- by targeting the provision of public services and goods to specific women needs and conditions. Conversely, ignoring and neglecting the specific gender impact that public procurement has on women risks entrenching inequalities within economy and society.

As already argued by many in the literature, empowering women through procurement is a top priority for most Latin American countries and a vital part of the strategies to alleviate poverty. Some countries in Latin America have made significant progress on the issue of gender and procurement. For instance, Chile,¹⁷ Argentina,¹⁸ Colombia,¹⁹ and the Dominican Republic.²⁰

In Chile for example, the central purchasing body, namely ChileCompra, provides training and mentorship for women-led companies to increase their participation in the public marketplace. They also provide guidelines to include gender considerations and gender- specific evaluation criteria in the tendering process, and have a certification system in place (Sello Empresa Mujer) that certifies female enterprises. As reported by the OECD such initiatives have resulted in an increase of women-owned companies' participation in the public marketplace, which has reached now 45% of the total procurement transactions.²¹

Importantly, Argentina has recently published guidelines on 'Gender Perspective in Public Contracting in Argentina'²² which takes a broad approach to gender. Art. 10 of law 27.636/2021 – 'the priority in State contracting' - foresees that 'the national State must prioritize, at the same cost and in the manner established by regulation, purchases of materials and supplies from legal or human persons in the private sphere that include transvestites, transsexuals and transgender people in their workforce.'²³ This remarkable and innovative initiative is a first attempt to embrace a broader vision of gender.

However, these initiatives remain still very isolated. Furthermore, they tend to look at specific aspects of the procurement process, focusing on one or two actions, rather than looking holistically at the procurement system and at the whole procurement cycle. In addition, despite some countries have in place policies to promote gender equality through procurement, there still exists a significant implementation gap.²⁴ This gap is due to a multiplicity of factors, ranging from lack of capacity and guidance for procurement practitioners and business companies, to unclear or too fragmented- political will to use procurement strategically.

3.2. Rationales for adopting a gender lens to procurement

Economists and business analysts have long pointed to the enormous economic and social benefits of including and encouraging women's participation within the economy (both as entrepreneurs and within the workforce.²⁵) Benefits are to be accrued not only in economic terms but also in terms of women's agency, improvement in human capital and transformation of social norms.²⁶ Notably, promoting gender equality is regarded as "smart economics" and public procurement has a pivotal role to play to this effect.²⁷ Yet despite the recognized benefits of supporting women entrepreneurial initiatives, it is estimated that only 'one percent of corporate spending goes to women-owned around the world.'²⁸ However it is important to note from the outset that promoting gender equality through public procurement is not just about enhanced women's participation in the public marketplace but it is about embracing an holistic approach to procurement that allows understanding the many different ways in which procurement *affects* women's lives.²⁹ First and foremost one has to recognize that procurement is NOT gender neutral and 'gender-blind procurement' can damage and compromise gender equality, 'exacerbating inequalities'³⁰ and, in some instances, causing harm to women.³¹ For example by further entrenching inequalities within the economy, with public contracts awarded predominantly to male-owned companies. Furthermore, when harm is caused to women, 'gender-blind' procurement can lead to the economic, legal and political responsibility of the contracting authority or the funder of the project. For example, in the case of gender-based violence perpetrated by procurement contractors or committed within the contractor's company against female employees the procurement entity and, in the case of development aid projects, the aid funder can be found responsible for the harm caused, leading to financial and reputational losses. Hence, 'gender blind' procurement can lead to financial and political responsibilities for the public entity and for aid donors. Therefore, adopting a solid gender strategy throughout the procurement process will help minimize risks and responsibilities for public buyers and aid agencies alike. The Bank for instance has adopted a strict and thorough anti-gender-based policy to all works procurements, whose procurement process is initiated after January 1, 2021, under Projects assessed as high-risk of SEA/SH that apply Standard Procurement Documents (SPDs) (based on FIDIC General Conditions). The BANK's new measures on Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) (SEA/SH) hold Contractors and Sub-contractors accountable for implementing the SEA/SH prevention and response obligations in their contracts. 'If the Contractor/Sub-contractor does not comply with their SEA/SH prevention and response obligations they are disqualified from being awarded a Bank-financed contract for a period of 2 years.'³²

Yet preventing harm is not enough. A holistic approach to gender equality and to understanding the potential impact that procurement could have to further promote and ensure gender equality one should consider the implications public procurement can have on both the demand and the supply side of the goods/services/works purchased by contracting authorities.³³

On the demand side women are users of goods, services, and works purchased by contracting authorities, therefore what (and how) goods and services are purchased will affect women's enjoyment of those goods/services. Any worsening of the conditions of the provision of those goods/services will directly impact women's wellbeing and might compromise women's capacity to participate in economic activities³⁴ (for example affecting whether they can work full time or even to work at all). This is evident for example in instances linked to the availability of childcare facilities such as nurseries or school's feeding programs. The reduction or worsening of these services will directly affect women's capacities to take up full and part-time

employment given that women tend to be primary carers for children and bear the greatest share of unpaid reproductive work. Hence, decisions on budget -and especially of budget cuts- or decisions on outsourcing or the privatization of public services and public goods need to take into account the effects that they have on women as beneficiaries and users of those services.³⁵

As regards the supply side, public purchasers can promote and support women entrepreneurship initiatives by offering economic opportunities to women owned and women led companies that can source goods and services for the State, or they can act as a lever to improve the working conditions in suppliers' companies -this is especially relevant in sectors where the majority of the workforce are women (for example the health sector where 76% nurses and social care workers are women). Procurement can help increase the presence of women in sectors where women are not traditionally present and can diversify women's employment by requiring companies that supply the State to employ minimum percentages of women within their workforce. Through public procurement contracting authorities can also promote better working conditions for women employees and can even promote women's presence in non-traditional sectors (for example a recent legislative initiative in Italy encourages women's participation in male-dominated sectors by granting proportionately greater point preferences to companies that employ women in male-dominated sectors -or sectors where women are traditionally underrepresented). For example, it has been reported that a Colombian project supported by the WB in 2019 in the construction and infrastructure sectors (traditionally a male-dominated economic sector) has helped generate an increase of ten percentage points in women's participation in civil works and an improvement in equal pay conditions (women workforce participation increased from 4-6% to 15% after implementation³⁶)

In sum, the way funds are allocated, budgets are designed, procurements are planned, specifications are drafted, contracts are awarded, can affect women's wellness as beneficiaries of the public service/goods purchased, their capacity to access and benefit from the economic opportunities presented by the public marketplace, and the working conditions to which they are subjected when contracting with the state. Importantly

Finally, using procurement to promote gender equality has become a necessity in the wake of COVID-19. The pandemic has had terrible negative effects for women and in many countries; it has meant significant set-backs in terms of gender equality -leading to the decline of the equality gains made in the past decade, including in terms of female economic participation. Women's unpaid reproductive work has increased exponentially during the pandemic making them less likely to pursue an economic activity and consequently making them more vulnerable and more subjective to their partners. In Latin America and the Caribbean, for instance, women were 44% more likely than men to lose their job and the regional unemployment rate increased by 25 for women.³⁷ Negative were also the effects in terms of women safety and wellbeing, with cases of domestic violence increasing globally during the pandemic to 243 million in total, with the highest rates in Latin America and the Caribbean. Hence the state, government, national and international institutions have to employ all the available means and use all their resources, including public procurement, to help offset the negative consequences the pandemic has had on women. In Queensland, Australia, for example, public procurement proactively addressed gender-based violence by requiring contractors to commit to raise awareness of domestic and family violence through workplace initiatives and requesting contractors to provide support for employees who might be victims of domestic violence. Additionally, contractual clauses allow the contracting authority to reasonably request supplier to remove any personnel guilty of gender-based violence.

4. GENDER-DISAGGREGATED DATA AND THE RISE OF DIGITAL TOOLS

The rise of e-procurement and the transition of most countries to publishing more transparent and more accountable data can provide an opportunity for mainstreaming gender equality through procurement.³⁸ E-procurement and the availability of open data is important for achieving a multiplicity of objectives such as enhancing transparency, accountability, fighting corruption etc. and many countries have now embraced e-procurement and comply with the principle of open data standards. Yet, as the vast majority of the studies consulted report, the availability of such data is still problematic especially in relation to gender-disaggregated data. In this respect, even though the International Open Data Charter recommends disaggregating data by sex gender disaggregated data remains scarce, incomplete, and limited. Even when exception exists and gender disaggregated data is collected, they tend not to comply with the Open Contracting Charter hence compromising the quality of such data, their widespread availability and use.

Some Latin American countries have collecting gender-disaggregated data, however this is not yet done at all levels and in most cases, data do not comply with the Open Contracting Charter. For instance, the Dominican Republic marks the companies led by women and whose employees are for the vast majority women.³⁹ Other countries use certificates to identify WLB, inserting the info thereby obtained into their datasets (this is for instance the experience of Chile and Argentina, and the city of Buenos Aires, who have implemented the Sello Empresa Mujer initiative).

Similarly, and because of the lack of available data, very few studies base their analysis on gender-disaggregated data.⁴⁰ The only exception being a study financed by the EBRD, by Fazekas M. et al. Gender in European Public Procurement. While, this report is useful because it allows to identify specific sectors and regions where wider gaps exist in terms of participation of WLC into the public marketplace, and allows to formulate targeted policies based on actual data rather than based on perception and stereotypical assumptions about countries, its results remain limited because of the regional focus of the study (the EU only) and because it uses only macro data based on EU tenders -and therefore only major EU contracts, i.e. those that go above the EU threshold. This laudable initiative therefore needs to be complemented with further studies and further data where the experiences of WLC/WOC in lower thresholds contracts is analysed and where other aspects of the gender-impact of procurement procedures are taken into account (see infra about impact of purchase on beneficiaries of goods, on employee of public contractors etc).

The literature is unanimous in affirming that 'in order to analyze women's participation in public procurement, we need high-quality data that tells us where and how women position themselves in that market⁴¹, whether they take advantage of public contracts opportunities and how they are affected by such contracts.

The absence of gender disaggregated data and of studies that are based on accurate data limit the possibility to formulate targeted policies, specific for each sector and country. This in turn will mean that the actions designed will be less effective. The publication and analysis of accurate data could help policy makers and procurement officials better understand the market and devise targeted strategies for mainstreaming gender equality through procurement. For instance, data can be used to identify priority sectors where there is an urgency for improving working conditions, or where instead it is more pressing to support WOB and WLB. In conclusion, data remain scarce and opaque. More should be done to make the most of the rise of digital tools.

A note of caution: Most of the studies consulted focus on the necessity to collect gender-disaggregated data on who wins procurement tenders.

However, collecting data only on who wins contracts does not really suffice and does not provide an adequate indication of where the problems lie and what can be done to overcome them.⁴² For example just looking at gender-disaggregated data on companies winning public contracts would not provide indications about whether the absence of women winning procurement contracts is linked to obstacles in participating in tenders (complicated process, not sufficiently advertised etc.) or their inability to win contracts (i.e. due for instance to the inability to meet qualification requirements, meet contract conditions, financial guarantees etc.) or simply whether this is due to the scarce presence of WOC and WLC in the market. As further suggested in section III it is important to collect gender disaggregated data on:



According to the results, targeted policies will be designed to close the existing gaps. As suggested in Part II, the actions need to be linked to specific objectives. For instance, if the objective is to increase women's participation in male-dominated sectors, specific criteria will need to be designed to facilitate the achievement of this objective by setting aside contracts for WLC and WOC -or by requiring companies to employ a certain percentage of women within their workforce. This could be achieved by giving point/price preferences to companies who employ a set percentage of women or by including such requirements within the contract conditions. But we need to understand first and foremost the market composition to understand what procurement actions are necessary.

