

Research Paper

Edited by Susan Harris Rimmer

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Gender-smart Procurement Policies for Driving Change

**CHATHAM
HOUSE**

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Summary

- Governments need to rethink public procurement policy. They need to use it as a strategic lever to accelerate gender-inclusive economic growth through the application of state spending power, while maintaining rigorous governance standards. Reform of public procurement to make it more gender-inclusive could create a ‘diversity dividend’ through increased job creation and economic growth. Gender-smart procurement policies could also mitigate economic and business risk by rendering supply chains more diverse.
- In 2014, G20 members agreed to reduce the gender gap in the labour market by 25 per cent by 2025. Procurement policy is one of the most powerful tools governments have to achieve this goal. All G20 members, regardless of the differences in their legal frameworks, can implement measures that will increase the ability of women to benefit from procurement policy.
- Public procurement accounts for around one-fifth of global gross domestic product (GDP). It is estimated that women entrepreneurs supply only 1 per cent of this market. Women’s businesses face considerable barriers to accessing procurement tenders and winning procurement contracts. The inadequate design of many procurement processes prevents more inclusive gender outcomes for citizens. Governments should redefine procurement policies to make explicit the requirement that increasing women’s workforce participation, through greater use of female suppliers, is a key objective when selecting bids for procurement contracts.
- Through the use of policy and spending levers, governments can play four primary roles in encouraging procurement from enterprises owned by women, or from businesses committed to promoting female labour participation. These roles are:
 - **To direct reforms of government procurement** – reviewing procurement policies and practices to ensure sustainable and inclusive procurement;
 - **To reduce barriers to women’s participation in the economy** – creating the support mechanisms to ensure an environment in which businesses owned by women can flourish;
 - **To help scale up gender-smart procurement in the private sector** – expanding government’s role in encouraging private companies to spend more of their procurement budgets with women’s businesses; and
 - **To encourage increased transparency on the issues** – creating and sharing procurement databases and lessons learned, especially at the regional level.
- Companies can also benefit from having more diverse supply chains and volunteering for accreditation schemes. They can start conversations with government about national regulation that encourages diversity in procurement, leading by example.
- The G20 should set measurable and time-bound targets in the area of gender-smart procurement, to build on the momentum of UN reforms and incorporate good practice in supply chain management.

1. Introduction

Susan Harris Rimmer

Can governments ‘buy change’?

In the form of procurement policy, governments possess a powerful lever for increasing gender equality. The World Bank estimates that the worldwide public procurement market is worth approximately one-fifth of global gross domestic product (GDP).¹ Yet the International Trade Centre (ITC), a joint agency of the United Nations and the World Trade Organization (WTO), estimates that women entrepreneurs supply only 1 per cent of this market.² The UN High-Level Panel on Women’s Economic Empowerment, in its interim report of 2016, recommends that governments ‘deliver gender-smart employment and procurement practices’.³

International and regional organizations are thinking deeply about how to achieve gender-inclusive economic growth in a world of structural gender inequality. The G20 has set targets to promote female labour force participation, and the G7 has set goals for achieving gender equality in supply chains. The UN’s Sustainable Development Goals include achieving sustainable economic growth and pursuing gender equality. Meanwhile, the International Labour Organization has designated ‘women in the new world of work’ as a key theme for its centenary anniversary activities.

Gender-inclusive growth can be advanced through many avenues. These include social infrastructure, legislation, tax and transfer policy, and public–private partnerships. At the Commission for the Status of Women in March 2017, UN members agreed in principle to the following measures:

- Increasing the share of trade and procurement accounted for by women’s enterprises, cooperatives and self-help groups in the public and private sectors; and
- Systematically undertaking gender-sensitive value chain analyses to inform the design and implementation of policies that promote and protect women’s rights and decent work in global value chains.⁴

This paper takes a deeper look at public procurement policy as a means for promoting inclusive economic growth and gender equality.⁵ The objective of gender-smart procurement is to ensure that

¹ World Bank Group (2016), *Benchmarking Public Procurement 2016: Assessing Public Procurement Systems in 77 Economies*, Washington, DC: World Bank, <http://bpp.worldbank.org/~media/WBG/BPP/Documents/Reports/Benchmarking-Public-Procurement-2016.pdf?la=en>.

² International Trade Centre (2014), *Empowering women through public procurement*, Geneva: International Trade Centre, <http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/Women%20procurement%20guide-final-web.pdf>.

³ UN Secretary-General’s High-Level Panel on Women’s Economic Empowerment (2016), ‘Leave No One Behind: A Call to Action for Gender Equality and Women’s Economic Empowerment’, <https://www.empowerwomen.org/-/media/files/un%20women/empowerwomen/resources/hlp%20briefs/unhlp%20full%20report.pdf>.

⁴ Commission on the Status of Women (2017), ‘Commission on the Status of Women. Sixty-First Session 13–24 March 2017. Women’s Economic Empowerment in the Changing World of Work: Draft Agreed Conclusions’, E/CN.6/2017/3, para 49 (ee) and para 49 (ff), https://www.ngocsw.org/wp-content/uploads/2017/02/CSW61_draft_agreed_conclusions_text_presented_by_the_CS61_Bureau.pdf.

⁵ McCrudden, C. (2007), *Buying Social Justice: Equality, Government Procurement and Legal Change*, Oxford, UK: Oxford University Press.

businesses owned by women have chances of success equal to those of enterprises owned by men (in time, this should result in a 50:50 division of procurement by gender). In addition, ‘procurement linkage’ policies – that is, how governments use their purchasing power to pursue social justice⁶ – should be designed to achieve increased female participation in the labour force and promote equal economic rights for women.

This paper presents lessons learned from gender-smart public procurement initiatives in Australia, the US and Chile, as well as outlining regional-level obstacles to the development of such initiatives in the EU. It explores how authorities in different jurisdictions have introduced supply-side measures and policies to support gender-smart procurement, and how these efforts tie in with wider aims such as encouraging the formation of more enterprises owned by women and/or greater female participation in the formal labour force. Specific areas of focus include:

- The regulatory framework in each jurisdiction (laws, policies, leading cases);
- Government attempts to introduce gender-smart procurement, and what this looks like under different jurisdictions and systems of government;
- The challenges to developing or implementing gender-smart procurement policies;
- Evidence of the impact of gender-smart procurement programmes; and
- Instances of potential best practice within each jurisdiction that could be adopted by other states, regional organizations or the G20/G7.

Australia, the EU and the US are included as case studies in this paper because of their prominence as G20 members, while Chile has been chosen as an example of global good practice and as a policy leader in South America; this also reflects the transfer of the G20 presidency from Germany to Argentina in December 2017, making the South American context highly relevant to G20 deliberations.

Gender and procurement

There is not yet an agreed definition of ‘gender-smart procurement’. However, ‘gender-responsive procurement’ is defined by UN Women, the UN organization dedicated to gender equality, as ‘the selection of goods, civil works or services that take into account their impact on gender equality and women’s empowerment’.⁷ As well as treating female and male suppliers on equal terms, gender-smart procurement seeks to prioritize positive outcomes for gender equality through enabling the purchase of gender-sensitive goods and services. There is also increasing international consensus on how to define and accredit ‘women-owned businesses’.⁸

⁶ McCrudden (2007), *Buying Social Justice*, p. 4.

⁷ UN Women (no date), ‘Gender Responsive Procurement’, <http://www.unwomen.org/en/about-us/procurement/gender-responsive-procurement#sthash.Cn5hy74e.dpuf>.

⁸ Chin, K. (2017), *The Power of Procurement: How to Source from Women-Owned Businesses. Corporate Guide to Gender-Responsive Procurement*, New York, NY: UN Women, <http://www.unwomen.org/en/digital-library/publications/2017/3/the-power-of-procurement>.

The case studies in this paper highlight attempts to implement better procurement policies in relation to three areas in particular:

- **Market structures that are most effective in delivering sustainable and inclusive access to global and regional supply chains.** Which market structures better support long-term investment in the participation of women along the whole supply chain, including at the service levels? How does greater gender diversity in the labour force and among entrepreneurs alter supply-side dynamics?
- **The impact of public procurement on women's participation in labour markets, value creation and economic activity.** What examples of best practice in public procurement have increased the number of women in some sectors and/or industries?
- **Policies that support female participation in supply chains.** How can these be extended to the whole market? Are there incentives that can be offered to 'reluctant innovators' to promote gender parity?

The challenge

For governments seeking to promote female participation in the economy, gender-smart procurement policy offers the possibility to effect relatively rapid and targeted interventions, without necessarily having to wait for gender equality in labour markets to improve by itself. Governments can emulate or adapt regulatory models from 'early mover' jurisdictions that may have developed gender-smart procurement regimes of their own, including preferential policies, transparency measures and cleverly designed e-procurement systems. The US case study in this paper illustrates how policy change can be accelerated over several decades, while the Chilean study demonstrates the importance of policymakers increasing buy-in from stakeholder groups and building capacity as part of programme design.

Procurement is often viewed as a technical activity, typically defined as the whole process of acquiring goods and services to meet the strategic objectives of the procuring entity. Most government procurement focuses on the proper use and management of public resources, and requires high levels of probity to avoid corruption or waste. 'Proper' is taken to mean efficient, effective, economical and ethical. The Model Law on Public Procurement adopted by the UN Commission on International Trade Law (UNCITRAL) reflects a consensus that the desired outcomes of procurement include security of supply, lower costs, reduced risk, improved quality, greater value added, increased efficiency and innovation.⁹ As the four case studies in this paper show, officials also need to consider more closely the social context in which technical procurement decisions are made, including the value of gender diversity.

Governments can be reluctant to explore positive discrimination or affirmative action in procurement policy, as this may conflict with obligations to provide taxpayers with value for money. However, it is also true that one of the implicit objectives of public spending is that it should seek to

⁹ See Preamble, 'UNCITRAL Model Law on Public Procurement' (United Nations document, A/66/17, annex I), as adopted by the United Nations Commission on International Trade Law on 1 July 2011.

create public benefit; in this context, there is no contradiction between accelerating the pursuit of gender equality and fulfilling the imperative for proper use and management of public resources, as there is substantial evidence that gender-inclusive growth is of national economic benefit.¹⁰

Participation in public procurement could also offer an entry point for women's businesses to become more active in the export sector (see Box 1). As national laws become more harmonized with those of other jurisdictions, and as procurement becomes more open to international competition, this could have a significant impact in fostering gender-inclusive growth. Intergovernmental action throughout the OECD or G20 could support this process, especially if cross-border initiatives to harmonize procurement laws explicitly acknowledge a policy agenda of increasing women's participation in international trade. For example, the World SME Forum, held in Turkey in 2015, put the internationalization of small and medium-sized enterprises (SMEs) on to the G20 agenda. It can be argued that increasing diversity benefits economies by reducing the scope for corruption and increasing competition. With the right support and design, policies that focus on SMEs can also deliver results for greater gender inclusion.

Procurement policy is also a valuable tool for governments pursuing wider objectives in the public interest, such as improving environmental and labour standards, while seeking to achieve value for taxpayers and avoid corruption. As the ITC has noted, this is because procurement policy sends a powerful signal about the role of governments as 'both market regulators and market participants'.¹¹ Increasing the pool for competition over tenders can only benefit governments.

Box 1: Gender-smart procurement and external trade

Public procurement has notable linkages with foreign trade, with export industries having a potentially meaningful role to play in the economic empowerment of women. In part reflecting this connection, the World Trade Organization (WTO) runs a Committee on Government Procurement, designed to oversee the implementation of the Agreement on Government Procurement (GPA).