Hence the first data (1) allow us to understand if the lack (or limited) success of women owned or women led businesses in winning government contracts is due and linked to the general market being predominately male dominated (for example in the construction sector there could be only very few WOC and WLC participating and winning public contracts, because more generally in the sector there are very few WLC and WOC. or whether instead it is something linked to the public marketplace, i.e., despite there being an adequate number of WLC and WOC in a specific sector, they do not win/participate to public tenders. This lack of success in winning tenders could be do to various reasons, for instance because of specific barriers that exist or are perceived as existing in procurement tenders.

By collecting data on 2 -participation to tender- and 3 -award of tenders- it is possible to understand if the fact that a low number of tenders is awarded to WLC or WOC is due to lack of participation in government tenders or whether instead it is related to inferior performance when compared to men-led and men-owned companies. If the issue is one of performance rather than participation targeted strategies could be devised to strengthen capacity to win contracts. If the problem is one of participation, then we need to focus on increasing participation via broader and better publication of tenders, longer timeframes for submission etc. If instead the data revealed that the problem is with the market -low numbers of women businesses in the market overall- then more needs to be done to encourage women participation in the market -provide for instance for set asides or give greater price preferences in sectors where women are not present.

An interesting example in this respect is provided by the Italian Guidelines on gender and procurement recently enacted which foresee an increase of the percentage point of the price preference according to whether the sector where female participation is increased is a male-dominated sector or not.

5. OBSTACLES, BARRIERS AND TARGETED ACTIONS

The literature is vast on the obstacles women face to accessing economic opportunities in general and the public marketplace in particular. As highlighted by the WGDG initiative, women's success as entrepreneurs is linked to women's 'access to finance, access to markets, networks, and mentors⁴³' but also to social, institutional and family constructs. Too often social, economic, and institutional structural barriers undermine women's entrepreneurial aspirations, limit women's opportunities and their capacity to be active economic actors on equal terms with men. For example difficulties in accessing credit, lack of networks and mentorship, power imbalance within the family and society etc. While such factors go beyond the procurement cycle and procurement alone cannot certainly suffice to remove such barriers, they do affect significantly women's capacity to meet many of the requirements necessary to participate in tender opportunities and many are the studies that report examples of general challenges that impact on the procurement process. For example, the OECD notes that According to the International Finance Corporation, 70% of women-owned MSMEs in developing countries are unserved or underserved by financial institutions. Since WLBs have limited access to finance, they struggle to grow in size and capacity, limiting their possibility to tender for bigger contracts. This also impacts their ability to dedicate time to engage in lengthy tendering processes and absorb the shocks of delayed payments.⁴⁴



It is therefore necessary to devise procurement strategies that help alleviate some of the negative impact of those barriers. Conversely, if procurement is 'gender blind' – and a gender lens is not adopted when devising procurement policies- we risk increasing those barriers and widening the gender-gap. delete 'exacerbate inequalities' For example, by providing business opportunities to men alone procurement authorities risk undermining women's economic efforts entrenching even further women's subjugation to the male authority within society and within the family.

Thus, while it is necessary to concede that the impact of actions taken at the procurement level alone will not suffice to fully empower women unless more radical work is done to abolish those institutional, economic and societal structural barriers that still subjugate women to men, identifying and increasing awareness of such barriers allow to devise targeted actions that enable the use of public procurement as a leverage to mitigate, and minimize some of the risks and negative effects linked to those barriers. For example, contract conditions can be inserted within public contracts to require equal pay, non-discrimination etc. Conversely, as already explained, gender neutral procurement risk exacerbating such barriers.

Further, while these obstacles are not directly linked or caused by the procurement process, they might nonetheless affect the procurement process both directly and indirectly. For example, because women tend to do most of the unpaid reproductive work, they might have less time to bid for procurement opportunities and therefore officials need to be mindful of when they set tenders deadline -ensuring for instance that deadlines for the submission of bids or tender documents are set on the basis of full working days rather than calendar days that include weekends or holidays. Similarly, procurement officials should avoid setting deadlines that fall soon after festivities to ensure that women are not disadvantaged. Such requirements to consider full calendar days should be embedded into laws and regulations and not left to the interpretation, or discretion of procurement officials. (at the moment procurement laws are focused on setting minimum and maximum timeframes (and days) between publication and submission of tenders but they do not tend to specify any obligation linked to working days/weekends and festivities).

Another example is linked to how the structural social constraints often condition procurement officials, leading to a biased decision-making process -something that can be especially dangerous when officials have a right to exercise discretion. For example, recent studies have revealed that 'perceptions that women have greater unpaid care work responsibilities may also potentially bias the bidding process.'⁴⁵ Arguably, this sort of bias might end up conditioning the process more when officials can exercise a higher level of discretion -and therefore people are more prone to unconscious biases linked to old-fashioned and stereotypical views of women. For example, when procurement officials can use negotiated procedures.

The literature has also emphasized that there are also specific obstacles created by the many complexities associated with the procurement process, namely burdensome procedures, complex specification and qualification requirements, delayed payments. The limited -and often biased- capacities of procurement officials can also be an obstacle to women access to procurement opportunities. Hence below in the toolkit actions are suggested for governments and other institutions (such as the Bank) to address the challenges linked to the public management framework and the complexities of the procurement cycle.

For example, it is noteworthy that women are worse than men at negotiating favorable conditions and therefore procedures that involve negotiations or dialogue between supplier and officials might end up disadvantaging women. This is not to say that such procedures should not be used but that careful attention should be paid, and training provided, to both officials and suppliers to ensure that unconscious bias does not condition officials' decisions and to enhance women skills to ensure they are good at negotiating with officials.

Such structural problems need to be addressed through holistic and multifaceted policies. The Toolkit refers to some of these barriers with a view to identify strategies that can mitigate these adverse factors. Procurement can and should be used to help overcome those barriers. In this respect procurement offers an opportunity to overcome institutional inertia to more radical changes but most importantly inaction is not an option, because inaction means contributing to increasing those barriers.

Recognizing and removing these structural and endemic (even unconscious) factors is essential, and the Bank and its staff have a great role to play in this respect. Importantly, strategies need to be gender specific and need to reflect the reality of the market and of the country where they are implemented. This is why the Toolkit starts with an exhortation to adopt a case by case, and a country-by-country approach to gender and procurement.

Part II.

A Toolkit to Mainstream Gender Equality Through Public Procurement

Gender mainstreaming is the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies, at all levels and at all stages, by the actors normally involved in policymaking.

the Council of Europe, 1998, EG-S-MS (98) 2rev.: 15

PRELIMINARY CONSIDERATIONS: HOW TO USE THIS TOOLKIT

This Toolkit helps devise targeted actions to mainstream gender equality within clients' procurement systems and within the Bank's financed projects. It looks at different aspects that affect and influence how public procurement can help enhance gender equality endorsing a holistic approach to the actions that can be used to promote gender equality. Throughout, the Toolkit emphasizes the importance of fully understanding the country in which the Bank operates before designing targeted gender and procurement actions. Multilevel actions are necessary to mainstream gender equality within the procurement system and the procurement cycle. This is why the Toolkit is divided into three main pillars: namely the legal and regulatory framework, the institutional structure, and the procurement cycle. Together, the three pillars aim at providing Bank staff with a comprehensive set of guidelines to ensure that beneficiary countries' procurement systems as a whole are geared towards promoting gender equality. The three pillars include a comprehensive set of actions that are aimed at leaving no gaps in the implementation of gender and procurement policies. They are grounded on the belief that procurement does not exist in a vacuum and that actions targeting the procurement cycle alone will have a limited impact. The first two pillars on the legal framework (general and specific to procurement) and on the institutional framework are considered necessary to complement the specific actions targeting the procurement cycle. In this respect the Toolkit can work both as a diagnostic and an implementation tool. It can help to perform an assessment of whether current procurement policies and practices are compliant with and respect gender equality principles, but it also offers guidance on how to implement gender and procurement policies by indicating actions to foster gender equality through procurement. Please note, the Toolkit complements and do not substitutes other methodologies.

However it is recognized that it won't always be possible -for lack of political will or financial resources- nor it will always be necessary -for example when the Bank implements specific projects- to act at all three levels. In fact, it is possible that often the Bank will feel sufficient to endorse actions that address the procurement cycle only. To this end Pillar III has been designed as a stand-alone tool that can be used by Bank staff when implementing specific project.

Whatever the level at which Bank staff is working, namely, whether to implement a specific project or to work with a client country as part of a general budget development assistance program, it is always important to fully understand the country's social and economic context, and the procurement market with a view to devising actions that are effective to implement gender-responsive procurement in practice. Importantly, the procurement cycle is intended to cover from the planning and budgeting phases to the contract execution and monitoring phases. Indicators to measure and track the actions' success are also proposed whenever relevant.

Throughout, whenever relevant, we have aimed at linking actions with a clear objective, a measurable target, and an indicator to monitor success. While it is recognized that countries and procurement entities often won't be able to provide data and information for all the criteria identified, the inclusions of such criteria was regarded necessary to start a dialogue on the possibility to initiate collecting such data and use them as a baseline from which to build, monitor and measure progress to create an inclusive procurement system.

Many are the studies and the legislative initiatives (including formal laws and official guidelines) that in recent years have been implemented advocating for a gendered approach to public procurement.⁴⁶ Some of these studies and initiatives have developed indicators to mainstream gender equality in procurement. Notably, the UN has included some gender-specific indicators within its general indicators for Sustainable procurement.⁴⁷

BOX 1. THE UN INDICATORS INCLUDE

- reserved procurement opportunities (lot, subcontract, or entire tender) open only to vendors qualifying as women-owned businesses, i.e., an entity at least 51% owned, managed and controlled by one or more women
- reserved minimum portion of contracted labour opportunities for women, e.g. Ssas and individual contractors
- apply price/margin preference or mechanism to award points to gender-responsive vendors during evaluation
- requirement of bidders to demonstrate commitment to integrate gender mainstreaming in the project's approach and personnel structure.
- other

This Toolkit builds on the many studies and initiatives undertaken thus far on gender and procurement, providing detailed and comprehensive information on how to implement gender and procurement. It is inspired by and aligned with various international initiatives that have looked at empowering women through procurement and mainstreaming gender equality through public procurement, such as the UN women's empowering Principles.⁴⁸ It is important to note that this is a work in progress, and the PROLAC team is continually working to expand its application. The Toolkit takes a broad approach to gender and procurement. It looks at the legislative and institutional settings of the entity implementing the policy and advocates coordination between entities to ensure contracting authorities can exercise better leverage on the market to improve working conditions, business is not distorted and, ultimately the actions are more effective. This Toolkit also provides tools and mechanisms for measuring and monitoring progress.

The Toolkit followed the GROW model (Goal, Reality, Options, Will) and the identified steps, whenever possible, have been drafted following the SMART model⁴⁹ (Specific, Measurable, Agreed, Realistic, Time-bound). Importantly, and as already mentioned, it can't be emphasized enough that this is a work in progress, and the PROLAC team is continually working to expand its application.

Scope of gender and procurement

As amply explained in part I, when looking at gender and procurement a broad approach is necessary, looking at how procurement affects ALL women. To target the analysis, one could look at how procurement affects women as users/beneficiaries of the goods, works, and services purchased by the State⁵⁰ and how it affects 'women in the market.' In this latter regard (i.e., when looking at the supply side and the companies that 'do business with the state' and enter the public marketplace), two aspects need to be considered: the role of women as entrepreneurs (and so whether companies that supply goods/works/services to the State are



led or owned by women) and the role of women as employees of state suppliers.⁵¹ Indeed as emphasized by the UNDP and the UN Working Group on Business and Human Rights, the State, through its purchasing activities, can 'positively influence the working conditions of female employees and have a responsibility to set policies and conditions to address sexual harassment, gender-based violence, pregnancy- and maternity/paternity-based discrimination'⁵² etc. As explained elsewhere by this author, only such a broader vision of gender and procurement would allow creating an inclusive process that is beneficial to All women -rather than just those who manage to own or lead a company (the top 1%). Further, to be truly inclusive gender and procurement policies need to endorse an intersectionality approach, understanding that the different characteristics that women experience, such as age, race, religion, and social class, all affect how they are perceived and treated in the work environment and by contracting authorities.

Range of actions

The actions that can be put in place to mainstream a gender equality approach in procurement are manifold and they can be aimed at:

- preventing and stopping abuse and mitigate adverse effects
- make up/compensate the shortcomings of national legal framework and institutional apparatus (as regards the legal framework one can address the shortcoming of both the general legal framework than the framework specific to procurement)
- promote and encourage women's participation through affirmative actions throughout the procurement cycle

Implementation

As amply pointed out in the literature, it does not suffice for a country to have legislation and regulations that support gender equality; it is important to ensure that the gender equality framework is implemented. Therefore, the Bank should establish a system to verify that this is the case, seeking information from local experts and collecting data.

Pillar I.

*Understanding the country,
developing a policy strategy and an
adequate legislative framework*

1. UNDERSTANDING THE COUNTRY

The premise for any initiative aimed at fostering gender equality through public procurement should be to very carefully study the country and the role that women play in the economy to identify what barriers women face and how public procurement can help overcome them. It is only then possible to devise a strategy to mainstream gender equality through procurement. If such barriers are ignored, interventions by the Bank risk amplifying women's difficulties -for instance by strengthening the powers of those who are in favor of maintaining the status quo. The following indicators are therefore aimed at revealing problems within the country's general legal framework that might hamper women's access to business opportunities. Whenever possible, suggestions will be made on how to use procurement to 'fill the gender gap.'

The World Bank LAC country gender scorecard can be used as a baseline to identify red flags linked to institutional, social, and economic structural barriers that exist in different countries. While these barriers go beyond the procurement process, they pose serious risks to the success of any gender and procurement policy and need to be identified in advance to device adequate procurement actions to mitigate the damage that they cause. The success of gender and procurement policies rests on identifying such barriers and mitigating the damage they cause. Furthermore, when such barriers exist, the actions put in place by procurement -and by the Bank through its procurement projects and policies- can make a real difference in leveraging change.

BOX 2. THE CHILEAN EXAMPLE

Risk: barriers to gender equality

Chile does not have criminal penalties for sexual harassment in employment. It does not have a law mandating equal remuneration for work of equal value. The legal framework does not prohibit discrimination in access to credit.

Mitigating actions that could be put in place through procurement

The first two gaps could be addressed by the Bank by imposing contract conditions that foresee penalties for sexual harassment and that impose equal remuneration conditions, the third problem (no prohibition in discrimination in access to credit) can be addressed by eliminating bid guarantees and allowing advanced payments for WOC and WLC.

This was just an example, and each country is different, but I am sure it gives a vivid indication of how procurement can be used as an effective tool to overcome structural barriers to gender equality.

1.1. Country strategy for gender equality

Client countries should have a general strategy to tackle the discrimination women face in society and in the economy, and then should develop a specific procurement-focused strategy to implement gender equality through procurement. Procurement does not exist in a vacuum; hence it is essential to coordinate the procurement actions with broader gender mainstreaming efforts the country is implementing. This will also ensure that the actions envisaged through procurement fit well within the country's general strategy. Hence the first step is to assess whether the country has adopted a coherent general strategy to support and foster gender equality⁵³. Procurement actions need to be aligned to the country's more comprehensive gender strategy.

1.2. General gender equality framework (beyond procurement)

For every country it is important to ensure that the general legal framework -for example on access to finance, on employment etc. is align to general equality principles and to international obligations. For example it would be good to assess if laws and regulations on access to finance and property are based on equality between men and women (Men and women have equal access to finance and properties) and if laws and regulations prevent discrimination against women and punish gender violence in the workplace

As amply reported by the literature, in some countries, women face high barriers to access economic activities. For example, in some countries, women cannot access credit, cannot own land, cannot have a bank account, own property, inherit goods, etc. It is possible that in such countries, women do not undertake entrepreneurial activities, or those activities are significantly reduced. The Bank will need to take targeted actions to ensure the client country undertakes more radical changes to its legislative framework in these countries. Some countries have enacted gender equality codes (see, for example, the Italian gender equality code) to ensure essential and minimum gender equality principles within the general business and entrepreneurial environment.

BOX 3. EXAMPLES OF ACTIONS THAT COULD BE PUT IN PLACE

- **Action:** Map whether the country has anti-discrimination laws for financial, economic and employment law
- **Action:** Map whether the country has equal pay laws
- **Action:** Map whether the country has laws to prevent and punish violence against women in the workplace
- **Verify:** that the above framework is implemented.

From a procurement perspective, it is essential to know if such women face specific barriers linked to the general legislative framework because if such barriers exist measures can be put in place to mitigate the adverse effects of such barriers. For examples procurement measures could be linked to forfeiting bid guarantees for WOC and WLC companies, proactively using affirmative actions to reserve tenders to WO and WL companies only, etc. In these situations also, qualification criteria linked to financial capacities or financial guarantees need to be less stringent to take into account of the specific obstacles faced by women (it is possible that companies owned by women would not be meet such requirements)

Other examples of how an assessment of the general framework is vital from a procurement perspective as well would be, for instance, in cases where the client country has rules aimed at forbidding and preventing discrimination against women. When the country uses the national procurement law and carries out the project directly, the Bank can expect the country to use selection criteria that exclude contractors that have violated such laws. These anti-discrimination criteria can also be used as contract conditions to reinforce the non-discrimination obligations further and to ensure contracts can be terminated if the provisions are breached.

If the client country's legal framework does not provide for anti-discrimination laws, then the Bank needs to consider whether the national framework can be used, and even if so, Bank staff will need to make sure the tender criteria and the contract terms include anti-discrimination clauses -for example via contract conditions- foresee similar requirements- so that all contractors that provide goods and services for projects financed by the Bank abide to the principles of equal treatment and non-discrimination even when the client country does not have such a framework in place.

Non-discrimination obligations can (and arguably should) always be inserted by the Bank as contract conditions.

2. DEVELOPING A GENDER AND PROCUREMENT STRATEGY

One of the very first steps to mainstream gender equality through public procurement should be to develop a strong gender and procurement strategy. In order to develop an appropriate strategy, reference can be made to the GROW model -Goals, Reality, Options, Will.⁵⁴ The strategy should have clear objectives, should be linked to actions and targets that are measurable and time-bound. This would facilitate the monitoring of results and evaluation of success.

Crucially, when developing such a strategy, it is important to involve different stakeholders -from beneficiaries to procurement officials, women's groups, and business associations etc.

Finally, to develop a new strategy one should understand the REALITY of the (procurement market)- to identify obstacles, challenges, and possible options to address those challenges. In order to understand the REALITY, one needs to conduct market analysis sector by sector which must include the collection of data. At this point one needs to identify the OPTIONS available and select amongst those options what WILL be done. For example, if the data analysis show that there is a clear lack of participation of WLC/WOC in one specific sector, then it is possible to identify what actions are possible and select an action with clear and measurable targets that can be measured over time

The legislative, regulatory and policy framework then needs to be aligned to said strategy). Procurement entities are then expected to align their action to the strategy with a view to implementing said strategy. The strategy should be constantly assessed and reviewed to monitor its impact and look at ways for improving it. The strategy should comply with international and national obligations (so for example the Woman convention, the SDGs, constitutional laws etc.).

BOX 4. EXAMPLE: HOW TO APPLY THE GROW MODEL - GOALS, REALITY, OPTIONS, WILL

GOAL: MAINSTREAMING GENDER EQUALITY THROUGH PROCUREMENT

To understand **REALITY**: collect quantitative and qualitative to understand reality and devise strategy.

General Quantitative Data:

Starting from general country data

- A. Collect data on presence of WLC and WOC in the country's economy and in the public marketplace-in number and as a percentage by sector. It is important to collect data by sector and to distinguish between the market in general and the public marketplace in particular because this will help understand if the problem is general to the market or specific to doing business with the state and with contracting authorities. Once this data is collected it is possible to identify the **OPTIONS** and decide in what sector targeted affirmative actions such as price preferences or set asides would be most useful. For example, one could decide to give greater price preferences in sectors where women presence is especially low (for instance this option has been endorsed by Italy in its recent guidelines on gender and procurement). It is also important to distinguish the data by procurement entities because to identify whether some procurement entities are more able than other to engage with WLC/WOC. This last data will enable to understand if there is a specific problem.

- B. Identify Labor force participation, female (% of female population 15+) to understand in what sectors women are most present (or example, health, care, cleaning) and where they are less present -for example construction) Similarly as for A above, data specific to the public marketplace should be collected. NOTE: this data is very important both for identifying in what sectors women need most protection (and so where it would be most useful to define conditions of contract that aim at improving working conditions (equal pay, non-discrimination, anti-gender violence, maternity leave) but also to ensure that, where a service in this sector to be outsourced or externalized (through a PPP contract for instance) provisions are inserted to ensure employment conditions do not deteriorate. Identifying instead sectors where women are not present enable to insert conditions in the tender that favor contracts willing to employ more women.
- C. Identify in what sectors women are most reliant on public services as beneficiaries/users of the service. PLEASE NOTE This data is important when conducting the budget analysis if deciding for example to cut a public service that is most relied upon by women because this could have negative repercussions on gender equality. This could also be important if the quality of the service diminishes for example as a consequence of budget cuts or outsourcing –

A note on Procurement data

as explained in Part I of the Guide in regard to procurement data to Map presence of WLC and WOC in the country's procurement marketplace it is important collect gender disaggregated data on 1) the companies that participate to procurement tenders and 2) the companies that win procurement tenders -this is important to identify where capacities need to be built. In both instances data should be collected in number, and as a percentages of all contractors and should be distinguished by sector and procurement agency.

Collecting this data will be extremely important to create a baseline from which to monitor results and efficacy of reforms (if reforms are implemented).

Qualitative data

- Engage with women business association to identify major obstacles to access the economy

OPTIONS and

Once the data is collected an assessment needs to be conducted to identify the available **OPTIONS**: for example, affirmative actions such as set asides, or price preferences etc.

Amongst those **OPTIONS**, one should choose the action that **WILL** be adopted, together with measurable **TARGETS** that will enable to verify and monitoring the success of those actions. The data collected could be used as a baseline (for instance year 2022) from which to monitor results that can be reviewed over time.

The strategy needs to be reflected in the legislative and regulatory framework. It will need to be disseminated and communicated adequately and then needs to be implemented in practice through the procurement process.

3. PROCUREMENT LEGAL FRAMEWORK

Another important step is to assess whether the country has enacted laws and regulations to mainstream gender equality through procurement rules and to also look at whether these laws are anchored into greater constitutional principle. For example, some countries in Latin America have linked sustainable procurement policies -including those policies that promotes equality- to constitutional principles. This is the case of Brazil for instance where to include sustainability in the purchase objectives, Article 3 of Law 8,666/1993 indicates that *“The purpose of the tender is to ensure compliance with the constitutional principle of equality, the selection of the most advantageous proposal for the administration, and the promotion of sustainable national development and it shall be processed and judged strictly subject to the basic principles of legality, impartiality, morality, equality, publicity, administrative probity, engagement to the call, objective judgment and those that are correlative to it.”*⁵⁵ This is a good strategy because it entrenches sustainability -and gender equality- policies to higher constitutional principles, legitimizing on the basis of constitutional law the adoption of such policies.

As regards the procurement legal framework it is important to note that this should include primary and secondary rules and policy instruments such as legislation, regulations, policies, and manuals within the country’s procurement framework. Where gaps are identified, the Bank could then intervene to fill those gaps at the project contract level. Entrenching gender and procurement policies within higher constitutional principles would ensure greater legitimization of such policies and, arguably, also a smoother process of acceptance of said policies.

Policies aimed at supporting SMEs, rural farms, single-owned companies are also often seen as very helpful for supporting women.