In June 2017, the WTO's director-general, Roberto Azevêdo, told a Women in Trade Forum in Brussels: 'Tradable sectors are large sources of female employment, and companies that export are often the largest employers of women in developing countries. For example, in Rwanda, 74 per cent of those engaged in cross-border trade are women. In Cambodia, 86 per cent of silk industry employees are women. In China, 55 per cent of digital entrepreneurs are women.'¹² For this reason, the WTO is now working to promote a 'Gender Aware Trade Policy'.¹³

From extensive survey work by the International Trade Centre (ITC), it is clear that non-tariff measures have a gendered impact. The ITC found that in emerging economies, women are active in trade. It also found the following:

¹⁰ Elborgh-Woytek, K., Newiak, M., Kochhar, K., Fabrizio, S., Kpodar, K., Wingender, P., Clements, B. and Schwartz, G. (2013), *Women, Work, and the Economy: Macroeconomic Gains from Gender Equity*, IMF Staff Discussion Note SDN/13/10, Washington, DC: International Monetary Fund, <https://www.imf.org/external/pubs/ft/sdn/2013/sdn1310.pdf>. Literature review since 2013 summarized by Gonzales, C., Jain-Chanda, S., Kochhar, K. and Newiak, M. (2015), *Fair Play: More Equal Laws Boost Female Labor Force Participation*, February 2015, SDN/15/02, Washington, DC: International Monetary Fund, p. 5, <https://www.imf.org/external/pubs/ft/sdn/2015/sdn1502.pdf>.

¹¹ International Trade Centre (2014), *Empowering women through public procurement*.

¹² World Trade Organization (2017), 'Azevêdo: Trade is a force for women's economic empowerment', 20 June 2017, https://www.wto.org/english/news_e/news17_e/dgra_21jun17_e.htm.

¹³ World Trade Organization (2017), *Gender Aware Trade Policy*, Geneva: World Trade Organization, https://www.wto.org/english/news_e/news17_e/dgra_21jun17_e.pdf.

- Only one in five exporting firms is led by women entrepreneurs.
- Businesses owned by women tend to be smaller, and are more likely to be home-based, than those owned by men. It is costly for these smaller firms to implement complex trade procedures and rules.
- The export sectors with the highest concentrations of businesses owned by women are:
 - Textiles and clothing (with 29 per cent female ownership); and
 - Computers, telecommunications and consumer electronics (23 per cent female ownership) – even though this sector is traditionally associated with male activity.
- The export sector with the highest rate of women’s employment comprises yarn, fabrics and textiles, clothing and leather, and leather products. Women are least represented in transport equipment, non-electric machinery and metals, as well as other basic manufacturing sectors.¹⁴

There is clear scope for regional and international organizations to encourage activity in this space. For example, the EU could use its convening power to share best practice and produce model codes and legislation. It could display leadership by understanding more deeply links between gender-smart procurement and anti-corruption practice. The EU should also explore the links between gender-smart procurement and ‘next-generation trade’ (such as trade in services, ‘behind-the-border’ challenges such as e-commerce, the impact of fintech and big data, and evolving global value chains).

G20 members could create a G20 ‘procurement map’ showcasing women’s enterprises. The WTO Committee on Government Procurement could have a gender focus under its SME Work Programme.¹⁵ States could ensure that the next iteration of the UNCITRAL Model Law on Public Procurement gives more guidance on the proper consideration of ‘horizontal’ objectives such as diversity. A ClientEarth report explains that horizontal or secondary objectives are so named because ‘they are not uniquely associated with any particular contract or even necessarily arise from the function of the procuring public authority’. Akin to the idea of procurement linkage, the report also states that ‘public procurement can be used to promote social, environmental and other societal objectives, alongside the acquisition of the procured items or services’.¹⁶ Horizontal objectives could include protecting human health and safety, conserving natural resources, reintegrating veterans or preventing climate change. An example would be stipulating that in building a bridge, a contractor may not use forced labour.¹⁷

Gender-smart procurement and achieving ‘value for money’

The impact of government procurement policy on GDP is considerable. World Bank calculations indicate that public procurement accounts for over 30 per cent of GDP in developing countries and 10–15 per cent of GDP in developed countries. The tiny share of this spending that goes to

¹⁴ International Trade Centre (2015), *Unlocking Markets for Women to Trade*, Geneva: International Trade Centre, http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/women_in_trade_web.pdf (accessed 1 Feb. 2017).

¹⁵ World Trade Organization (2017), ‘Work programmes’, https://www.wto.org/english/tratop_e/gproc_e/gpa_wk_prog_e.htm.

¹⁶ ClientEarth (2011), ‘Briefing No. 2: Horizontal Objectives in Public Procurement’, <https://www.clientearth.org/reports/procurement-briefing-no-2-horizontal-objectives-in-public-procurement.pdf> (accessed 1 Feb. 2017).

¹⁷ See Arrowsmith, S. and Kunzlik, P. (2009), ‘Public Procurement and Horizontal Policies in EC Law: General Principles’, in Arrowsmith, S. and Kunzlik, P. (eds) (2009), *Social and Environmental Policies in EC Procurement Law: New Directives and New Directions*, Cambridge, UK: Cambridge University Press.

companies owned and operated by women indicates the range of barriers women face in accessing and winning procurement contracts.

There is evidence that more equal procurement policy leads to growth for businesses with more diverse supply chains. One study found that:

... leading procurement organizations that have a higher adoption rate of supplier diversity programs generate 133% greater return on the cost of procurement operations than average performers. This translates into an additional US\$3.6 million to their bottom line for every US\$1 million in procurement operations costs.¹⁸

The US case study in this paper shows that the value of government contracts won by women's enterprises has grown.¹⁹ Increased female labour force participation in Chile has also made a promising contribution to GDP growth in that country.²⁰ What is not yet known is the precise nature of the link between gender-smart procurement policy and female labour force participation rates, beyond the impact on women directly affected by winning tenders. However, it is known that businesses owned by women also employ more women; this suggests a potential channel through which female labour force participation could be increased. In an ITC survey of 20 developing countries, 40 per cent of the firms owned by women employed a majority of female workers, compared with just 22 per cent of firms owned and managed by men.²¹ The International Monetary Fund has found that countries that want to increase female labour force participation 'would do well to review and reform legal rules and institutions with a view to creating a level playing field'.²² There is scope for a pilot scheme to examine how procurement policy changes can affect female labour force participation rates and, in turn, GDP growth. However, creating a level playing field for men and women in this important area of gender equality is a worthy objective in itself.

Implementing change

The likely starting point for efforts to achieve greater female inclusion in procurement would consist of two elements: a review of national laws; and policymakers' adoption of a broad ambition of achieving substantive equality for women. A realistic end point would be the design of procurement policies that set increased female labour force participation as an explicit policy objective. The interim report of the UN High-Level Panel on Women's Economic Empowerment states: 'Governments need to review the rules and practices that have largely excluded WOE [women-owned enterprises]. Procurement targets to boost women's shares have been adopted by several governments – including Kenya, South Africa, Tanzania and the United States.'²³

Some of these policies include targets, 'set-asides' or other forms of preferential treatment for certain sections of society, such as people living with disabilities or indigenous peoples. The EU case

¹⁸ EY (2015), 'How can greater supplier diversity unplug your growth pipeline?', <http://www.ey.com/gl/en/services/advisory/ey-five-insights-supplier-diversity>.

¹⁹ The US case study shows that between 2009 and 2015, the government awarded over US\$117 billion worth of contracts to small businesses owned by women, a US\$43 billion dollar increase over the prior seven years.

²⁰ The Chilean case study notes a report that for every 100,000 women entering the labour force, Chile's GDP could increase by up to 0.65 per cent.

²¹ International Trade Centre (2015), *Unlocking Markets for Women to Trade*, p. 13 (see Figure 8). Source data from ITC NTM surveys in 20 developing countries, 2010 to 2014, available from www.ntmsurvey.org.

²² Gonzales et al. (2015), *Fair Play: More Equal Laws Boost Female Labor Force Participation*, p. 6.

²³ Ibid.

study in this paper starts by discussing what has been done at the national level in different non-EU states to reduce or remove barriers to increasing women's participation in public-sector procurement. The case study then moves on to a discussion of the challenging area of regional regulation within the EU itself.

Governments also need to consider 'soft incentives' – meaning voluntary measures that offer training, access to bespoke information or awards, as opposed to the hard incentive of a tax cut – and transparency measures that could provide a model for private corporations. One promising innovation is the introduction by national, local or municipal governments of the requirement that firms bidding for procurement contracts disclose information about their gender pay equity; such a requirement is already in force in Switzerland and in the city of Albuquerque in the US.

The transition to e-procurement offers another opportunity for a strategic rethink of policy. E-procurement tools can accumulate real-time data and could offer a powerful means of improving transparency. This raises questions as to what kind of information governments should gather that might lead to more gender-smart procurement in the future. UN Women, for example, encourages suppliers to include information regarding the percentage of women (1) employed in the supplier's organization, (2) in executive and senior positions, and (3) shareholders. While such data are not a factor in the evaluation of tenders, UN Women uses them for statistical purposes to support its mandate to promote gender equality and women's empowerment. Further, it states that:

... suppliers are invited to (1) become signatories to the WEPs [Women's Empowerment Principles] (for companies with more than 10 employees), or (2) sign the "Voluntary agreement to promote gender equality and women's empowerment" (for companies with fewer than 10 employees).²⁴

Corporates are important actors in driving change, as they can model gender-smart procurement themselves. The 2017 UN Women manual entitled *The Power of Procurement: How to Source from Women-Owned Businesses* contains practical guidance for companies. Many corporates claim on their websites that they have made supplier diversity a priority in the last five years. These firms include 3M, Cargill, Enterprise Holdings, HP, PwC, Deloitte, National Australia Bank and Staples. Procter & Gamble has spent US\$2 billion for six consecutive years on diversifying its supply chain, while Microsoft spent more than US\$2 billion in 2014 alone on diversifying its global supply chain.²⁵ In September 2017, EY announced 'a commitment to direct US\$100 million of global purchasing spend to women-owned businesses around the world over the next three years', as part of its 'Women. Fast forward' campaign.²⁶ New organizations such as Equileap seek to rank and certify market leadership according to gender equality criteria.²⁷

Theresa Harrison, EY Global Diversity & Inclusiveness Procurement Leader, states that more inclusive procurement 'should not be viewed as a charity project' and that the corporate world

²⁴ UN Women (no date), 'Gender-responsive procurement', <http://www.unwomen.org/en/about-us/procurement/gender-responsive-procurement>.

²⁵ Hoban, M. (2015), 'Why supplier diversity is important to your business', blur Blog, 10 July 2015, <https://www.blurgroup.com/blogs/supplier-diversity/why-supplier-diversity-is-important-to-your-business/>.

²⁶ EY (2017), 'EY commits to spend US\$100 million with women-owned businesses around the world by 2020', news release, 25 September 2017, <http://www.ey.com/gl/en/newsroom/news-releases/news-ey-commits-to-spend-100-million-with-women-owned-businesses-around-the-world-by-2020>.