3.1. The primary legislation

Importantly gender equality should be stated as a clear policy objective of the primary legal framework (for instance, this is the case in Italy where mainstreaming gender equality through procurement is a new and specific objective part of the procurement reforms linked to the Recovery and Resilience Plan -in this respect see Italian Law of 2021).

Example

The Dominican Republic through law 340-06 requires public institutions to ‘buy national’ and that entities should favor SMEs, especially those owned by women.

The primary legal framework should also indicate what types of actions are permitted to promote gender equality (i.e., affirmative⁵⁶, non-discrimination, anti-gender violence) via the procurement process and whether these actions are mandated or simply allowed (thus the legislation should distinguish between the mandatory actions and the facultative actions).

BOX 5. LEGAL FRAMEWORK CHECKLIST

- Gender equality is stated as a clear objective within the legislative procurement framework
- There are clear provisions on the inclusion of gender-specific criteria throughout the procurement process -planning, qualification, selection, award, and contract management (for more on this see the section on the procurement cycle)
- presence of affirmative actions
- presence of non-discrimination obligations
- clear indication of mandatory/non mandatory requirements

3.2. The secondary legislation: regulatory and policy framework

In most countries, the primary legislative framework is complemented by regulations, guidelines, toolkits, standard bidding documents. These documents should also include provisions on mainstreaming gender equality within the procurement process. Some countries have opted for issuing specific guidelines on how to foster gender equality through the procurement process -See In this respect, for instance, the Guidelines developed in 2021 by Italy.

Another **example** is Colombia <https://www.colombiacompra.gov.co> Colombia issued a Socially Responsible Public Purchasing Guide (Colombia Compra, 2018) which provides guidance and recommendations to the procurement units.

Such manuals, guidelines, and regulations are often necessary to operationalize the principles in the legislation, and their absence could signal that even if in principle, and via the legislation, the country supports gender equality and wants to promote it via procurement, in practice, procurement officials have no instruments to do so.

If such instruments exist, the Bank should build from them to strengthen capacity and devise targeted actions.

BOX 6. CHECKLIST

- Gender equality is mainstreamed through procurement guidelines, regulations, and/or manuals for procuring entities.
- At an advanced stage, the country would be able to demonstrate that they regularly update such manuals and regulations to incorporate 'Lessons learned'

3.3. Standard documents, contract conditions, and contract clauses

It is important to verify to what extent existing standard documents and contracts are used and the extent to which they include provisions linked to gender equality.

The MAPS methodology⁵⁷ (sustainability module) states that 'Contract clauses are generally the most appropriate stage in the procurement process to include social considerations'. This is especially true for considerations related to employment and labor conditions such as the obligation to recruit unemployed persons or persons with disabilities or to comply with fundamental human rights guaranteed by the ILO core conventions (prohibition of forced labor and child labor, right to freedom of association and collective bargaining, non-discrimination in terms of employment and occupation).'

This is equally true for gender equality provisions, and it is at this stage that conditions linked to non-discrimination, equal pay and anti-gender violence measures (and remedial actions) can be put in place to improve the working conditions of women employed by government contractors. (and women employed by contractors supplying goods/services/works for Bank-financed projects). It is at this stage that clauses could also be inserted to foresee remedies and contract termination clauses to rescind the contracts if the gender provisions indicated above are violated.



BOX 7. THE UK EXAMPLE: THE DEPARTMENT FOR INTERNATIONAL DEVELOPMENT

Notably, within the aid sector, the former UK department for international development (DFID) used a Suppliers' Code of Conduct (October 2017), applicable to suppliers receiving UK aid money through the Department for International Development (DFID). Namely the Supply Partner Code of Conduct,⁵⁸ and new procurement guidance, including a new *Procurement and Commercial Vision*⁵⁹ and the *Smart Rules: Better Programme Delivery*⁶⁰ to complement the normal principles and rules applicable to government procurement in general. More recently, a Supply Partner Compliance Guide has also been published.⁶¹ While these policy documents are not centered on gender equality per se, they include provisions that, by respecting HR in a clear and incisive manner, have a significant potential to help women. Such policy documents go a step further than any other measure on procurement adopted so far by the UK. The Code makes clear that 'DFID supply partners and their Sub-Contractors *act on behalf of government* and interact with citizens, public sector/third sector organizations and the private sector. These interactions must therefore meet the highest standards of ethical and professional behavior that upholds the reputation of government.'⁶² With the adoption of the Supply Partner Code of Conduct (the Code) DFID 'aims to create an inclusive culture of best practice.' All supply partners are required to adhere to the principles of the Code. Supply partners and their Sub-Contractors are required to 'understand any risks and have systems in place to manage them.' This Code forms part of DFID's standard contractual terms and conditions.⁶³ Full compliance with the code and annual verification via a signed declaration is mandatory for supply partners. A Central Compliance Team is also in place to look after 'the management of contractual supply partner compliance for live contracts, on an ongoing basis.'⁶⁴ The Compliance Team conducts initial reviews of suppliers' repeated on an annual or biannual basis, so-called 'spot check,' and ad hoc more intense reviews, so-called 'deep dives' on supply partners.⁶⁵ As argued elsewhere by this author 'this is certainly one of the most innovative and important features of DFID's new approach towards its suppliers that could have an enormous impact on respect of human rights standards by DFID suppliers.' 'DFID requires full delivery chain transparency from all supply partners. All delivery chain partners must adhere to wider HMG policy initiatives including ... (omissis) adhere to wider HMG policy initiatives including ... (omissis) adherence to human rights and modern slavery policies and support for economic growth in developing countries.' Prime contractors are required to ensure that 'the policies and practices of their delivery chain supply partners and affiliates are aligned to this Code.'

CHECKLIST PILLAR I. UNDERSTANDING THE COUNTRY

- 1. Country strategy for gender and procurement**
- 2. General legislative and regulatory framework (beyond procurement)**
 - 2.1. laws and regulations on access to finance and property are based on equality between men and women (Men and women have equal access to finance and properties)
 - 2.2. laws and regulations prevent discrimination against women and punish gender violence in the workplace
- 3. Procurement legal framework**
 - 3.1. The public procurement legal framework covers gender equality principles and foresees measures to mainstream gender equality
 - 3.2. the regulatory and policy framework applicable to procurement specifically addresses gender equality
 - 3.3. standard documents, contract conditions, and contract clauses

Pillar II.

*Institutional framework:
policies and structure⁶⁶*

1. INTRODUCTION: INSTITUTIONAL AND POLICY STRUCTURE AT COUNTRY LEVEL

Countries need to have a competent institutional system able to devise gender and procurement policies, providing adequate support to procurement entities and to companies.

The institutional framework can vary significantly between countries, and of course, no one model will fit all countries. Some countries have gender equality authorities who also deal with issuing guidelines on gender and procurement (this is the case recently in Italy); others might decide to assign specific gender competencies to the authority that generally deals with procurement (the case of ChileCompara in Chile). It is important to assign adequate funding and staffing to the institutional aspect of gender and procurement. In general, all procurement entities should have an institutional structure that enables it to implement the country's gender procurement policies. Below it will be detailed some of the characteristic this structure should have to effectively pursue gender and procurement policies. Having an adequate institutional structure is a pre-condition to improving the capacity of procurement entities and procurement officials. Discourses about enhancing capacity building are common within the procurement community but these are never associated with a thorough analysis of the institutional structure. As a result, programs are often fragmented and limited to a handful of individuals. If we want to improve capacity, we need to first look at the institutional structure to understand if it is apt to implement the policy and supports procurement officials.

Improving the capacity of procurement entities and procurement officials in order to use procurement as a strategic tool is a recurring theme within the literature. Similarly, this is the case for gender and procurement. The importance of mainstreaming gender equality through procurement needs to be understood as a key objective by all procurement officials. For too long, financial constraints and the association of efficient procurement with low prices have created a culture whereby only economic gains are recognized and pursued. Therefore, procurement officials need training to learn the value of gender-responsive procurement.

STEPS QUESTIONS TO ASK INCLUDE:

- Does the country have an entity set up to foster gender equality?
- Does the country have a separate entity to foster gender and procurement policies?

2. GENDER EQUALITY IS INTEGRATED AS A POLICY WITHIN THE PROCUREMENT ENTITY

A preliminary step for any entity -step zero- would be to ensure contracting authorities apply the principle of gender equality within its workforce. Can an institution discuss the setting, implementation, and monitoring of gender equality through procurement if the institution itself does not apply the principle it wants to foster? Can an organization that does not support gender equality really expect its suppliers to do so? Hence, the institution needs to start with a self-assessment to ensure gender equality is respected and fostered within the organization.

Hence step zero- should be for the institution to conduct a gender assessment and devise a gender strategy for the organization (in our case, the procurement unit) itself. Further actions could be taken such as collecting qualitative and quantitative data to see how the organization implements gender equality within its workforce. Although these steps are not directly linked to the procuring activities of the organization, they are crucial to understand the organizational culture, which in turn is bound to affect the organization's actions in practice

STEP 1. MAPPING POLICIES

- Map existing gender equality policies within the organization
- Indicator for measuring and monitoring

The next step is to establish whether there is an adequate structure within the organization to set, implement and monitor the equality strategy. The organization needs to act on different levels ensuring that the workforce is balanced from a gender perspective, well trained and well informed. After that it is important to map competences and make sure resources are allocated to train staff.

STEP INSTITUTIONAL AND ORGANIZATIONAL ASSESSMENT TO UNDERSTAND IF THE PROCUREMENT WORKFORCE IS GENDER-BALANCED

- collect gender-disaggregated data within the entity (of procurement strategic and operational units): do women work in these units? What positions and what level do they occupy?

Use the data to:

- a. Set gender equality targets at the strategic and operational level and
- b. start developing a baseline to monitor results and progress towards targets

Indicator for Measurement/monitoring: 100% policies mapped and catalogued. Although these steps are not directly linked to the procuring activities of the organization, they speak wonder about the organizational culture, which in turn is bound to affect the organization's actions in practice.

3. MAP AND DEVELOP GENDER EQUALITY COMPETENCIES WITHIN THE PROCUREMENT UNIT

STEPS COMPETENCES

- map existing competencies of individuals
- allocate financial support for mainstreaming gender equality and train staff
- organize seminars and events for staff development -including topics such as gender bias, direct and indirect discrimination
- Establishing a gender mainstreaming support structure and

Indicators for monitoring and Measurement: collect data on staff attendance to workshops and aim for 50% of staff to attend; this should be used as a baseline for future assessments collect feedback via evaluation forms about the usefulness of workshops and events by participants.

progressive increase of number of staff who have been trained and are qualified as a percentage of overall staff and overall companies **bidding** for contracts. Gradually achieve 100% **satisfaction** by participating to events

4. THE INSTITUTION HAS A STRATEGY FOR COMPLYING WITH GENDER EQUALITY POLICIES

Gender equality needs to be a clear objective at the institutional level as well -not just at the country level as per above Pillar 1.2 above. The institution needs to be aware of the gender equality challenges present in the market where it operates and needs to have a strategy for overcoming them. The institutional priorities need to comply with the legislative and regulatory framework.

STEPS IDENTIFY PRIORITY AREAS

- To assess gender equality impact of overall purchasing actions: questions need to include who operates in the sector (is it a sector where women are employed much? Who are the beneficiaries? Are women affected more than men as suppliers/beneficiaries?)

Assess Impact on: Women as users of services/beneficiaries of goods: are women using the service/goods the most -for instance, health, transport

Priority areas can include:

- Pay special attention to services that see women as 'addressee of measures,' for instance, women prison
- Women employed in at-risk sectors/categories that supply to the PP -for example, cleaning and health/caring services vast majority are women
- collecting gender-disaggregated data of the market in which the entity operates
- monitor participation of WLC and WOC for each sector in which the entity operates to create a baseline
- Engage with stakeholders
- Engage women's groups and national women and gender institutions in the process of developing, implementing, and updating procurement policies, plans, strategies, and action, as appropriate, at all levels. This is good for policy

Indicator for monitoring and measuring:

- all sectors where the organization operates assessed;
- priority areas and sectors identified and justified

5. AN INFORMED AND CAPABLE WORKFORCE

Policies and strategies need to be clearly communicated to the workforce so that everyone is aware of the strategic importance of gender equality for the institution.

STEP COMMUNICATION

- To communicate gender policies to staff and within the procurement unit
- Indicator for monitoring and measuring:
- all policies regularly communicated (ensure this is done frequently -every 3 months for example- to ensure new staff is informed)

6. COORDINATION BETWEEN AGENCIES AT THE NATIONAL LEVEL AND AT THE DONOR LEVEL (THE BANK WITH OTHER AID AGENCIES)

The power of coordination should never be underestimated, nor at national level -between procurement agencies- and at the international level -between donors. If procurement agents (national and international) work together towards the same goal -i.e., mainstreaming gender equality through procurement- they will have more leverage: with bigger purchasing power comes greater capacity to 'change' the market.

No entity acts in isolation in the market. Importantly, coordination between purchasing agents is also necessary to avoid market distortion and the risks that suppliers pick projects and purchasing agency on the basis of the criteria imposed and as to whether or not gender norms are to be respected.

STEPS COORDINATION BETWEEN AUTHORITIES AND AID AGENCIES

- identify which procurement entity and aid agency operates in the market. To strengthen coordination between contracting authorities and to avoid actions by one authority being undermined by another it is important to identify who else operates in one specific sector/market
- To collect data on which other procurement entities operate in which market to identify collaborators

CHECKLIST PILLAR II. INSTITUTIONAL FRAMEWORK: POLICIES AND STRUCTURE

- 1. institutional and policy structure at country level**
- 2. Gender equality is integrated as a policy within the procurement entity**
 - Sub-indicator 2.1. equal opportunities are promoted within the organization's personnel
- 3. The structure within the organization is adequate to devise, implement and monitor gender equality policies and strategies within its procurement activities**
 - 3.1. the procurement workforce is gender-balanced
 - 3.2. map and develop gender equality competencies within the procurement unit
- 4. The institution has a strategy for complying with gender equality policies**
 - 4.1 Identify priority areas
- 5. An informed and capable workforce**
 - 5.1 Policies and strategies need to be clearly communicated to the workforce
- 6. coordination between agencies at the national level and at the donor level (the Bank with other aid agencies)**
 - 6.1 coordination between authorities and aid agencies

Pillar III.

The Procurement Cycle

STAGE 1. STRATEGY, PLANNING, TRANSPARENCY

1.1. Gender strategy

As said in Pillar I and II developing a coherent strategy to implement gender equality through procurement is key for the success of any policy and any action. Similarly when one looks at the individual project, the first step for any procurement entity should be to develop a gender strategy for the specific project and to assess how that project fits within the general gender strategy of the entity and of the country. Similarly, to what has been said above the strategy of the procurement entity for the project should be constantly assessed and reviewed throughout the procurement cycle to monitor its impact and assess ways to improve it.

As explained above, the GROW model -Goals, Reality, Options, Will-⁶⁷ can be helpful in this respect. The strategy should have clear objectives which should be linked to actions and targets that are measurable and time bound. This is important to monitor results and evaluate success.

Procuring entities need to be aware of relevant national strategies, policies, and legislation and be able to adapt them to their own specific situation and the market in which they operate, understanding the challenges and opportunities presented in their specific field of operation.

Understanding the **Reality** of the market is a priority. To this end the entity needs to understand the impact of its purchase on the market (by sector) and on the users and beneficiaries of the public goods/services. This impact will vary depending on whether the entity is a small or a big entity (for instance, a central purchasing body that operates in many different sectors) it is important for the entity to understand 1) the suppliers' market and 2) the impact that the procurement will have on its users.

STEPS. STRATEGY

Questions to be asked:

- how does the project fit within the general equality strategy of the country and of the entity?
- What equality goals will the project help fulfil and how?
- What is the impact the project/procurement will have on its users? Are women most affected?
- What is the gender composition of the suppliers' market in that sector? WLC/WOC? Prevalence of men/women employed?

1.2. Planning

The planning phase is generally regarded as the most important stage for ensuring that inclusion policies are embedded within the procurement process. Planning and budgeting are the first stages of the procurement cycle. It is at this stage that one first must insert gender considerations. The gender considerations should be considered throughout the procurement lifecycle.

All the reports consulted concur that a gender forward-looking planning process better aligns the specific procurement process to the gender strategy. Below is an indication of the steps that the planning process should entail.

1.2.1. Budgeting

Applying a gender lens to budgeting is important to understand how expenditures (and cuts to such expenditures) affect women both as beneficiaries of goods/services purchased and as economic operators. Below -under the section on needs and digitalization- a list of data has been indicated that will help assess the impact of such expenditure. Such data can be used to understanding the impact of the purchase and identify potential risks. (please see below under identifying needs, impact and risks)

When it comes to budget a decision the entity needs to make is whether it wants to reserve a portion of the budget to WLC/WOC.

Example

In the Dominican Republic Public, as a result of Law 340-06, the Procurement Directorate, reserves a proportion of the budget (15%) for small and medium-sized enterprises such proportion can increase to 20% if the SMEs are women-owned businesses.

1.2.2. Needs assessment, impact, and risk of the purchase

It is at this stage that gender considerations need to be inserted and that needs need to be matched with objectives and objectives with actions -in the box below I will propose the questions the entity needs to ask and answer during this phase. The purpose of this first step is to understand whether and how what needs to be purchased aligns with gender equality, what repercussions there could be in terms of gender equality? what are the risks? what is the gender goal that the entity wants to pursue and how can it be achieved? (not all these questions will be relevant all the times of course. some purchases will be necessary and non-negotiable. For instance, if the entity is buying electricity for hospitals there will be no need to assess who the beneficiaries are.) similarly this assessment can be useful for Bank staff when planning where to donate aid and what project to fund. A list of data and information to collect is indicated in the table below. Such data and information can be used to understand the impact of the purchase and identify potential risks. Once impact and risk are identify the entity will be able to put in place mechanism to prevent and mitigate any adverse impact of the purchase.

Example

In Sweden, the Swedish Association of Local Authorities has developed checklists that can be used to assess the gender impacts of the planned purchase.

Austria requires an ex ante gender impact assessment for all major investments and procurement contracts.

STEP. ASSESSING NEEDS

Looking at what is required and what the entity needs, the entity needs to ask:

- Who will be impacted by the purchase?
- Is the purchase made in a sector where women are at risk of exploitation? Violence? Slavery?
- Where do resources come from? Does this purchase require financial cuts in other areas? Who will be affected by those cuts?
- **conduct market research to understand the supplier market and the user market for each planned purchase**

Collect data and information to understand the impact of the purchase on the market and its effects in terms of wellbeing and enjoyment of the public good/service for the beneficiaries (from a gender perspective)

Questions: The Market

- What sectors is impacted by the project? What is the gender composition of the sector in terms of suppliers?
- Collect available data on presence of WOC and WLC. Are there WOC/WLC in the sector impacted by the purchase?
- Collect gender disaggregated data on 1) the companies that participate to procurement tenders and 2) the companies that win procurement tenders - in both instances data should be collected in number, and as a percentages of all contractors
- Collect gender disaggregated data on the employment workforce of companies that WIN PP contracts. This is important given that contracting authorities can influence labor conditions for workers employed by suppliers.

Beneficiaries

- Who are the users/beneficiaries of the specific public good/service/work that is being financed? (i.e., are the major beneficiaries/users)
- How will the project impact the enjoyment of the service/goods by its beneficiaries?
- What measures have been put in place to mitigate the risks of potential worsening of the benefits accrued by the users of the service/goods purchased?

Rationale

This is aimed at understanding what is the gender balance in the market affected by the purchase in that specific sector. Is it a sector where men are mostly prevalent -for example construction- or is it a sector where women are mainly prevalent? Education, cleaning, health. **NOTE:** This information is important for a multiplicity of factors including for devising preferential point price systems at the award stage to devise a differentiated point award system according to the market-gender balance.

NOTE: it is important to seek data on both participation and success to be able to identify where capacity needs to be built and where obstacles lie. (for instance, if WOC/WLC do not participate at all to procurement contracts, then it will be necessary to do more to advertise procurement opportunities and to encourage engagement, if instead WOC/WLC participate to tender opportunities but they do not win contracts -or are less successful than men- then it will be important to identify why they are not successful and increase capacity)

Rationale: Collecting this data will be important to create a baseline from which to set objective and monitor whether such objectives have been achieved and whether the outcomes of the reforms have been fulfilled. This data is also important to understand how to exercise the entity's discretion within the margins left by the national strategy (in countries where a gender and procurement policy has been adopted procurement entities have wide margins of discretion for implementing specific policies such as price preference, qualification requirement etc.) hence gender data are useful to understand and devise strategies to exercise the said discretion.

Measurement indicator: the data collected can be used as baseline to set targets to monitor the success of the action take, for example an entity can set as a target to have 5%/10% increase in WOC/WLC participation to similar tender by xx (one or two years from when the new strategy is implemented). This will allow to see if the policies implemented have been successful. (Crucially, all indicators need to be measurable and timebound)

1.2.3. Premarket consultations

An inclusive procurement starts with an inclusive process. It is essential to engage with women's groups and suppliers in the pre-market consultations. Engage with women's business associations to identify major obstacles to access the economy. Facilitate the exchange of views and best practices

STEP. ENGAGE IN PRE-MARKET CONSULTATIONS

Will the market be able to meet your requirements? Is this what Women want? Women as users and as entrepreneurs?

To answer these questions, proceed to:

- **organize meetings for market consultations and/or**
- **send surveys for qualitative data collection:**

Measurement indicator: number of women that participate in pre-market consultation, collect numbers each year and set a percentage for increasing that number each year (for example, 5% each year)



1.2.4. Identifying best options

After assessment of the market, weigh options and identify the best option to achieve desired outcomes. For example, in terms of what procedure to use, how big the purchase can be etc. -proactively consider the impact of the different solutions on gender equality -for example, if a big purchase deters female participation consider dividing tender into lots. It is often recommended to ensure that at least 40% of public expenditure goes to SMEs from a gender perspective. This could be positive because women are more likely to lead or own SMEs. The reasons why this was emphasized as a separate indicator is because it is important for the authority to make a conscious effort -and to record such effort- to discuss the different options from a gender perspective, i.e., discuss and understand that some options will be more gender-friendly than others.

BOX 8. EXAMPLES OF POSSIBLE OPTIONS: CONSIDER INCLUSIVITY WHEN DECIDING THE SIZE OF THE CONTRACT

Women tend to own or lead SMEs companies rather than big companies; it is a consolidated stance in the literature that contract size matters when it comes to facilitating SMEs accession to the public marketplace. Facilitating SMEs is a way to facilitate female entrepreneurship endeavors as WOC and WLC tend to be SMEs companies. Hence considering whether it is possible to divide the contracts into lots is important to facilitate SMEs participation.

1.2.5. Preparation of tender documents

It is important to clearly define gender equality outcomes in the tender documents and contract conditions and this should be a central objective for this phase.

STEPS. USE INCLUSIVE GENDER LANGUAGE FOR DOCUMENTS

Chile Compra and Domica Republic are often cited as examples

1.3. Transparency and digitalization

From the outset, improving transparency and digitalization are key to make the tender more accessible and improve female participation. Enhancing transparency and digitalization need to be a conscious decision of the entity from the outset. Digitalization tools and the widening of digital tools can help improve transparency and facilitate access to tender opportunities for women. Simplified, digitalized and transparent procedures are widely recognized as key steps for encouraging female participation to the procurement process.