²⁷ Equileap ranks more than 3,000 companies in 22 countries on 19 gender equality criteria, <http://equileap.org/>.

needs to do far more than simply include diverse suppliers in a bidding process. According to EY, effective supplier diversity programmes typically feature four components:

1. [S]trategic outreach efforts coordinated by the local office, sales and procurement, integrated procurement processes enabled by best-in-class procure-to-pay technology and a supplier diversity team focused on meeting specific, measurable goals.
2. [A] global supplier diversity policy that applies to all business units and categories of spend. They also need to be ready to move forward with a robust reporting mechanism that tracks spending for minority-owned suppliers across the supply base.
3. [R]obust P2P technology or ... [other] technologies for supplier diversity capabilities to capture information and provide vigorous reporting. This system should include a global supplier registration portal and database that allows certified suppliers to register.
4. [Champions] within the organization to shift the company's strategic focus and embed diverse suppliers that meet or exceed business expectations. This entails clearly documenting roles and responsibilities for all areas of corporate procurement and supply chain management as it relates to supplier diversity.²⁸

Governments can both support such developments in the corporate sphere and learn from them to reform their own procurement practices.

It is clear, too, that women in business can benefit from organizing and forming coalitions to drive implementation of policy reforms, such as the US preferential set-aside of 5 per cent of procurement contracts by value for women. At the W20 in Xi'an, China, Jennifer Bisceglie, then board chair of the Women Impacting Public Policy (WIPP) advocacy group, spoke to the All-China Women's Federation about the US achievement of the target:

Between 2007 and 2013, WIPP worked to bring together almost five million women in business to have a collective voice on this issue. The five million belonged to almost 80 different organizations – ranging from non-profit organizations, including women's business organizations, to Chambers of Commerce to other similar interest groups.²⁹

The case studies indicate that a coalition of actors offers the best chance of success for gender-smart procurement. What is clear is that governments should accelerate current efforts to define for themselves what constitutes gender-smart procurement, to establish causal links between procurement and increased female labour force participation, and to invest in inclusive growth.

²⁸ EY (2017), 'How can greater supplier diversity unclog your growth pipeline?', [http://www.ey.com/Publication/vwLUAssets/EY-how-can-greater-supplier-diversity-unclog-your-growth-pipeline/\\$FILE/EY-how-can-greater-supplier-diversity-unclog-your-growth-pipeline.pdf](http://www.ey.com/Publication/vwLUAssets/EY-how-can-greater-supplier-diversity-unclog-your-growth-pipeline/$FILE/EY-how-can-greater-supplier-diversity-unclog-your-growth-pipeline.pdf).

²⁹ Bisceglie, J. (2016), 'Comments from Jennifer Bisceglie', All-China Women's Federation, 13 June 2016, <http://www.womenofchina.cn/womenofchina/html1/news/action/1606/1288-1.htm> (accessed 1 Feb. 2017).

The case studies: timelines for reform

Our case studies explore different stages of policy reform. The EU study is a scoping exercise looking at what has been done, and at what type of policy might be useful in a regional context with a strong normative commitment to gender equality. The study also outlines the general barriers facing women attempting to access public procurement opportunities. It emphasizes the need for political commitment to an agreed approach to gender-smart procurement across the EU, and notes several precedents that could be followed, such as preferential treatment of SMEs and initiatives to boost labour force inclusion for the disabled.

The Australia case study offers a national perspective on the policy design of a programme, showing what might be effective as policy and how to identify the details of good policy design. The Australian approach of ‘nudging’ business towards better gender outcomes using transparency measures has been shown to have limitations. The author urges a bolder, more strategic approach to procurement in the next phase of policy development, which should include the introduction of targets and pre-qualification schemes.

The US study is about the process of securing political and stakeholder buy-in for a 5 per cent set-aside policy, and allowing this target to be achieved in a manner that empowers women. The authors of the US case study urge other jurisdictions to accelerate reform and heed lessons learned in the US context, where a long, slow process was needed to break the apathy surrounding the issue.

The Chile study is about implementation of both ambitious policy and a new digital platform. In 2015–16, the government pursued a cluster of major reforms introducing an e-procurement system, targeting SMEs and advising the inclusion of gender criteria in all purchases by public agencies. At the same time, women were actively assisted, through training and pre-qualification schemes, in participating in the new system.

The paper finishes by collating the findings from the case studies into a set of recommendations for governments, international organizations and corporations to drive change.

2. EU Case Study: Gender-smart Public Procurement – the Scope for Applying Preferential Policies

Astrid ter Wiel, Awake Consulting

Main findings and recommendations

The main findings from a comparison of the experiences of EU and non-EU countries in implementing preferential public procurement policies are as follows:

- Enterprises owned by women face several serious barriers when seeking to participate in and win public tenders.
- Gender-smart procurement practices may include the use of preferential procurement policies to promote the participation and selection of enterprises owned by women.
- Some non-EU countries apply preferential public procurement policies that are aimed at enterprises owned by women. These policies include ‘set-asides’ and preference point systems.
- Giving preference to enterprises owned by women when selecting suppliers is not compatible with current EU law on public procurement.
- EU countries can make a difference, however, by making gender-smart procurement decisions, and by focusing on the inclusion in public tender procedures of enterprises owned by women.

EU scoping: what is public procurement and what are preferential policies at a national level?

EU law sets out minimum harmonized public procurement rules. These rules govern how public authorities and certain public utility operators purchase goods, works and services. The European Commission and the OECD have been considering a more strategic approach to public procurement. They have been considering a new generation of public procurement rules to encourage procurers to go beyond a ‘price only’ approach.³⁰ When designing criteria for awarding contracts, procurers have the possibility – within limited parameters – to integrate social and environmental considerations into their requirements. This case study examines procurement policy from first principles, assessing the state of play in other comparable jurisdictions, before moving on to a review of the EU policy landscape.

³⁰ European Commission (2017), ‘Highlights from Conference on Strategic Public Procurement Paris’, 24 July 2017, <https://ec.europa.eu/docsroom/documents/24788>.

Examples of approaches in non-EU jurisdictions

Public procurement is defined here as expenditure and activities undertaken by public authorities to purchase goods and services for themselves and their communities. Most countries have specific rules on how public procurement must be carried out. For example, public authorities may have to publish details of tenders, and follow fixed procedures if the value of their procurement exceeds certain thresholds. Through procurement laws and policies, governments strive to prevent corruption and waste, and to achieve value for money.

Additionally, some countries have introduced procurement policies to promote the participation of historically disadvantaged groups (such as youth, women and people with disabilities) and other target groups such as SMEs or local suppliers. These policies may include giving preference to enterprises owned by women (sometimes referred to as ‘WOEs’ – ‘women-owned enterprises’) when selecting suppliers. There is no single definition of a WOE. The definitions and terms used to describe enterprises owned by women differ between countries and jurisdictions, although there is advocacy for an international ISO standard. For example, the US government uses the term ‘women-owned small business’ (WOSB) (see Chapter 4).

Which barriers do enterprises owned by women face at a national level?

When competing in public tenders, enterprises owned by women face several barriers. These are largely the same as those faced by SMEs, since most enterprises owned by women are in fact smaller firms.³¹ Barriers include difficulties participating in tender procedures, challenges in meeting tender requirements, and a lack of information and skills (see Box 2).

Box 2: Barriers that women’s enterprises face in public procurement

Enterprises owned by women may wish to participate in public procurement but may:

- Have limited information about upcoming tenders;
- Face time constraints in preparing their bids;
- Not get feedback after evaluation to know what went wrong in failed bids;
- Find tender procedures too complex; or
- Have a lack of tendering skills in general.

Enterprises owned by women may qualify for a specific public tender, but may not be able to:

- Provide requested certification and/or documentation;
- Get on the shortlists of preferred suppliers;
- Show a track record of experience;
- Compete and win based only on price; or
- Meet high contract volumes.

³¹ OECD (2000), *Policy Brief: Small and Medium-Sized Enterprises: Local Strength, Global Reach*, Paris: OECD, <http://www.oecd.org/cfe/leed/1918307.pdf> (accessed 14 Feb. 2017).

The barriers that women's enterprises face may even be bigger than those for SMEs in general, because women often have more family and care responsibilities, and because they tend to operate in less profitable sectors such as retail and services. The ITC offers a free online course called 'Women and Procurement'. The course explains the barriers to women's enterprises in participating in procurement tender procedures, and also outlines strategies for providing such businesses with more opportunities to compete.³² Governments can make an effort to address these barriers.

Which preferential policies do different countries use?

Policies in the EU can potentially be informed by successful procurement reforms in other jurisdictions. Some countries have preferential public procurement policies specifically aimed at enterprises owned by women. These countries include Botswana, India, Israel, Kenya, Namibia, South Africa, the US and Zambia.³³

There are different policies in each country. Israel, for example, takes a straightforward approach without detailed rules or provisions. Its Mandatory Tenders Law states that when two bids receive the same number of points after evaluation, the bid from a 'business controlled by a woman' shall be chosen.³⁴ The law's 'Encouragement of Women in Business' amendment further explains that a company needs an accountant's certification to prove that it qualifies as a 'business controlled by a woman'.

Kenya has applied a set-aside similar to the procedures under the WOSB programme in the US. Every procuring entity needs to allocate at least 30 per cent of its procurement value to youth, women and persons with disabilities.³⁵ Performance securities are not required in procurement reserved for enterprises owned by women. Every six months, procuring entities at national and county levels have to report to the national public procurement authority with data on the value of goods and services procured from enterprises owned by women. The authority consolidates these data and reports to parliament.

In India, the government reserves some items for exclusive purchase from suppliers in the small-scale sector.³⁶ This sector includes several suppliers that work through women's development organizations in rural areas.

South Africa applies an elaborate preference points system, through which enterprises owned by women receive extra points for their bids. In Botswana, Namibia and Zambia, the governments regularly review their preference schemes for youth, people living with disability, women and rural dwellers, such as offering a 3 per cent discount in price preference.

³² See <https://learning.intracen.org>.

³³ Other countries (such as Australia, Ethiopia and South Korea) have policies or targets in place that explicitly address the inclusion of small and medium-sized enterprises. Women-owned enterprises may also benefit from these policies and targets.

³⁴ Government of Israel Ministry of Finance (2008), 'Mandatory Tenders Law, 5752-1992', <http://www.mr.gov.il/Information/NewsAndUpdates/Pages/English.aspx> (accessed 21 Feb. 2017).

³⁵ Republic of Kenya (2015), 'The Public Procurement and Asset Disposal Act', <http://www.ppoa.go.ke/news/202-the-public-procurement-and-disposal-act-2015>.

³⁶ Government of India Ministry of Finance (2006), 'Manual on Policies and Procedures for Purchase of Goods', <http://doe.gov.in/manuals/manual-policies-and-procedures-purchase-goods>.

What does EU procurement law say?

Each year, public authorities in the EU (of which there are more than 250,000) spend the equivalent of around 14 per cent of the EU's GDP on the purchase of services, works and supplies. For tenders over a given threshold, they have to adhere to national legislation that is based on three EU directives. The core principles of these directives are transparency, equal treatment, open competition and sound procedural management.³⁷ According to the European Parliament:

A new public procurement package was adopted in 2014 by Parliament and the Council with the aim of simplifying procedures and making them more flexible in order to encourage access to public procurement for SMEs, and to ensure that greater consideration is given to social and environmental criteria.³⁸

Since public procurement policies must fit within the law, the EU directives do not seem to leave room for preferential treatment of companies that meet specific gender criteria (such as share of senior leadership). Unless provisions are made within the existing legal framework, preferential policies cannot simply exclude a group of potentially eligible suppliers (such as enterprises owned by men). However, making additional efforts to include, and thus not exclude in advance, firms with women owners is appropriate. In short, if EU directives do not allow for preferential selection of enterprises owned by women, the least governments can do is to remove barriers and maximize the ability of such firms to participate in public tenders.