STEP. E-PROCUREMENT AND DIGITALIZATION

- **To digitalize the whole procurement process, using accessible technology. If the system is not ready, it is possible to start from specific procurement procedures to then extend and cover the whole system**

Indicator for monitoring and measuring: collect data on percentage of procurement procedures digitalized and set goal to increase said percentage each year

At this stage a conscious decision to start planning to collect and publishing sex-disaggregated data needs to be made (possibly including this as part of other online open contracting procurement systems.) As explained above, it is crucial to collect data on participation to tender not just on the award and to distinguish between modalities of tender procedures -open, restricted, negotiated (with 3/5 bidders) then check awards. Data on termination of tenders without completion need also to be collected, importantly gender disaggregated data on participation in incomplete tender (and whether women had participated) will allow understanding if there is a likelihood of more tender not being completed when women participate or in sector where there is a greater prevalence of WLC/WON. Further analysis of these data -for example through interviews- will then allow to understand what problems lie behind the fact that the tender is incomplete (for example because of lack of capacity to fulfil the tender requirements or instead procurement officials' gender biases).

STEPS DATA TO COLLECT

- To dedicate a specific web page outlining the number and amount of contracts won by women. Data should be provided in absolute terms but also in relative terms as a percentage of the total number of contracts awarded in a given year and of the total value.
- To distinguish data between small value contracts and more significant contracts
- To distinguish data by sector so to identify strengths and weaknesses within the market
- **Collect data on participation to tender -not just on the award- and distinguish between modalities of tender procedures -open, restricted, negotiated (with 3/5 bidders) then check awards**
- **Collect data on termination of tenders without completion and check if women had participated**

These data should form the baseline indicator from which to monitor annual incremental results and the effectiveness of the policies implemented

BOX 9. MEASUREMENT OF SUCCESS

The data collected can be used to create a baseline to then measure success. For example, by looking at whether there has been an increase in the number of companies participating, number of seminars delivered, number of women participating to tenders after attending a seminar. The entity should use the baseline to set goals and targets to be achieved as a result of the gender equality actions.

INDICATOR 1. MEMORANDUM OF SUB-INDICATORS

- 3.1. Needs assessment
- 3.2. premarket consultations
- Sub-indicator 3.3. identify best options
- 3.4. preparation of tender documents

STAGE 2. TENDERING

2.1. Tendering as an inclusive process

Please remember These criteria complement, and not substitute, all the other usual principles and requirements associated with the tendering process and commonly identified as best practices, nor do they substitute the Bank rules. Below I list additional requirements that, if implemented would render the procedure 'gender attentive' without compromising any other value of the procurement principles such as non-discrimination, equal treatment, fairness etc.

2.1.1. Communication, participation and outreach

Improving outreach and increasing participation to tender opportunities by gender responsive companies should be a primary objective for the contracting authority. We have already mentioned the importance of digitalization and transparency, this section aims at emphasizing the importance of 'spreading the news' of the tender, and proactively reaching out to WLC/WOC.

Example

Chile, provides clear and accessible information for women through various videos and guides published in the website.

STEP. IMPROVE OUTREACH AND PARTICIPATION

Communication and information:

- disseminate tender information widely in female outlets
- use gender-responsible language

Indicator for Monitoring: Assess current practices to create baseline set target to increase number of dissemination outlets progressively

2.1.2. Capacity building

Capacity building is often indicated as a key step of empowering women through procurement. The literature has evolved significantly in this respect, not only we look at capacity building of WLC/WOC which remains important but also improved capacity of suppliers to ensure they understand the importance of gender equality, the need to prevent violence in the workplace, increase female workforce and adopt gender responsible procurement policies should be a top priority. (Capacity building of procurement officials is also important but that has been emphasized under pillar 2)

Example

Argentina (and the city of Buenos Aires especially) provide good examples in this respect <https://comprar.gob.ar/> and <https://www.buenosairescompras.gob.ar/>.

Other examples include Dominican Republic, Buenos Aires, Colombia.

STEPS. ESTABLISH CAPACITY-BUILDING INITIATIVES

Deliverables: Workshops, webinars, videos on how to use websites and fill tender document -or generally on the procurement process (this is for instance the case of Chile Compra)

Steps

- Promote initiatives for capacity-building in leadership, negotiation and facilitation of negotiation
- Set up workshop with female suppliers
- Monitor frequency of workshops and uptake
- Collect feedback at each workshop to improve the service

Activities

- Facilitate the exchange of views and best practices
- measure number of women to participate in capacity building programs, collect numbers each year and aim to an increase of at least 5% each year
- Provide targeted training for women, for example on how to tender or how use digital technology.
- establish information points for each contracting authority/central purchasing body and monitor uptake of information by women

Make sure suppliers -not just women suppliers but all- are trained to support women and create gender responsible companies (above we said that contracting authorities need training, which is true, but also suppliers need training to ensure all companies are gender responsible and responsive)

Indicators for monitoring and measuring:

- Collect gender disaggregated data on participation to said capacity building events
- Collect feedbacks/Conduct surveys to assess usefulness of workshop
- Indicators to monitor success of action:
- increase number of participations by a set percentage each year (or by a well-defined period, two years, three years etc.)
- Increase number of female participation by each percentage each year -this should be proportional to the presence of women in the sector.

2.1.3. Notices

Foresee sufficient time between publication of notices and submission of bids. Ensure that the submission date DOES NOT fall on or on the day after a national Bank Holiday -such deadlines are bound to disadvantage women

2.1.4. Qualification Criteria -and disqualification mechanism

The qualification stage is an important step of the procurement process, it can be used to pursue gender equality policies -and to reinforce the application of gender equality laws and policies. They can be an enabler of participation or instead contribute to perpetuating exclusion.

This stage is crucial to render effective certain gender-equality legislation -such as equal pay, non-discrimination, anti-gender violence. Authorities can use the qualification stage to exclude suppliers that commit certain offences -for example that discriminate against women. Thus, it is at this stage that gender equality policies can be reinforced. However most legal system will impose clear limits on what grounds of exclusion can be admitted.

Most international and national legal framework allow contracting authorities to reject suppliers that have committed a criminal offence or breach of professional ethics.

Example

The BANK new policies on preventing Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) (SEA/SH) foresee that if the Contractor/Sub- contractor does not comply with their SEA/SH prevention and response obligations they are disqualified from being awarded a Bank-financed contract for a period of 2 years.

NOTE: as regards affirmative actions at the qualification stage, for example requiring the contractor to employ a certain percentage of women in their workforce, it will be often the case that the law that these criteria be linked to the subject matter of the contract/to what is being purchased (this is the case for instance under EU law). Hence it is advisable to follow this latter approach when there are no legal obligations to prevent so and when there is no legal binding requirement to restrict selection criteria to the subject matter of the contract.⁶⁸

BOX 10. SELECTION CRITERIA

gender responsive requirements can be included in the selection criteria. Importantly the selection criteria chosen needs to pursue specific objectives and these objectives need to be identified in advance by the authority. Thus, for example increasing women participation, addressing the pay-gap etc.

As explained above qualification and selection criteria can be constructed as enable of participation or, depending on how they are drafted, can further deepen exclusion. In the box below there is an example.

STEP. REDUCE THE AMOUNT OF BID GUARANTEE TO FACILITATE UPTAKE

- **financial statement for qualification of suppliers could be problematic** for women especially in countries where they do not have access to finance or bank accounts. To facilitate uptake by WOC/WLC **include alternative guarantee systems/work with banks to provide alternative fiduciary guarantees**

Below is a list of criteria that could be used during the various phases of the process -please note, the list is not exhaustive, and it has been drawn building from various reports consulted and examples of cases from countries that have adopted a gender equality approach to their procurement process.

STEPS

- Restrict participation to WOC and WLC (this could be limited through set aside to a percentage of the total contracts). For example, the USA reserves 5% of contracts to female companies -NOTE however this would be forbidden by most legal framework
- Use certification systems to identify WOC and WLC -however, read Part 2 in relation to 1) problem with the definition of what is a WOC and WLC and 2) risk of abuse and fraud
- Require evidence of use of gender responsible practices within the workforce system and adherence to women empowerment principles
- Require evidence of past experience or presence of internal mechanisms to deal with women issues linked and necessary to perform the contract (for example in sectors especially sensitive for women -like gender violence- this option for instance has been recommended by the EU Commission
- Subcontracting: facilitate subcontracting and the requirements for sub-contracting.
- Require that a percentage of the contract be sub-contracted to WOB -WLB
- Require that subcontractors also meet the criteria for responsible gender practices that you set for the main contractor -PLEASE NOTE when it comes to contract conditions make sure you insert due diligence obligations for main contractor to ensure subcontractors respect gender responsible practices (this is fundamental in relation to gender-based violence- non-discrimination etc.)
- Require companies of a certain size to have a gender equality plan (for example in Spain, all companies with more than 250 employees need to have an equality plan to access public contracts (see Public Procurement Law (Act . 9/2017))
- Require companies to submit equality pay certification (or otherwise prove they apply equal pay for equal job)

A note on registration systems: It has been reported in the literature that 'registration systems can act as a deterrent to women-owned businesses by being too costly, complicated or burdensome in general.'

2.1.5. Specifications

The needs identified in the planning stage are then translated into the technical specifications of the tender. All contractors must meet the specification. Specifications need to be accessible and inclusive.

STEPS SPECIFICATIONS

- goods and services purchased need to be adapted to women's needs and experiences-
- UNECE declaration of gender-responsive standards

2.1.6. Procurement methods

STEPS METHODS

- it is important to collect gender-disaggregated data on the linkages between the different procurement methods used and award of public contracts to understand if WLC and WOC have more chances of success when tenders are carried out using the open procedure, restricted procedures etc.
- it is well-known that women are worst affected by unconscious bias and have poor capacity to negotiate contracts. Therefore, the use of negotiated procedures might disadvantage WLC and WOC.
- Unconscious bias training should be offered to procurement officials when using negotiated procedures.
- Consider the possibility to use frameworks agreement and divide frameworks into lots to ensure that participation of SMEs and WLC/WOC is not discouraged by the size of the contract.

2.1.7. Evaluation and Award criteria

Inclusive evaluation and award criteria are very important to ensure gender equality objectives are promoted through the procurement process. In this respect some Latin American countries have made important progress. Some countries use set-aside successfully to promote participation of WLC/WOC. For example Korea, Isarel, the USA South Africa. For example in the USA the buy America act requires 23% of contracts to be awarded to SMEs and no less than 5% of these contracts to companies owned by women.

Example

Chile for example allows inclusive evaluation criteria 'related to women and gender equality. The SPP guidelines issued by ChileCompra and contained in the Public Procurement Directives state at Directive 17 that the evaluation criteria to be incorporated in the tender processes carried out by the State shall also be appropriately defined so as to evaluate aspects of inclusivity and award points to those companies that are working along these lines...". within the examples provided in the Directive it is stated '... in the case of women (in general) it can be evaluated whether the bidder has a gender inclusion policy, equal remuneration between men and women, or the percentage of women hired with respect to the total number of workers in the company. To verify the above, a copy of the aforementioned inclusion policy may be requested, whose application has been extended for a minimum period of time, with its corresponding objectives, programs and evaluations; or a copy of all the aforementioned contracts, notwithstanding other means deemed convenient.'

Other countries instead prefer using price preferences (or a combination of set-aside and price preferences). The literature on secondary policies in public procurement suggest that price preferences are a better means of supporting secondary -now strategic- objectives (and so WLC/WOC) because the cost of the policy can be more easily quantified compared to the costs of set-aside contracts (the cost of a price preference scheme being quantifiable in the point preference applied). Also problematic could be the situation of companies just fictitiously being owned or led by women -so to benefit from the preference.

STEPS

Inserting specific gender requirements at the award stage is very common (indeed, social conditions are most frequently inserted at the award and the contract condition stages of the procurement cycle)

Examples of award criteria that would help empower women are as a minimum:

- ensure that MEAT criteria are used (rather than lowest price) and scrutinize the pay rate (and other employment conditions used by the supplier to set the price) to make sure that low prices are not due to poor pay rate and poor working conditions
- exclude and avoid abnormally low tender that could indicate poor payment rates for employee **IMPORTANT PLEASE NOTE** it is proven that women tend to get the worst working conditions and lowest pay, so such criteria would end up undermining the female workforce.

STEPS. AFFIRMATIVE ACTIONS LINKED TO THE AWARD STAGE

- price preferences to bids from companies with a gender equality plan (for example, companies that endorse the UN Women principle) HOWEVER, PLEASE NOTE in some cases, and under some legislations -for example, EU law- this is possible only if limited to the subject matter of the contracts, so for performing the contract
- give preference to companies that commit to employ more women in their workforce -in this case the preference given could be proportionate to the presence of women in each specific sector -this is the case for example chosen by the Italian guidelines for gender equality and empowering women. Moreover, under the Italian guidelines the point percentage increases proportionately to the sector in which the measure is taken, so if for example the sector is one where women are not usually employed the point percentage will be greater. The Italian Guidelines are very detailed and foresee different point percentages according to different increases of women employment
- give price/points preference to WOC/ WLC (here one can use a formal certification system for WOC/WLC)

Others have also suggested that price lotteries could be used when there is equal price of all criteria, purchasing units can use a raffle to choose whom to award the contract to. Alternatively, authorities could choose to award contracts to WLC//WOC whenever there is equal price. however, there is very little evidence of the success of these mechanism and very little consideration of the problems they might cause in terms of collusion between bidders.

Example

In Mexico, the “points and percentages” method is used, requiring contracting authorities to give additional points or percentages to suppliers with disabilities, companies that employ at least 5% people with disabilities, or companies applying policies and practices to reduce gender inequalities⁶⁹.

INDICATOR 2. MEMORANDUM OF SUB-INDICATORS

Sub-indicator 4.1. Participation and outreach

Sub-indicator 4.2. Capacity building

Sub-indicator 4.3. Notices

Sub-indicator 4.4. Qualification Criteria

Sub-indicator 4.5. Specifications

Sub-indicator 4.6. procurement methods

Sub-indicator 4.7. Award criteria

STAGE 3. CONTRACT CONDITION AND EXECUTION

3.1. Contract conditions

Contract clauses are typically used to pursue social (and other) objectives through procurement. Contract clauses are also typically very safe from a legislative perspective as any supplier can meet them simply by agreeing to conform to them, so there are fewer issues of discrimination and breach of international agreement or national laws, because contractors are not excluded (like with the qualification criteria/conditions) or not advantaged (like with the award conditions). With contract conditions all contractors are placed on an equal footing/equal playing field. All can, if they want, participate to the tender, so long as they agree to the contract conditions. For example, most national legislation require that the ILO conventions be inserted as contract conditions.

Contract conditions have proved to be very effective in raising standards of employment.

The contract clauses need to reflect the objective one wants to achieve. So, if the objective is to increase the number of women in the works force, contract conditions need to reflect this objective as per the gender strategy devised by the organization and include an obligation to have at least a xx percentage of women employed.

If the objective is to ensure equal pay for women, then the contract clauses will need to require equal pay. Etc.

Contract clauses are also very effective for ensuring the contracts has mechanism in place to protect against gender-based violence

STEPS

- Endorsement of ILO conventions as contract clauses
- Equal pay conditions
- non-discrimination conditions
- employ a minimum number of women within the workforce. For example, for some entities/country a responsible company is one that has at least 10% of employees are women (the case of the municipality of CALI)

Other important conditions that have been suggested are:

- To require contractors to have in place systems to work with employees to raise awareness of women violence, sexual harassment
- To require companies to implement gender equality action plans -these could be based on Women empowering principles ad the WEP ACTION already adopted by some companies....
- To equire contractors to adhere to UN Women Empowerment Principles

3.2. Execution and management of contracts

Execution and management of the contract is often regarded as the weakest link of the procurement cycle. It is essential to ensure that during these phases of the contract the obligation endorsed are adhered to.

STEPS

- Insert mechanisms to ensure you constantly monitor whether the contract has been performed according to the conditions set.
- Ensure official in charge of monitoring the execution of the contracts is aware of the gender requirements set and is trained to monitor gender equality issues, especially as regards gender violence and sexual harassment
- Establish mechanisms to monitor and have dialogue with employment workforce and trade unions in regards to working conditions, non-discrimination policies and to avoid gender-based violence
- 'Lessons learned' mechanisms in place for the authority

3.2.1. Payments

In most countries, women have difficulties in accessing finance; this limits their capacity to grow but also to fare the proverbial payments delays associated with public procurement. Hence it is important to ensure payment is made promptly and on time -some even suggest that advance payments should be allowed to encourage the participation of WLC and WOC.

BOX 11. MONITORING AND STEERING ORGANIZATIONAL CHANGE

Monitoring all the steps above can be done by looking at whether there is an increase in the number of awards made to companies that are O or L by women, or that have plans that support women etc. this requires clear and gender disaggregated data to be collected regularly. Only in this way it is possible to monitor whether the actions are successful, and the objectives met. Authorities can also set specific targets: for example, increase by x percent the number of tenders awarded to WOC/WLC or companies with gender equality action plans

Conduct data collection and qualitative surveys to monitor whether the objectives have been met. Some of the objectives will be easily monitored by collecting data -for example number of WOC and WLC participating and winning contracts -indicators to monitor success of the actions could be linked to the increase (or not) of the number of such companies winning government contracts by a set period of time

Other indicators could be linked to whether there is an increase of female workforce.

Others objectives and actions will need to be monitored by using indicators linked to collection of qualitative data such as surveys -for example those criteria linked to gender violence and non-discrimination – one could monitor results of surveys within two or three years, comparing results, and identify success when the satisfaction point increase of a set percentage each year.

Importantly, some actions are monitorable within the short period but others will need long timeframes

For instance, Some non-discrimination provisions could also be monitored for example looking at the employment charts of the companies that supply goods and services for instance by looking at career progression of females employees. This however is more difficult and requires a long term approach

It is important to remember that TRANSFORMATIVE PROCUREMENT DOES NOT HAPPEN OVERNIGHT. Quick fixes won't last and risks being just performative.

STAGE 4. EVALUATION AND MONITORING

4.1. Monitoring

The monitoring and evaluation phases are currently considered the weakest link of the procurement cycle. -together to many except with the execution phase) Monitoring that the gender equality requirements are put in place is essential to ensure that the gender equality policies do not result in expensive performative actions. Procurement authorities should be under an obligation to monitor the Contractor's compliance and the person responsible for the proceeding should put in place adequate monitoring mechanisms. There are not very many examples in this area (which is testament to the weakness of this phase). The best example in this regard is the monitoring policy put in place by the Bank in relation to its anti-gender-based policy.

BOX 12. EXAMPLE: THE BANK ACCORDING TO THE BANK'S NEW POLICY

Sexual Exploitation and Abuse (SEA) and Sexual Harassment (SH) (SEA/SH) 'the Borrower and its Engineer, have the obligation to monitor the Contractor's compliance with its SEA/SH Prevention and Response obligations on an ongoing basis. If any non-compliance is identified, the Engineer issues a Notice to Correct to the Contractor copied to the Borrower and the DAAB. This may result in the Engineer's determination that the matter is resolved, or otherwise determine non-compliance with the notice to correct. If the latter, the Engineer notifies the Borrower and the Contractor of the Contractor's failure to correct. On being notified of the non-compliance and failure to correct the Borrower sends a SEA/SH referral to the DAAB for review, copied to the Contractor and the Engineer. Potential non-compliance may also be identified by the DAAB as part of their activities. The same process applies i.e. the Engineer issues a Notice to Correct to the Contractor etc. as described above.'

Another example is reported by Ruz, in relation to the Dominican Republic a country that has developed a system to monitor compliance with Law 340-06 and its related regulations within the National System of Public Procurement and Contracting (NSPPC). According to the author 'this system developed a compliance indicator that has a set of sub-indicators that monitor how often purchasing units comply with requirements related to purchase planning, process publication, process management, contract administration and purchases from micro and small enterprises and from woman-led businesses. In the monitoring system, purchasing from woman-led businesses yields the most compliance points. In this way, the Dominican Republic ensures that the process of purchasing from women continues and that the legislation is complied with.⁷⁰'

4.2. Evaluation

Finally, evaluation is key to assess success and consider the usefulness of the actions adopted. Above we have indicated what data could be used to take as a baseline to then consider as baseline to evaluate the success of the policy. Evaluation is possible only if data are collected, analysed and evaluated. This will help understanding what worked and what did not work in the pursuing of the gender and procurement policies. The example in the literature are scares in relation to evaluation as well. Again testament to the fact that further work needs to be done in this area.

Example

The Dominican Republic has evaluated its policy based on the “Women’s Desk,” see <https://www.dgcp.gob.do/mujer> as reported by Ruz, ‘this site includes the repository of data on women’s participation in the public procurement process and provides an assessment of how women’s participation has increased both in terms of the number of businesses and in terms of which procurement processes women are involved in. During the 2012-2016 period, participation increased to 15,000 woman-led businesses, representing a total of \$1.04 billion in purchases.’⁷¹

CHECKLIST PILLAR III. THE PROCUREMENT CYCLE

- Indicator 1.** Gender strategy for the procurement entity
- Indicator 2.** Transparency
- Indicator 3.** Planning
 - Sub-indicator 3.1. Needs assessment
 - Sub-indicator 3.2. Premarket consultations
 - Sub-indicator 3.3. Identify best options
 - Sub-indicator 3.4. Preparation of tender documents
 - Sub-indicator 3.5. Build open, digital, and clear systems
- Indicator 4.** Tendering as an inclusive process
 - Sub-indicator 4.1. Participation and outreach
 - Sub-indicator 4.2. Capacity building
 - Sub-indicator 4.3. Notices
 - Sub-indicator 4.4. Qualification Criteria
 - Sub-indicator 4.5. Specifications
 - Sub-indicator 4.6. Procurement methods
- Indicator 5.** Contract conditions
- Indicator 6.** Execution and management of contracts
 - Sub-indicator 6.1. Payments