What are the implementation challenges in a regional EU context?

Applying preferential policies in public procurement to promote enterprises owned by women will be difficult in a regional EU context, given the need to address competition law issues dividing member states. Three particular challenges stand out. First, while preferential policies try to put members of a target group in an advantageous position, in most cases those not in that group can still participate in tenders and thus win. Second, the ability to give preference to enterprises owned by women in public procurement procedures is limited under EU law, and in many cases preferential policies are not permitted at all. Third, such policies may not be very effective in the EU context. Impact assessment studies undertaken by the European Commission show that ...

... the operation of preference schemes had a minimal effect on the economies of the regions where they had been applied, both in terms of the volume of procurement contracts, as well as in terms of real economic growth attributed to the operation of such schemes.³⁹

Other research claims that the full impacts of preferential policies remain unknown due to the relatively recent implementation of cases.⁴⁰ It also seems difficult to obtain data on a case level, as most bid documents are confidential (due to the commercial information they contain).

³⁷ European Commission (2017), 'Legal rules and implementation', <https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/> (accessed 8 Feb. 2017).

³⁸ European Parliament (2017), 'Fact Sheets on the European Union: Public procurement contracts', November 2017, http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_2.1.10.html (accessed 11 Dec. 2017).

³⁹ European Commission, 'Public Procurement: Regional and Social Aspects', in Bovis, C. (2012), *EU Public Procurement Law*, 2nd edn, Cheltenham, UK: Edward Elgar Publishing.

⁴⁰ World Bank Group (2016), 'Policy Case Studies on Inclusive Business: Preferential Public Procurement', http://www.g2oinclusivebusiness.org/sites/default/files/reference-attachments/Preferential%20public%20procurement_for%20web_final.pdf (for the G20 Global Platform on Inclusive Business).

The rocky passage, since it was proposed in 2012, of the draft EU directive on increasing gender equality in the boardrooms of listed companies shows the difficulties of reform in this area despite a clear EU competence to legislate for gender equality. The directive sets an objective of a 40 per cent presence of the under-represented gender among non-executive directors of companies listed on stock exchanges. It was passed by the European Parliament in 2013 but still faces resistance in several member states. However, many member states have passed their own laws in pursuit of the target, notably Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Portugal, the Netherlands, Slovenia and Spain (as well as European Economic Area member state Norway).⁴¹

What can EU members do?

EU member states can promote gender-smart public procurement in three ways.

First, the EU could decide through a political process to make room for the incorporation of preferential procurement policies other than those already available. Currently, preferential arrangements include the provision of centres that provide employment for people living with disabilities.⁴² The formulation and implementation of preferential procurement policies may be difficult, considering that the core principles of the EU directives have focused in the past on ‘value for money’ narrowly defined.⁴³ The 2017 Public Procurement Strategy could catalyse change in member states. Member states can set their own targets for strategic procurement that aims for social responsibility, using a more nuanced ‘most economically advantageous tender’, backed by legislation to model support for EU-wide targets.

Second, procuring authorities can make the most of existing legal targets or other rules aimed at promoting enterprises owned by women. During the execution of contracts, government authorities can oblige bidding suppliers to implement measures for the promotion of gender equality. That may increase the percentage of women employed by particular companies or on long-term instead of temporary contracts. However, these sorts of outcomes are possible only so long as contract performance conditions fit with national legislation.

Third, procuring authorities should make sure not to exclude enterprises owned by women from tender procedures due to inability to meet thresholds of scale or risk. This can be achieved by looking at the characteristics of enterprises owned by women (see Box 3) and by removing the barriers they face.

⁴¹ European Commission (2012), ‘Women on boards – Factsheet 3: Legal Aspects’, http://ec.europa.eu/justice/gender-equality/files/womenonboards/factsheet-general-3_en.pdf.

⁴² A public contract may be restricted to sheltered workshops where the social and professional integration of disabled or disadvantaged persons is key. In such cases at least 30 per cent of the employees of those workshops are disabled or disadvantaged workers.

⁴³ Fifty-five per cent of procurement procedures in the EU still use the lowest price as the only award criterion. See European Commission (2017), ‘Strategic Public Procurement - Brochure’, <http://ec.europa.eu/DocsRoom/documents/25984>.

Box 3: Characteristics of enterprises owned by women

Compared to businesses owned and led by men, those owned by women:

- Tend to be smaller, whether size is measured by employment, revenues or asset base;
- Tend to be launched with lower levels of initial financing and to operate with lower levels of debt;
- Are over-represented in the retail and personal services sectors, and under-represented in the manufacturing, extraction and business services sectors;
- Are more likely to be home-based and less likely to be engaged in exporting;
- Are more likely to pursue social as well as economic missions; and
- Tend to generate lower levels of profit.

Practical and realistic measures to increase the participation of enterprises owned by women in public tender procedures can take a number of forms. For example, procuring entities can make efforts to design their processes in such a way that women's businesses are more likely to be able to participate. Any measures taken related to tender design would also increase the participation of SMEs in general, because such measures largely seek to ensure the inclusion of smaller firms. Working with framework agreements tends to increase contract size and close down the relevant supplier segment for a few years. That is something that procuring entities should avoid if they want to increase the participation of both enterprises owned by women and SMEs in general. Another exemplar measure has to do with using proportionate requirements. It is unnecessary to demand a very high annual turnover from a supplier to prove eligibility for a relatively small job. A last example is that enterprises owned by women will benefit more from competing in tenders on the basis of value for money as opposed to just price, since they may offer innovative solutions for doing the same job better or faster.

Conclusion

The EU should review its procurement laws and introduce preferential policies for enterprises owned by women. Giving preference to such businesses when selecting suppliers may be incompatible with the current principles of EU public procurement directives. However, empowering the participation of SMEs in general would automatically increase opportunities for enterprises owned by women, as such enterprises tend to be SMEs. If the barriers to inclusion in bids are lowered, then the selection of suppliers for the award of public contracts can become a gender-neutral process.

3. Australia Case Study: Can Smart Design of Government Procurement ‘Buy’ Increased Women’s Workforce Participation?

Louise McSorley

Main recommendations and findings

- The Australian government should mandate pre-qualification measures to promote gender equality in procurement processes. Pre-qualification criteria should be based on evidence of the benefits, relative to compliance costs, of gender-inclusive policies, as seen in similar schemes related to workplace safety.
- The Australian government should set clear targets for lowering barriers to participation in procurement for enterprises owned by women, as the current reporting regime’s reliance on a ‘naming and shaming’ approach is delivering change at a ‘glacial pace’.
- State governments can expand their role in encouraging private corporations to spend more of their procurement budgets with women’s businesses and increase diversity in supply chains.
- The roll-out of gender-smart procurement policies through all levels of government would establish a government ‘cartel’ (in a policy sense) that could help to build some scale and efficiencies for diverse suppliers.

There is no reason why Australia cannot show leadership in the area of gender-smart procurement. Australia has a long and proud history of advancing women’s rights. It was one of the first countries to give women the vote, at the beginning of the 20th century. Legislators were also responsive to the next wave of change led by the women’s movement in the 1960s and 1970s. Laws on maternity leave, gender discrimination and equal employment opportunities were enacted at the federal and state levels as women entered the workforce in record numbers. In the 21st century, Australia has been one of the first movers in bringing greater transparency to remuneration and addressing a stubborn gender pay gap. New legislation implemented in 2012 requires all companies with more than 200 employees to report annually to an independent agency on their gender pay gaps. However, it is now time to move to a more robust regulatory scheme, based on policy design that measures women’s agency in the workplace.

Gender equality reporting

Reforms to procurement policy can build on lessons from other policy regimes targeted towards achieving equality for men and women in the formal economy. Australia’s gender equality reporting regime had its origins in the Affirmative Action (Equal Employment Opportunity for Women) Act

1986, which was implemented in response to a gender pay gap of 17.8 per cent and a women's workforce participation rate of only 45.8 per cent.⁴⁴ While the law initially required employers to have affirmative action plans, further legislative amendments over the subsequent 26 years led to the creation of the gender-reporting regime of the Workplace Gender Equality (WGE) Act 2012. All large employers must report annually to the Workplace Gender Equality Agency (WGEA) on employee remuneration and other gender equality indicators. The debates on the 2012 bill, which introduced the reporting of remuneration and indicators, emphasized the benefits to the economy that were expected to flow as a result – these included increased productivity, an anticipated increase in GDP of around 13 per cent and a reduction in skills shortages.⁴⁵

The six gender equality indicators in the 2012 reporting regime cover the gender composition of the workforce (including personnel on governing bodies such as boards), remuneration, flexible work practices, discrimination, harassment, and consultation with employees about gender equality. They represent those matters identified as barriers to women's full and equal participation in the workplace. Costs of compliance with the reporting requirements are estimated to be on average A\$692 per company annually.⁴⁶ After analysis of the data submitted, the WGEA provides employers with a benchmarking report, which enables them to see areas in which competitors are either ahead or behind them, and the areas in which they need to take action. Employers that do not submit a report are not subject to any financial penalty, but are named as non-compliant in the agency's annual report to parliament. For employers that lodge a report, a notice of compliance can be issued, which they must supply if bidding for any federal government procurement activity valued above a threshold amount. These transparency measures could stand Australia in good stead when it comes to further reform of procurement laws, but to date they have not proved sufficient to 'move the needle' on equal access to procurement opportunities.

Procurement

Federal government procurement is governed by the Public Governance, Performance and Accountability (PGPA) Act 2013, as well as by procurement rules and policies that government officials must follow. The rules and policies contain intricate guidance for decision-making on procurement, and are designed to ensure transparency and accountability within an overall framework of 'value for money'. Regular disclosure of procurement activities (covering the purchasing of all goods and services, but not including loans, grants, engagement of staff or statutory appointments), regular public parliamentary hearings on departmental spending, and a searchable public database of contracts awarded by the government all provide a high level of scrutiny and transparency.

While no penalties are attached to breaches of the PGPA Act or of the rules and policies, this procurement framework is supported by a strong legislative regime that requires public servants to

⁴⁴ Diversity Council of Australia (2015), 'International Women's Day 2015: Are Australia's working women heading back to the future?', media release, 2 March 2015, <https://www.dca.org.au/News/News/IWD-2015---Are-Australia%E2%80%99s-working-women-heading-back-to-the-future-/456> (accessed 21 Feb. 2017).

⁴⁵ Equal Opportunity for Women in the Workplace Amendment Bill 2012 (Cwlth) (accessed 3 Feb. 2017).

⁴⁶ Australian Government Department of Employment (no date), 'Workplace gender equality reporting public consultation', <https://submissions.employment.gov.au/empforms/WGRPC/pages/index?c=2> (accessed 9 Feb. 2017). Submission for the government consultation on the reporting arrangements of the Workplace Gender Equality Act by the Coalition of Working Women, July 2014.

act ethically and in accordance with policies. Public servants can be disciplined or dismissed for breaches of specific obligations in framework documents; these sanctions are in addition to any remedies that may be available to a tenderer or vendor in respect of breach of statutory duty by the government or malfeasance in public office.

The procurement aspects of the WGE Act were introduced in 2013 as an enforceable policy – the Workplace Gender Equality Procurement Principles. These principles apply to all government procurement contracts valued in excess of a threshold currently set at A\$80,000.