NOTES

- 1 See in this respect: Polly meek, Eurodad report on untying aid, U Chin K. *Manual: The Power of Procurement: How to Source from Women-Owned Businesses*. UN Women (2017) UN Women/ILO (2021). Rethinking gender-responsive procurement into an ecosystem for women's economic empowerment. www.unwomen.org/en/digital-library/publications/2021/07/rethinking-gender-responsive-procurement; Sope Williams-Elegbe, Equity and Inclusion of Women-Owned Businesses in Public Procurement in South Africa, OCP 2021 available at <https://www.open-contracting.org/resources/equity-and-inclusion-of-women-owned-businesses-in-public-procurement-in-south-africa/> Gender and procurement in Africa, La Chimia Chapter 2 in Fiorentino L. and La Chimia A. *Il Procurement delle pubbliche amministrazioni. Tra innovazione e sostenibilità*. Il Mulino (2021).
- 2 The terms women led companies and women led business are used interchangeably in the Report.
- 3 Many are the studies consulted and the literature reviewed that address these two themes cited throughout this report. For all see for example, OCP and VFW, Research Report 'Towards Gender Balance in Public Procurement: understanding the barriers and the solutions to include women-led businesses' and ILO/UNWOMEN, 'rethinking gender responsive procurement: enabling an ecosystem for women's economic empowerment.'
- 4 Mihály Fazekas, Yuliia Kazmina, and Johannes Wachs, gender in European public procurement, EBRD publications 2020
- 5 In this respect see the work by Serena Natile (2020). *The Exclusionary Politics of Digital Financial Inclusion: Mobile Money, Gendered Walls*. Routledge. see also MIT D-Lab | CITE Assessment of the Gender Gap in Access to Digital Financial Services in Burkina Faso.
- 6 Chin K. *Manual: The Power of Procurement: How to Source from Women-Owned Businesses*. UN Women (2017). pp 40-43. Serena Natile (2020). *The Exclusionary Politics of Digital Financial Inclusion: Mobile Money, Gendered Walls*. Routledge and MIT D-Lab | CITE Assessment of the Gender Gap in Access to Digital Financial Services in Burkina Faso.
- 7 See recently World Bank. 2021. DG GROW Study on "Strategic use of public procurement in promoting green, social and innovation policies" (2015). Available from: <https://op.europa.eu/en/publication-detail/-/publication/6a5a4873-b542-11e7-837e-01aa75ed71a1/language-en>. A *Global Procurement Partnership for Sustainable Development: An International Stocktaking of Developments in Public Procurement*. Washington, DC: World Bank. License: Creative Commons Attribution CC BY 4.0 <http://documents.worldbank.org/curated/en/173331642410951798/Synthesis-Report>
- 8 Government's purchasing power has long been identified as a catalyst for the market, one of the first works to refer to government purchasing power Jeffery Chinnock Sarah Collinson, *Aid untying, targeted procurement and poverty reduction*, 1999 Action Aid publications.
- 9 Very many are the studies that now support this argument. For all see the recent world bank report, but also the UN women report, and Ana Joaquina Ruiz *Inclusion of women in public procurement: The Latin American experience*. A research report by ILDA. Commissioned by Open Up Contracting program (July 2020). Ruiz especially emphasizes the need to move beyond measuring the success of procurement in terms of transparency.
- 10 Benon C Basheka, 'Inclusive Public Procurement' (2018) 26 *Administratio Publica* 86.
- 11 Ana Joaquina Ruiz *Inclusion of women in public procurement: The Latin American experience*. A research report by ILDA. Commissioned by Open Up Contracting program (July 2020).
- 12 *Gender Mainstreaming: Razavi, Miller, (1995) A Study of Efforts by the UNDP, the World Bank and the ILO to Institutionalize Gender Issues*.
- 13 For states, such commitment is now directly linked to the UNGP on Business and Human Rights, see La Chimia A (2018), *Development Aid Procurement & the UNGPs on Business & Human Rights: challenges and opportunities to move towards 'the new frontier of Buying Justice'* in Sope Williams-Elegbe and Geo Quinot, *Public Procurement Regulation for the 21st Century Africa* (Juta &Co, November 2018) ISBN 9781485128694
- 14 UN General Assembly Resolution 70/1. *Transforming our world: the 2030 Agenda for Sustainable Development* (2015).
- 15 Julio Fajardo, *Sustainable Public Procurement in Latin America and the Caribbean*, WB Group.
- 16 See La Chimia Chapter 2 in Fiorentino L. and La Chimia A. *Il Procurement delle pubbliche amministrazioni. Tra innovazione e sostenibilità*. Il Mulino (2021),
- 17 <https://www.mercadopublico.cl/Home>
- 18 <https://comprar.gob.ar/>
- 19 <https://www.colombiacompra.gov.co> Colombia has also published a guide on SRPP
- 20 <https://www.dgcp.gob.do/> and the Women's Data desk at <https://www.dgcp.gob.do/visualizaciones/>
- 21 OECD, *promoting gender equality through public procurement: challenges and good practices*. public governance policy paper n 92022
- 22 Translation of the author, original name: 'Perspectiva de Genero en la contratacion Publica Argentina'
- 23 Translation of the author, original version: "Articulo 10. Prioridad en las contrataciones del Estado. El Estado nacional debe priorizar, a igual costo y en la forma que establezca la reglamentación, las compras de insumos y provisiones a personas jurídicas o humanas del ámbito privado que incluyan en su planta laboral a personas travestis, transexuales y transgénero"
- 24 OECD, *promoting gender equality through public procurement: challenges and good practices*. public governance policy paper n 9, 2022 see also OECD, (March 2020), "Aid Focused on Gender Equality and Women's Empowerment: A snapshot of current funding and trends over time in support of the implementation of the Beijing Declaration and Platform for Action."
- 25 Yoon S. and Addati L. *Economic impact of reducing the Gender-gap*. International Labour Organisation (2017). Available from: https://www.ilo.org/global/research/publications/what-works/WCMS_577685/lang-en/index.htm

26 Intaher Marcus Ambe, 'The Role of Public Procurement to Socio-Economic Development' (2019) 12 International Journal of Procurement Management 652; Jolien Grandia and Joanne Meehan, 'Public Procurement as a Policy Tool: Using Procurement to Reach Desired Outcomes in Society' (2017) 30 International Journal of Public Sector Management 302; Lucas Kennekae, 'Procurement Strategies to Serve the Public Good' (2012) International Trade Forum 11 ProQuest Central, 1037131123; Peter W Obanda, 'Small and Medium Enterprises (SMEs) and Public Procurement Contract in Developing Countries' (2011) Kampala: Longhorn publishers 2412.

27 The 2014 Report *Empowering women through public procurement*

28 <https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls>

29 see especially UN Women UN Women and the ILO, 2021 "Rethinking Gender-Responsive Procurement: Enabling an Ecosystem for Women's Economic Empowerment." New York and Geneva

30 Williams-elegbe supra n1

31 On this above n1 william-Elegbe talks of 'exacerbating women inequality' f

32 WB, Procurement Sexual Exploitation and Abuse and Sexual Harassment (SEA/SH) Prevention and Response Measures Contractor/Sub-contractor disqualification for breach of SEA/SH contractual obligations.

33 La Chimia, a Chimia, A. (2021) 'Appalti e sviluppo sostenibile nell'Agenda 2030' Capitolo secondo del volume Astrid a cura di Luigi Fiorentino e Annamaria La Chimia, *Il Procurement delle pubbliche amministrazioni: tra innovazione e sostenibilità*, il Mulino ISSN 2038-1662

34 Un report on gender responsive procurement

35 See la Chimia chapter 2 in Fiorentino la chimia

36 Berrera, the Transformative power of public procurement, 23 Mar 2021, Procurement hubs Blog

37 Berrera, the Transformative power of public procurement, 23 Mar 2021, Procurement hubs Blog

38 Kithatu-Kiwekete, A. (2017) Gender Based E-Procurement Within the City of Johannesburg Metropolitan Municipality

39 This is possible thanks to the identification obtained through the Single Registry of Providers (SRP) Women's Data Desk In this respect see <https://www.dgcp.gob.do/visualizaciones/> as reported by Ruiz above

40 The only exception being Fazekas M. et al. *Gender in European Public Procurement: extent, distribution and impacts*. European Bank for Reconstruction and Development (2020). Available from: http://www.govtransparency.eu/gender-in-european-public-procurement-extent-distribution-and-impacts/?utm_source=rss&utm_medium=rss&utm_campaign=gender-in-european-public-procurement-extent-distribution-and-impacts

41 Ana Joaquina Ruiz, The Latin American experience A research report by ILDA. Commissioned by Open Up Contracting program. July 2020

42 See La Chimia, A. (2013) Tied aid and development aid procurement in the framework of EU and WTO Law: The imperative for change, Hart Publishing, chapter 3 the UK case.

43 See Women's Global Development and Prosperity (WGDP) initiative

44 Source: OECD, (March 2020), "Aid Focused on Gender Equality and Women's Empowerment: A snapshot of current funding and trends over time in support of the implementation of the Beijing Declaration and Platform for Action."

45 OCP and unwomen empowering women through public procurement & enabling inclusive growth

46 See for example the Women's Empowerment Principles, the UN Women's Corporate Guide to Gender-Responsive Procurement, add here the reports by the Open Contracting Partnership

47 available at: <https://www.ungm.org/Shared/KnowledgeCenter/Pages/SustainableProcurementIndicatorProject> Another interesting study is GESI qualitative and quantitative framework

48 https://www.un.org/en/ecosoc/newfunct/pdf/womens_empowerment_principles_ppt_for_29_mar_briefing-without_notes.pdf

49 This model is currently used by the UK equality charter followed by UK university through the Athena Swan process to devise gender equality action plans and since the author has had significant experience in using it, it has been considered a useful and appropriate tool in this context as well. Other modules could however be used so long as the element of precision, clarity, measurability of actions and indicators are respected. All actions need to be framed and set within a timetable that is realistic and achievable for the selected country and project,

50 In this respect see La Chimia, chapter 2 in Fiorentino La Chimia. See also UN Women and the ILO, 2021. "Rethinking Gender-Responsive Procurement: Enabling an Ecosystem for Women's Economic Empowerment." New York and Geneva

51 This broader approach to gender responsive procurement is now widely recognised in the literature, from all see UN Women and the ILO, 2021. "Rethinking Gender-Responsive Procurement: Enabling an Ecosystem for Women's Economic Empowerment." New York and Geneva, this latter report is to be praised for its open and holistic approach to gender and procurement. Importantly, and innovatively, the authors of the report emphasise that since women bear the highest share of unpaid reproductive work within society 'women have a vested interest, not only in who wins a procurement contract but also how the procured good, services and public works affect livelihoods' at page 11 the gender division of labour more broadly.

52 See Undated. Gender Dimensions of the Guiding Principles on Business and Human Rights. https://www.ohchr.org/Documents/Issues/Business/Gender_Booklet_Final.pdf

53 Depending on the circumstances if the country does not have such a strategy the objective should be to develop one

54 The GROW model is a tool, developed by John Whitmore, for its application in women empowerment see RM Yount and others, 'GROW: A Model for Mentorship to Advance Women's Leadership in Global Health' (2018) 3 Global Health, Epidemiology and Genomics; Keitsope Nthomang, 'Finding Inner Strength in the Face of Adversity Kgotlano GROW Group Empowerment Journey: Botswana' (2017) 4 International Journal of Civic Engagement and Social Change (IJCESC) 37.

- 55 Juliano Fajardo, *SPP in Latin America and the Caribbean*, 2021
- 56 As already explained (or further explained)?? Examples of affirmative actions are set aside, price preferences etc
- 57 Available at <https://www.mapsinitiative.org/methodology/MAPS-Sustainable-Public-Procurement-Module.pdf>
- 58 <https://www.gov.uk/government/publications/dfids-supplier-review>
- 59 Available at <https://www.gov.uk/government/organisations/department-for-international-development/about/procurement>
- 60 sections 2.4 of the Smart Rules is especially important in our context, it states: 'the SRO must ensure that Duty of Care is adequately considered in supplier bids during the procurement process in line with the Duty of Care policy and seek advice from PCD where necessary' https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/649230/smart-rules-update-external-oct17.pdf
- 61 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/713762/Supply-Partner-Compliance-Supplier-Guidance-June18.pdf
- 62 DFID suppliers Code of Conduct at p. 2. October 2017 (emphasis added).
- 63 See the DFID's *Procurement and Commercial Vision* where it is expressly said that 'Prior to tendering for a DFID Contract tendering organisations should ensure that they are able to fully comply with DFID's DFIDs Standard Terms and Conditions of Contract (PDF, 1020KB, 87 pages) , which includes DFID's Supply Partner Code of Conduct.' <https://www.gov.uk/government/organisations/department-for-international-development/about/procurement>
- 64 see Guide to the contract code supra n 125
- 65 Guide to the contract code supra n 125
- 66 For a deep and comprehensive assessment of how to mainstream gender equality within organization and institutions see **INSTITUTIONAL TRANSFORMATION Gender Mainstreaming Toolkit** by The European Institute for Gender Equality
- 67 Yount and others (n 49); Nthomang (n 49).
- 68 On this see La Chimia A, *Gender and Procurement*, forthcoming.
- 69 OECD (2020), *Integrating Responsible Business Conduct in Public Procurement*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/02682b01-en>.
- 70 Ruz, *Gender and procurement in Latin America*,
- 71 *Ibid*