The tabling of the names of non-compliant companies in parliament garners only passing scrutiny and fleeting media coverage, yet this aspect of the WGE Act has had the most impact to date. Reviewing the list of non-compliant organizations in the last three annual reports of the WGEA, and interrogating the online database of federal government contracts to identify employers named in both, is an interesting exercise. It would appear, even though there has been no evaluation of the WGE legislation to date, that the practice of naming non-compliant companies has a quiet impact, as failure to report is linked to exclusion from a government procurement market worth A\$56 billion. Out of the list of non-compliant companies in the most recent annual report (2015/16), five were awarded seven contracts. Within three months of the tabling of the annual report in parliament, only one company (with one contract) remained non-compliant.⁴⁷

This indicates that the public report (i.e. the naming and shaming), together with the link between reporting and actual procurement, generally works to encourage compliance with reporting laws. But does the impact of the WGE Act 2012 extend further than individual companies reporting on gender quality indicators? Is it just an exercise in counting the number of women workers, or does it drive changes in the workplace that dismantle barriers to participation? The annual Gender Equality Scorecard published by the WGEA, drawing annual data from reporting organizations, indicates that the pace of change is glacial. There was only a 1.6 percentage point decrease in the gender pay gap across all organizations reporting to the WGEA in 2016.⁴⁸ Australia's national gender statistics paint an even more pessimistic picture. The gender pay gap sits at 17.3 per cent⁴⁹ (showing that women on average earn 17.3 per cent less than men), up from a low of 14.9 per cent in 2004.⁵⁰ The gender pay gap has never been in single digits, and the women's workforce participation rate – at 59.3 per cent – still lags behind rates in much of the rest of the Western world.⁵¹ It is clear that deeper impact across the labour market is yet to occur.

The WGE Act and the government procurement framework are only one aspect of the gender equality architecture in Australia. The WGEA also conducts an annual awards/citation process for Employers of Choice for Gender Equality. Not dissimilar to other schemes recognizing the achievements of corporate programmes in promoting social outcomes, the citation is a coveted award that requires personal commitment by the CEO when a company applies to participate. The

⁴⁷ Government of Australia Ministry of Finance (2017), 'Statistics on Australian Government Procurement Contracts', last updated 17 November 2017, <https://www.finance.gov.au/procurement/statistics-on-commonwealth-purchasing-contracts/> (accessed 12 Dec. 2017)

⁴⁸ Workplace Gender Equality Agency (2016), 'Australia's latest gender equality scorecard released', media release, 16 November 2016, <https://www.wgea.gov.au/media-releases/australia%E2%80%99s-latest-gender-equality-scorecard-released-0> (accessed 2 Feb. 2017).

⁴⁹ Workplace Gender Equality Agency (2016), 'Gender pay gap statistics', March 2016, https://www.wgea.gov.au/sites/default/files/Gender_Pay_Gap_Factsheet.pdf (accessed 5 Feb. 2017). Current as at March 2016.

⁵⁰ Workplace Gender Equality Agency (2014), 'Gender pay gap statistics', p. 5, August 2014, https://www.wgea.gov.au/sites/default/files/Gender_Pay_Gap_factsheet.pdf (accessed 5 Feb. 2017). Current as at December 2017.

⁵¹ Workplace Gender Equality Agency (2016), 'Gender pay gap statistics'.

citation process also requires the CEO to regularly make public commitments to gender equality and to identify actions taken in respect of numerous indicators to advance gender equality within his or her company. Anecdotal evidence supports the claim that the possibility of achieving or losing the annual citation has been influential in decisions about board appointments and executive promotion decisions, as well as in the determination of parental leave conditions.

The WGEA publishes advisory tools that include recommendations for accelerating progress towards gender equality across supply chains. The Male Champions of Change, a group of senior business leaders convened by Australia's former Sex Discrimination Commissioner, Elizabeth Broderick, to drive gender equality as a business imperative, has also considered promoting gender equality in the use of supply chains. There has been little public discussion on this, although several of the group members' companies have supplier diversity codes of practice and report annually on supply chain diversity.

Purchasing pre-qualification schemes

The WGEA procurement policy is not the only procurement regime of the Australian government to have economic and social objectives, and experience in other areas – notably construction – could have lessons for efforts to promote gender equality. The statutory accreditation scheme of the Federal Safety Commissioner (FSC) was designed to drive improvements in workplace health and safety in the building industry. The scheme covers 321 firms that account for between one-third and one-half of all turnover in the industry. Operating as a procurement pre-qualification measure, the scheme covers building work that is funded directly or indirectly by the government. As with the WGEA procurement policy, a threshold is applied. Companies with good safety records are accredited for six years (rather than every three years for 'normal' participants). Since its inception in 2005, the scheme has covered building projects worth more than A\$93 billion, as well as a further A\$60 billion worth of planned projects. With the sector having one of the highest rates of workplace injury and disease, the stakes are high. Safe Work Australia, the workplace health and safety agency, has estimated the economic cost of workplace injury and disease at A\$61.8 billion, a sum equivalent to 4.1 per cent of GDP in 2012/13.⁵²

In the FSC scheme, organizations (usually head contractors) are audited by officers appointed under the Fair Work (Building Industry) Act 2012. As with the WGE Act, the legislation includes criteria on best practice (in this case, for occupational health and safety management systems) that set benchmarks against which an audit occurs. Because it includes contractor management, the audit covers part of the supply chain.

The scheme imposes costs on employers. It is estimated that the annual cost to small companies is around A\$38,000 once they are accredited. Medium-sized firms bear the greatest recurring costs, averaging A\$58,000 annually. The cost for large firms averages around A\$30,000 a year.

⁵² Safe Work Australia (2015), 'The Cost of Work-Related Illness and Injury for Australian Employers, Workers and the Community: 2012–13', p. 3, <https://www.safeworkaustralia.gov.au/system/files/documents/1702/cost-of-work-related-injury-and-disease-2012-13.docx.pdf> (accessed 3 Feb. 2017).

Regulatory compliance costs are clearly outweighed, though, by significant savings for companies in the scheme. The insurance premium for accredited contracts is over one-third lower than the average for others in the same market across the eight different state schemes. More than two-thirds of participating companies have reduced their workers' compensation insurance premiums by 40 per cent on average. At the same time, reported rates of time lost to injury – an accepted industry lead indicator – are around 70 per cent lower. The supply chain impact has been similarly significant, with 94 per cent of accredited companies saying that the scheme has improved workplace safety standards across the construction industry.⁵³ This represents a considerable cultural shift in an industry notorious for low safety standards.

The government should be bolder in mandating procurement pre-qualification measures to promote gender equality and note the rewards in relation to the compliance costs gained in similar schemes.

Setting targets to buy change

The government has adopted a different approach in its efforts to increase economic activity among indigenous Australians. Its Indigenous Procurement Policy (IPP), introduced in 2015, sets a target of 3 per cent of all procurement being sourced from indigenous-owned businesses by 2020. An indigenous-owned business is defined as one with a minimum of 50 per cent indigenous ownership, and there is no minimum threshold value for contracts. Annual targets are set for each individual government department, with the heads of each department accountable for meeting the targets. In the first year of operation, there was a 15 per cent increase in government spending with indigenous-owned businesses. With such early success, the Ministry for Indigenous Affairs announced that the 2020 target would be brought forward to 2017 for all government departments. This kind of 'nudging' could serve as a template for bolder gender-smart procurement.

The Department of Foreign Affairs and Trade (DFAT) has implemented a procurement policy that seeks to advance gender equality. Its Gender Equality and Women's Empowerment Strategy recognizes women's economic empowerment as a 'key driver of sustainable economic growth, development and stability'.⁵⁴ The strategy establishes a target under which at least 80 per cent of aid investments should effectively address gender equality in their implementation. All aid projects must be analysed using the OECD Development Assistance Committee's policy marker to identify whether a given investment contributes to gender equality (i.e., gender equality must be one of its principal or significant objectives). For the first time, all of Australia's aid spending in respect of trade, agriculture, infrastructure and governance, together with more traditional areas of gender equality activity (such as health and education), is assessed against this marker.

A DFAT report, *Performance of Australian Aid 2014–15*, rated 78 per cent of DFAT investments as addressing gender equality.⁵⁵ However, while this means that the 80 per cent target is already

⁵³ Department of Employment (2017), '2016 OFSC Survey Results Available', <http://www.fsc.gov.au/sites/fsc/news/pages/2016-ofsc-survey-results-available> (accessed 25 Feb. 2017).

⁵⁴ Department of Foreign Affairs and Trade (2016), *Gender equality and women's empowerment strategy*, <http://dfat.gov.au/about-us/publications/Documents/gender-equality-and-womens-empowerment-strategy.pdf>, p. 5 (accessed 7 Feb. 2017).

⁵⁵ Department of Foreign Affairs and Trade (2016), *Performance of Australian Aid 2014–15*, <http://dfat.gov.au/about-us/publications/Documents/performance-of-australian-aid-2014-15.pdf>, p. 11 (accessed 7 Feb. 2017).

within reach, the challenge is to uncover hidden gender inequality in DFAT investment activities, so that the target facilitates meaningful investment and change, rather than merely representing a ‘box-ticking’ exercise. DFAT’s Gender Equality and Women’s Empowerment Strategy acknowledges that structures and systems ‘can play a significant role in entrenching or exacerbating discriminatory practice’⁵⁶ and that ‘norms, legal frameworks and policies’ will need to change to advance gender equality.⁵⁷

DFAT sets remuneration for advisers on all aid projects through the Advisor Remuneration Framework (ARF). Advisers contracted directly by DFAT or those contracted through managing contractors are all covered by the ARF. The ARF pegs maximum remuneration rates across disciplines to ‘market rates’. Administrative disciplines have the lowest level of remuneration, followed by those in agriculture, public health, education and social development. Remuneration is pegged at higher rates for bioscience and economics-related disciplines, while the most highly remunerated roles are in finance, law and private-sector development.

Market pay rates are inherently gendered, as they are derived from a range of assumptions and biases that do not reflect women’s experience of the labour market. Assumptions that women can bargain in the workplace as freely as men, and a bias that values men’s work more highly than that of women, inherently underlie market rates. The classification of administration, education and social development – generally female-dominated disciplines – at the lower end of the pay scale entrenches the very gender inequality the strategy is designed to address.

Lessons learned

Gender-inclusive procurement is in a developmental phase in Australia, transitioning from a rudimentary exercise that largely consists of counting personnel to one that attempts to analyse gender impacts. The system cannot yet be described as truly ‘gender-smart’. The examples above, such as the FSC scheme and the IPP, highlight that the government is prepared to experiment with various initiatives through which its buying power may be able to deliver social dividends. Gender-smart procurement must move beyond merely recording where and how women work, and for what remuneration, to a more sophisticated process of measuring changes in women’s agency, gender relations, empowerment and workplace equality. Lack of progress in these areas is the real barrier to increased women’s workforce participation. Gender-smart procurement must not just help governments measure change in their statistics, but must also lead to change that women experience in their daily economic lives.

Some objections to this agenda cite the potential for increased reporting requirements to add to the burden of regulation for both government and the private sector. But this ignores the positive lessons learned from pre-qualification, and from target-setting in other areas of procurement policy. Australia could immediately reform procurement to establish a preferred suppliers’ regime that provides advanced standing in government procurement activities for companies with gender

⁵⁶ Department of Foreign Affairs and Trade (2016), *Gender equality and women’s empowerment strategy*, p. 2.

⁵⁷ *Ibid.*

equality certification – as has been provided, for example, by schemes such as Catalyst,⁵⁸ EDGE⁵⁹ and Australian Employer of Choice for Workplace Gender Equality.

To achieve economies of scale, Australia could create a public-sector procurement cartel by rolling out gender-smart procurement policies through all levels of government. To date, only one state government has implemented a gender-smart procurement policy. This is a lost opportunity given the annual government spend on procurement.

The schemes mentioned above show that it is time to move beyond debates about quotas for women's participation and the regulatory burden on business of mandatory gender reporting,⁶⁰ and to start unlocking the wider dividends that gender-smart procurement can deliver.

⁵⁸ Catalyst is now defunct, but see <http://catalyst.org.au/campaigns/the-gender-equality-dashboard-2016>.

⁵⁹ <http://www.edge-cert.org/certification/certified-standard/>.

⁶⁰ Charlesworth, S. and Macdonald, F. (2015), 'Australia's gender pay equity legislation: how new, how different, what prospects?', *Cambridge Journal of Economics*, 39: pp. 421–40, doi:10.1093/cje/beu044 (accessed 1 Feb. 2017).

4. US Case Study: Women's Federal Procurement and the Process of Socializing Targets

Jennifer Bisceglie, Clayton L. Johnson and Virginia Littlejohn

Main findings

In 1994, the US federal government established for the first time a spending goal for federal agencies, whereby they should seek to award 5 per cent of their contracts (by value) to small businesses owned by women. That target was finally achieved in 2015. The drivers of success were:

- An effective bipartisan advocacy strategy, which included policymaker education;
- Awareness-raising among women on entrepreneurship issues and coalition-building;
- Capacity-building and curriculum development to facilitate women's success in procurement processes;
- Technical and operational issues;
- Certification; and
- Sectoral research and analysis.

The US possesses a dynamic women's entrepreneurial sector, which has grown more rapidly than the overall economy over the past 20 years. However, gains within the federal procurement space have not naturally been forthcoming as an extension of that growth.⁶¹ This case study draws on the experience of Women Impacting Public Policy (WIPP), a non-partisan advocacy group that was a key actor in enabling the US to reach the 5 per cent threshold for awarding procurement contracts to small businesses owned by women.⁶² The case study analyses how policy sought to overcome the obstacles to gender equality in federal procurement, and reviews the changes achieved.

For women business owners eyeing the federal procurement market, the difficulties have often seemed to outweigh the potential gains. Proposal development was costly. Each firm needed to be audited and certified as a 'women-owned small business' (WOSB). Above all, a WOSB had to know how to secure and perform on a contract. In short, women business owners believed that working as

⁶¹ Womenable (2016), *The 2016 State of Women-Owned Businesses Report*, Empire, MI: Womenable, http://www.womenable.com/content/userfiles/2016_State_of_Women-Owned_Businesses_Executive_Report.pdf (commissioned by American Express OPEN).

⁶² Jennifer Bisceglie and Barbara Kasoff were both office holders in WIPP, and this case study relies on key documents and interviews.

a supplier on federal procurement contracts took a lot of time, money and expertise, which WOSBs that had not pursued such opportunities in the past typically did not possess.

Understanding these challenges and the advantage of using the development of women's enterprises to stimulate employment growth, the government established what it termed a 'set-aside' programme. In its own words:

When market research concludes that small businesses are available and able to perform the work or provide the products being procured by the government, those opportunities are "set-aside" exclusively for small business concerns ... [or] small businesses with certain designations.⁶³

WOSB is one such designation, and was the foundation for the US federal government establishing for the first time, in 1994, the goal of federal agencies awarding 5 per cent of their contracts to WOSBs.

What was needed to take advantage of the WOSB set-aside was a concerted strategic intervention by patient, disciplined actors with clear goals and a big-picture perspective. Though multifaceted, the intervention was fundamentally a matter of advocacy, which at its core was about education – about talking to people, making them understand the importance of the issue, and then getting their support. It was also about building an operational infrastructure to ensure that women entrepreneurs knew how to bid for contracts and, if successful, were then able to deliver to a high standard.

Bipartisan advocacy and policymaker education

If the starting point for change management is typically dealing with resistance, one might imagine the advocacy campaign as a duel in which hopeful progressives overcame pushback from those ideologically opposed to procurement targets for women. In the case of the US, however, this would be wrong.

According to WIPP co-founder Barbara Kasoff:

By 2008, we really didn't have much pushback. For the first time, there was an acknowledgment that a set-aside programme for women entrepreneurs was necessary. The main factor, from a government perspective, was a lack of awareness, and, then of course there were details that could or would make the programme successful. Until that point, almost nobody thought about procurement for women, just like they didn't think about women on boards. There was no acknowledgment that women entrepreneurs contributed to the US economy in a meaningful and productive way.⁶⁴

The enemy was apathy – from policymakers and from women business owners themselves.

WIPP already knew that policymakers within the executive and legislative branches were the people able to either formally set procurement targets or at least influence the process. WIPP drove the dialogue over increasing the volume of contracts secured by WOSBs. However, rather than use

⁶³ US Small Business Administration (no date), 'What is a Small Business Set Aside?', <https://www.sba.gov/contracting/government-contracting-programs/what-small-business-set-aside>.

⁶⁴ WIPP records and interviews conducted by authors.

emotional pleas based on ideas of fairness or arguments designed to elicit guilt, it emphasized the economic rationale and supported its argument with research and hard data. Potential policy influencers became convinced that the use of WOSB contractors presented an opportunity for economic growth that was not being capitalized on. They also believed that their constituents would tangibly benefit from higher GDP and employment growth.

In 2008, a presidential election year, a unique opportunity presented itself. WIPP decided that its leaders would participate actively in the Democratic and Republican conventions that year, and would work to educate the party platforms and presidential candidates on the procurement opportunity for women. At the Democratic convention, WIPP's guest speaker was Valerie Jarrett, speaking on behalf of Senator Barack Obama. A few months later, she took WIPP's policy position to Obama. The organization received a letter from him saying that if he were elected, women's procurement would be a priority for his administration.

Obama's election as president opened the door for intensive engagement with the White House and the different executive branch agencies. Jarrett became a White House senior adviser, oversaw the White House Office of Public Engagement, and chaired the White House Council on Women and Girls. Another key ally was found in the incoming head of the US Small Business Administration (SBA), Karen Mills.

According to Kasoff:

Once Karen Mills was confirmed, within a few days we had lunch with her at the White House Mess Hall. She said she would take this on as a priority, she would investigate it, and address this issue. The rest is history.⁶⁵

That history took the form of a long game, played out over many years, and included the following:

- Extensive liaison with the executive and legislative branches by WIPP's chief advocate, Ann Sullivan;
- An educational programme for women entrepreneurs, making them aware of the financial opportunities and the strategies needed to compete successfully;
- Congressional hearings (including one with 300 women business owners in a packed Senate hearing room);
- The cultivation and education of coalition partners and a major corporate sponsor, American Express OPEN; and
- Efforts to secure publicity by coordinating with natural media allies such as *Enterprising Women* magazine and the less attentive mainstream media.

⁶⁵ WIPP records and interviews conducted by authors.

All these steps had to be undertaken with relentless repetition. According to Kasoff:

Somebody who wasn't an advocate for us one year, could come around two years later and be our biggest and best ally, so we never closed the door. We always maintained a good relationship with both the Democrats and Republicans on the House and Senate Small Business Committees, the Small Business Administration and the various federal agencies. Educating is about building relationships, and it always takes time to do that. In fact, the Republicans became some of our strongest allies and supporters.⁶⁶

Women's awareness-raising and coalition-building

On the other side of the process were the WOSBs, coming into the procurement market without any foundation or credentials in federal contracting. This was a 'chicken and egg' situation in the sense that a campaign targeting would-be contractors was required to create a 'push' effect to complement the 'pull' of the 5 per cent goal. 'When WOSBs were getting 1 per cent, 1.5 per cent and 2 per cent of contracts, women didn't respond,' said Kasoff. 'They were thinking, "Why do this? It's expensive – it costs a lot and we probably won't get a contract anyway."⁶⁷

Apathy within the ranks of women entrepreneurs – the potential recipients of federal contracts – had to be addressed. Traction on the 5 per cent goal started in earnest when what everyone knew to be a potential opportunity became a real one. As a result of kick-starting activity on both sides – among policymakers as well as women business owners – a 'positive feedback loop' was created as higher procurement targets enticed more women business owners to pursue lucrative contracting opportunities.

The procurement education campaign had natural stakeholders from across the women's business community. These included groups such as the Women Presidents Organization, the Women's Business Enterprise National Council, the National Association of Women Business Owners, the Association of Women Business Centers, and many others. Meshing these groups into a unified coalition was complicated, but allowed the campaign to tap into considerable resources that were central to achieving the 5 per cent goal. The National Women's Business Council, a federal advisory body, also helped forge consensus.

In addition, the coalition-building created a substantial political base of women and economic interests that policymakers could not ignore; just as the numbers were built around the economic case, the sheer number of women who lent their voice to the issue created traction. Kasoff noted:

We made the case with all the women entrepreneurs we were associated with. Even if you are not and never will be a contractor, it's important that you advocate for this as an important issue so that you can help out your sisters.⁶⁸

The benefits of widening the pool of women entrepreneurs were perceived as self-reinforcing: if one woman entrepreneur succeeded in winning a contract, she was surely most likely to reach out to other female entrepreneurial colleagues for project staffing and support.

⁶⁶ WIPP records and interviews conducted by authors.

⁶⁷ WIPP records and interviews conducted by authors.

⁶⁸ WIPP records and interviews conducted by authors.

This perspective was ultimately embraced by members of the women's business community, who formed a powerful coalition for implementation of the policy.

Capacity-building and curriculum development for procurement success

Capacity-building is an open-ended process. It continues irrespective of previous gains, as more and more WOSBs are brought into the federal marketplace. Women require training on the specifics of qualifying for, securing and managing federal contracts. The sustainability of increased participation by women-owned businesses in this marketplace is also contingent on their performing ably in terms of project delivery. Capacity-building efforts around procurement have therefore been broad in scope, encompassing the specific expertise and protocols required for working with different federal agencies, while also providing more traditional offerings.

WOSBs that were already successful federal contractors were asked to develop what became 300 curricular modules on all aspects of federal procurement, and at three levels of sophistication. Many modules were delivered via webinars, while between 2013 and 2015 approximately 6,500 WOSBs were trained in face-to-face ChallengeHER events around the US.⁶⁹

Between 2010 and 2015, WIPP trained more than 600,000 women business owners on how to do business with the federal government. The training was conducted in partnership with the SBA, and via an exceptional multi-year commitment from American Express OPEN.⁷⁰ The programme continues to evolve, training increasing numbers of successful WOSB federal contractors.

Technical and operational issues

Another operational component of efforts to reach the 5 per cent goal was the need to promote certification of WOSBs to ensure they met federal criteria for ownership, management and control. The two major authorized third-party certification bodies are the Women's Business Enterprise National Council and the National Women Business Owners Corporation. Other smaller certifying bodies also exist.

Ultimately, it was advocacy – aided by sectoral research and analysis conducted by Womenable (a research consultancy firm), WIPP, its coalition partners and the SBA – that proved key to achieving success. This led to the SBA proposing a WOSB programme in 2010, approximately two years after Karen Mills had begun focusing on women's procurement. The programme was designed to provide 'greater opportunities for WOSBs to compete for federal contracts, while achieving the existing statutory goal that 5 percent of federal contracting dollars go to women-owned small businesses'.⁷¹ To be eligible for the programme, a firm had to be 51 per cent owned and controlled by one woman or more, and primarily managed by one woman or more.

⁶⁹ In 2013, WIPP, the SBA and American Express OPEN created ChallengeHER. This initiative aimed to help expand the reach and influence of the WOSB Federal Contract Program through step-by-step training designed to lead WOSBs through System for Award Management registration and WOSB certification, and to help women business owners market themselves to federal agencies and develop strategies to successfully compete for WOSB contracts.

⁷⁰ Kasoff, B. (2012), 'A woman's world adding export education to economic aim', 1 December 2012, www.intracen.org/article/A-womans-world-adding-export-education-to-economic-aim/.

⁷¹ US Small Business Administration (2010), 'SBA Proposes Women-Owned Small Business Rule to Expand Access to Federal Contracting Opportunities', 2 March 2010, <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-proposes-women-owned-small-business-rule-expand-access-federal-contracting-opportunities>.

When the set-aside structure was first being framed, an earlier proposed version of the programme sought to identify only four industry groups in which WOSBs were under-represented and eligible for set-asides.⁷² This was very poorly received by WOSBs and policymakers, and was followed by a lengthy legal process of gradual expansion in which more and more industry groups were opened up to set-asides. Only by 2016 was it announced that the SBA had authorized the use of 113 North American Industry Classification System (NAICS) industry groups for WOSB and Economically Disadvantaged WOSB set-asides – the latter referred to as EDWOSBs.⁷³

There was also initially a limit to the size of the contracts that could be covered by set-asides, such that ...

... the final rule authorizes a set-aside of federal contracts for WOSBs where the anticipated contract price does not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of other contracts. Contracts with values in excess of these limits are not subject to set-aside under this program.⁷⁴

No other US federal government set-aside programme had such constraints. In 2013, these ceilings were updated to the same level as those of other set-aside programmes: i.e. US\$6.5 million for manufacturing contracts, and US\$4 million for all other contracts.

In 2015, the WOSB programme received full parity with all other set-aside schemes when policy was implemented to provide for ‘sole-source contracts’. For the first time WOSBs were able to receive federal government contracts, within some constraints, without competition. The ability to get that first contract, and build that initial relationship with the customer, can be life-changing and business-changing for small entrepreneurs.

Results

Building on WIPP’s initial 2008 strategy, the steps outlined above collectively led to significant advancements over time. Between 2009 and 2015, the government awarded more than US\$117 billion to WOSBs (see Table 1), a US\$43 billion increase over the prior seven years.

Table 1: Federal procurement from WOSBs

Year	% of procurement	US\$ billion ⁷⁵
2006	3.41	11.6
2007	3.41	12.9
2008	3.40	14.7

⁷² Manuel, K. (2011), ‘Set-Asides for Small Businesses: Recent Developments in the Law Regarding Precedence Among the Set-Aside Programs and Set-Asides Under Indefinite-Delivery/Indefinite-Quantity Contracts’, Congressional Research Service, CRS Report R40591, 4 August 2011, https://www.everycrsreport.com/files/20110804_R40591_2a88ff963f2fd9bc98a5a6cf03fd0500ofd6d5db.pdf.

⁷³ Federal Register (2016), ‘Women-Owned Small Business Federal Contract Program; Identification of Eligible Industries’, Volume 81, Number 42, 3 March 2016, <https://www.gpo.gov/fdsys/pkg/FR-2016-03-03/html/2016-04762.htm>.

⁷⁴ US Small Business Administration (2010), ‘SBA Releases Final Women-Owned Small Business Rule to Expand Access to Federal Contracting Opportunities’, 4 October 2010, <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-releases-final-women-owned-small-business-rule-expand-access-federal-contracting-opportunities>.

⁷⁵ Dollar amounts for federal procurement were reduced when Congress adopted sequestration legislation in 2013, extending through to 2021, designed to cut defence and non-defence spending.

2009	3.68	Approximately 16.3
2010	4.04	17.5
2011	3.98	16.8
2012	4.00	16.2
2013	4.32	15.4
2014	4.68	17.2
2015	5.05	17.8

Source: SBA Procurement Scorecards, <https://www.sba.gov/contracting/finding-government-customers/see-agency-small-business-scorecards>.

Each federal agency also has its own ‘small-business scorecard’, which clearly shows the volume and percentage of business that it does with WOSBs, establishing both transparency and accountability.

Conclusion

This area of reform is particularly important because public procurement is uniquely positioned within the economic landscape. ‘[It] is a powerful tool to achieve socioeconomic objectives because it operates at the intersection of the government’s regulatory and buying powers. Governments are market regulators and market participants.’⁷⁶

The US has not finished its women’s business procurement journey, and the percentage goal for participation of WOSBs in federal contracting remains an open-ended aspiration. As President Obama’s second SBA administrator, Maria Contreras-Sweet, said in 2015, ‘Meeting this goal means five percent is no longer our ceiling but our foundation upon which to build.’⁷⁷

The timeline for achieving the 5 per cent goal was shortened by the Obama administration’s deep engagement, coupled with strong bipartisan congressional support. However, even without these factors, Kasoff said, the groundwork that had been laid out by the stakeholders would eventually have achieved the same results through persistence and broad alliances, although the process would have been slower.

The story of how the US realized its WOSB inclusion goal stands as a case study that other countries can learn from, adapt and follow. Every country can benefit from understanding the powerful opportunity that public procurement offers, and from using it to both bolster businesses owned by women and contribute to GDP.

⁷⁶ International Trade Centre (2014), *Empowering women through public procurement*.

⁷⁷ US Small Business Administration (2016), ‘SBA: Federal Government Breaks Contracting Record for Women-Owned Small Businesses’, 2 March 2016, <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/sba-federal-government-breaks-contracting-record-women-owned-small-businesses>.

5. Chile Case Study: Accessible Public Procurement for SMEs – Increasing the Participation of Companies Owned by Women

Trinidad Inostroza and Vanessa Erogbogbo

Main findings

- Targeting small and medium-sized enterprises (SMEs) offers a useful proxy for assisting enterprises owned by women.
- Focused support to SMEs owned by women had positive and accelerated results in Chile, which led to more inclusive GDP growth.
- A supportive ecosystem of training, certification, formation of women’s associations and regulatory reform has contributed to a significant increase in women’s participation in the formal economy.
- The share of women participating in the public procurement system reached 36.5 per cent in 2016, a figure that corresponds to more than 21,345 women quoting on tenders, offering contract terms or receiving purchase orders.

Public procurement, as a substantial component of GDP, has the potential to contribute significantly to women’s economic empowerment by increasing the proportion of contracts awarded to SMEs owned by women. Although women own approximately 40 per cent of SMEs in developing countries, it is estimated that they win fewer than 1 per cent of these contracts.

However, the experience of ChileCompra, a public agency supervised by Chile’s Ministry of Finance, has demonstrated that it is possible for governments to make public procurement more accessible to SMEs in general, and to SMEs owned by women in particular. This case study is a review of the implementation of a gender-sensitive procurement strategy by ChileCompra.

Chile has one of the most accessible public procurement systems in the world for micro and small enterprises. Mercado Público is an e-marketplace, managed by ChileCompra, in which 90 per cent of companies selling their products and services are micro or small enterprises.⁷⁸ These companies account for 45 per cent of public procurement transactions, a level far higher than their overall participation rate in the economy (8 per cent). If medium-sized companies are included, the

⁷⁸ See www.mercadopublico.cl.

combined participation of micro, small and medium-sized enterprises in the public procurement market rises to 60 per cent of transactions.⁷⁹ In 2016 more than US\$10.1 billion, the equivalent of 4.2 per cent of GDP, was traded through Mercado Público. More than 123,000 suppliers sell products and services to more than 850 public agencies through the platform.

Participation of micro and small enterprises in the public procurement process is higher in Chile than in other systems around the world. In the EU's public procurement systems, for instance, the participation of micro and small enterprises reached only 17 per cent in 2011. According to a comparative analysis of OECD countries, ChileCompra tackles about 87 per cent of the problems that micro and small companies confront when seeking to access contracting opportunities published on Mercado Público.⁸⁰

The success of the system is the result of consistent efforts to reduce asymmetries of information, barriers to entry and market failures – all of which are sensitive areas for SMEs. For example, Mercado Público provides universal access to all public procurement tenders and all information on doing business with the state. There are no special requirements for being granted access to the system: any national or foreign supplier can take part in procurement processes in the online market. Likewise, ChileCompra imposes no special requirements on firms seeking to bid for contracts with public agencies. This lack of barriers to entry is of particular benefit to smaller enterprises.

More female suppliers, more growth for the country

In 2015, ChileCompra implemented an action plan to enable women to access the same opportunities as men when doing business with the state. The plan's main objectives are to identify and tackle gender-specific difficulties, and to facilitate the inclusion of women's businesses as suppliers to state agencies.

Women's labour market participation globally tends to be lower than men's, with a difference of approximately 20 percentage points between the two cohorts. However, between 1990 and 2013 this gap steadily decreased in Chile. While the country's rate of male employment remained stable, that for women rose by more than 10 percentage points to 41.9 per cent in 2013.⁸¹ According to one government study, for every 100,000 women entering the labour force, Chile's GDP could increase by up to 0.65 per cent.⁸²

Boosting the role of women as suppliers to the state means investing in social and economic development. Public procurement is a way to strengthen female empowerment, reduce poverty, and promote social equity and development.

⁷⁹ Adapted from Inostroza, T. (2016), 'Including SMEs and women in public procurement in Chile', *International Trade Forum*, 3 October 2016, <http://www.tradeforum.org/article/Including-SMEs-and-women-in-public-procurement-in-Chile/> (accessed 1 Feb. 2017).

⁸⁰ Ibid.

⁸¹ Berlien, K., Franken, H., Pavez, P., Polanco, D. and Varela, P. (2016), *Mayor Participación de las Mujeres en la Economía Chilena* [Further Involvement of Women in the Chilean Economy], Santiago: Subsecretaría de Economía y Empresas de Menor Tamaño, <http://www.economia.gob.cl/wp-content/uploads/2016/05/Estudio-Incorporacion-Mujer-.pdf>.

⁸² Ibid.

Governments fulfil a strategic role in promoting female participation in the labour market and in hiring female entrepreneurs. The Inter-American Development Bank considers public procurement to be an opportunity for countries to encourage inclusive development.⁸³ Around 42 per cent of countries in the Americas have enacted laws that promote inclusion for groups under-represented in the economy.⁸⁴ However, there is room for improvement, as only 1 per cent of government and corporate expenses are issued to female-owned companies globally.⁸⁵

Research by ComunidadMujer, a Chilean independent organization, revealed that from 2007 to 2013 only 36 per cent of those selling products and services to the Chilean state were women.⁸⁶ The ratio for purchasing orders is similar: only 34 per cent of these are issued to women. Female entrepreneurs account for only 26 per cent of procurement transactions – a situation that requires particular attention given that 64 per cent of these women state that they are heads of household, and given that approximately 60 per cent are creating additional jobs. This is not only a challenge for policy, therefore, but also an opportunity to increase the participation of women-led enterprises in the public procurement system.

Female suppliers to the state typically own businesses in earlier stages of growth (three to eight years of operation) than those owned by men (more than eight years). Women mainly create their own companies in order to supplement their household income, whereas men generally do so out of a desire to establish their own businesses. Approximately 60 per cent of women suppliers are employers and have higher education (whereas most men have vocational training), and 11 per cent belong to an indigenous group.

One of the main features of the ChileCompra action plan was to endorse regulatory modifications, mainly in the Public Procurement Law (No 19.886), throughout 2015. In 2016, a guideline document was published by the government, advising the inclusion of gender criteria in all public agencies' purchases. Public agencies using Mercado Público are therefore now able to include gender-specific evaluation criteria in their goods and services purchasing processes.

In addition, ChileCompra launched the Sello Empresa Mujer (Women Supplier Certification) scheme in 2015. This scheme helps procuring entities to identify women-led enterprises, as well as those with a more than 50 per cent female workforce. The certification can be requested as an evaluation criterion to be included in tender documents, or to demonstrate social impact in direct contracting bids below US\$700.⁸⁷

⁸³ Inter-American Development Bank (2015), *Empoderamiento Económico de las Mujeres: Bueno Para las Mujeres, Bueno Para los Negocios y Bueno Para el Desarrollo* [Economic Empowerment of Women: Good for Business and Good for Development], Panama: Inter-American Development Bank, II CEO Summit of the Americas, Panama 2015.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ ComunidadMujer (2015), *Estudio Diagnóstico de Género Proveedoras Naturales ChileCompra* [Diagnosis of the Gender of Suppliers in ChileCompra], *Plan de Acción Para la Disminución de Brechas de Género en el Mercado de Compras Públicas* [Plan of Action for the Reduction of Gender Gaps in the Market of Public Purchases], Santiago: ComunidadMujer.

⁸⁷ Adapted from Inostroza (2016), 'Including SMEs and women in public procurement in Chile'.

Results: more than 21,345 women state suppliers

As a preliminary result of the actions taken, the share of women participants in the public procurement system reached 36.5 per cent of total participants in 2016, a figure that corresponds to more than 21,345 women quoting on tenders, offering contract terms or receiving purchase orders.

More than 345 companies now have the Sello Empresa Mujer certification (endorsed by the Ministry of Women and Gender Equality in December 2016), and success stories have been reported in which social impact was achieved through these gender-focused criteria. For example, the Municipality of Contulmo, a town of 5,000 inhabitants in southern Chile, recently issued a tender for a construction project. The evaluation criteria specified a higher score for companies employing a greater share of women.⁸⁸

As another means to close gender gaps and promote the presence of women entrepreneurs in the public procurement market, ChileCompra developed a ‘commercial management’ programme which trained 25 women suppliers. This 20-hour programme covered a combination of leadership skills, empowerment strategies and commercial management techniques. In addition to providing participating suppliers with valuable certification, it led to the creation of the first association of women suppliers to the state, the Asociación de Mujeres Empresarias Proveedores del Estado (AMEPE). AMEPE comprises different types of companies that came together to promote, improve and strengthen the involvement of women in public procurement.

AMEPE is now a key multisectoral actor that channels and advertises information on different topics affecting the participation of companies owned by women in public procurement, as well as constituting a networking centre for women. AMEPE enhances cooperation between businesswomen, in diverse areas of the economy, who have commercial relations with different public entities. During the last months of 2016, ChileCompra and AMEPE signed a collaboration agreement to analyse and engage on subjects of mutual interest. AMEPE has 70 members, representing companies located in Santiago as well as other parts of the country.⁸⁹

Another result of the action plan was the establishment of a six-month mentorship programme for women suppliers, which benefited 65 women. Throughout the programme, participating suppliers received customized assistance to help increase their business opportunities with the state. The programme followed a ‘group mentorship’ methodology, supported by an expert in entrepreneurship coaching. Its goal was to develop and boost personal and interpersonal skills in a way that would have a positive impact on participants’ business with the state.

In order to showcase the experience of female entrepreneurs to buyers and the public, a television programme called *Soñadoras, el valor de las oportunidades* [Dreamers, the value of opportunities] was produced, broadcasting 16 successful stories of female state suppliers. These presented women from across Chile who had succeeded thanks to the opportunities given to them by the public procurement system.

⁸⁸ Ibid.

⁸⁹ See <http://www.amepe.cl/>.

ChileCompra trained 260 female suppliers during 2015 and 2016, using programmes of leadership and empowerment as well as gender-focused mentorships and workshops. For 2017, ChileCompra planned to reach a higher number of suppliers through training opportunities. As one of the co-authors of this chapter explains in an article for *International Trade Forum* magazine:

While the participation of women in Chile's workforce is growing, many are still prevented from taking up paid employment. Though they have a desire to work, they are often restricted to performing household duties.⁹⁰

ChileCompra has a role in creating work opportunities for women entrepreneurs, as the country needs more women contributing to its sustainable development.

⁹⁰ Adapted from Inostroza (2016), 'Including SMEs and women in public procurement in Chile'.

6. Gender-smart Procurement: Policies for Driving Change

Drawing from the four case studies in this paper, as well as from existing research, it is possible to identify the following suggestions for improving gender-smart procurement. There is a clear gap in the research and data. Addressing this gap can help policymakers and companies to identify and better articulate the policy pathways linking increased female labour participation, support for businesses owned by women, gender-smart procurement, anti-corruption policies, more gender-inclusive trade and inclusive macroeconomic growth.

The intended time scale for implementation of these recommendations varies. Some can be tackled immediately, while others have short-, medium- or long-term horizons. For example, the inclusion of gender data in procurement systems, and transparent reporting, can begin immediately. The introduction of robust certification, training and support for enterprises owned by women may take some time, but the experience in countries such as the US and Chile also suggests that the process can be accelerated. Procurement laws can be reformed. In short, there is no excuse for a ‘business as usual’ approach.

Recommendations for governments

Using policy and spending levers, governments can play four primary roles in encouraging procurement from businesses owned by women:

1. They can direct reforms of government procurement. Governments can examine their own procurement policies and practices to ensure sustainable and inclusive procurement. They can do the following:

- Set a political strategy to accelerate gender-equity goals through procurement.
- Translate the recommendation of the UN High-Level Panel on Women’s Economic Empowerment into domestic policy, and include reference to it in the leaders’ declaration following the 2018 G20 summit in Argentina. For example, the leaders’ declaration could pledge to deliver gender-smart employment and procurement practices.
- Create a government ‘cartel’ (in a policy sense – that is, enabling consistent approaches across departments and thus supporting economies of scale) through the roll-out of gender-smart procurement policies through all levels of government – local, regional and federal.
- Revamp procurement policy to promote diversity by pursuing one or more of the following actions:
 - Defining what it means to be a ‘women-owned business’, leading to an ISO standard;

- Setting a target level of procurement spending that should go to businesses owned by women (including via standard clauses in requests for information/requests for proposals);
- Offering preferential treatment for companies that apply rigorous gender equality and diversity policies, and that report gender equality indicators; and
- Introducing a government requirement that firms bidding for procurement contracts disclose information about their gender pay equity.
- Drive equal representation of women and men as procurement professionals.
- Develop a public database of women suppliers and open government contracts.
- Create examples for others by communicating case studies.

2. They can reduce barriers to women’s participation in the economy. Governments can create the support mechanisms for businesses owned by women to flourish. In particular, they can create a supportive ecosystem by:

- Identifying any barriers to women’s business/property ownership, access to finance, direct control of business etc. that can be eradicated;
- Reducing the size of tenders;
- Reviewing any laws, frameworks or targets that encourage women’s business ownership and growth;
- Making information available about education and certification processes;
- Identifying programmes that encourage entrepreneurship at critical junctures in a business’s lifecycle; and
- Training procurement officers to build awareness of the importance of enterprises owned by women for a healthy economy, and teaching procurement officers how to set up procedures and targeted assistance to empower such businesses.

3. They can help gender-smart procurement in the private sector to achieve greater scale. Governments can expand their role in encouraging private corporations to spend more of their procurement budgets with women’s businesses (increasing the overall ‘pie’ of available money so that it includes private-sector spending). In particular, they should consider the following steps:

- Mandating a percentage of procurement spending that corporations should aspire to – and creating incentives (rewards and penalties) for compliance;
- Encouraging greater transparency – for example, establishing a standard set of metrics that companies (including first- and second-tier suppliers) can use to evaluate themselves, and publishing an annual report; and

- Fostering awareness of gender equality via public reporting of representation, salaries and corporate practices, through vehicles such as cross-sectoral ranking indexes or other means.

4. They can encourage increased transparency on the issues, for example through the creation of a G20 procurement map showcasing women business enterprises.

Recommendations for regional and international organizations

In addition, regional and international organizations can:

- Use their convening power to share best practice and produce model codes and legislation;
- Understand more deeply links between gender-smart procurement and anti-corruption practice; and
- Explore the links between gender-smart procurement and next-generation trade.

Recommendations for corporations

To reap the ‘diversity dividend’, the corporate sector needs to lobby for more national regulation on gender equality. Corporations can support government reforms in pursuit of more diversity in procurement, and reap the benefits of reforming their business plans and showing leadership. There are inherent economic and risk-mitigation benefits to having a diverse supply chain. Specifically:

- The UN has developed a series of best practices in its manual *The Power of Procurement: How to Source from Women-Owned Businesses*.⁹¹ This can serve as a basis for corporate best practice.
- Companies need to engage with government about procurement reform and could participate in pilot programmes to reform national procurement practice.

⁹¹ Chin (2017), *The Power of Procurement: How to Source from Women-Owned Businesses*.

About the Authors

Dr Susan Harris Rimmer is an Australian Research Council Future Fellow in Griffith Law School, and an adjunct reader in the Asia-Pacific College of Diplomacy at the Australian National University. Susan was selected as an expert for the official Australian delegation to the 58th session of the UN Commission on the Status of Women in New York in March 2014, and is one of two Australian representatives to the W20 in Turkey and China. She has provided policy advice to the Australian government and Commonwealth parliament on the UN Security Council, G20, Indian Ocean Rim Association (IORA) and MIKTA (a partnership involving the foreign ministers of Mexico, Indonesia, South Korea, Turkey and Australia). In 2014 she was named one of the Westpac and *Australian Financial Review's* 100 women of influence in the global category. She has served in voluntary roles as a board member of the UN Women National Committee Australia, Australian Lawyers for Human Rights, the Refugee Council of Australia and the International Women's Development Agency.

Astrid ter Wiel has substantial experience in industry and education. For several years she worked as a procurement consultant and project manager, and has successfully delivered projects in developing countries, collaborating with diverse international stakeholders. She is a qualified university lecturer and has developed and delivered a wide range of training modules in strategy, (public) procurement, academic skills and project management for both undergraduate and master's students as well as practitioners. She runs her own business developing and facilitating courses, doing research, and managing projects in the fields of sexual and gender-based violence, strategy and (gender-smart) procurement.

Louise McSorley is a senior Australian government public servant who has led the country's domestic policy for gender equality and programmes for women's development and leadership, as well as co-ordinating international gender equality obligations. Previous roles included heading the Office for Women in the Department of the Prime Minister and Cabinet Office, as well as in the Workplace Gender Equality Agency. Louise left legal practice to join government in 1997, and has since held leadership roles in labour relations law and industry engagement.

Jennifer Bisceglie is CEO of Quantum Leaps, which provides solutions aimed at developing the competitive capabilities of women business owners, as well as the performance and transparency of the ecosystem within which they operate. She has been a W20 representative for the US since 2015. In addition to being a passionate advocate for women entrepreneurs globally, Jennifer is a business owner and CEO of two for-profit companies in supply chain and vendor risk management, serving the public and commercial sectors. Jennifer has been the recipient of several awards, including the 2014 Smart CEO Brava Award, American Express Open Government Contractor of the Year 2010, Enterprising Woman of the Year Award 2009, and the *Washington Business Journal's* Women Who Mean Business Award 2009.

Clayton L. Johnson provides Quantum Leaps' research, communications, design and digital media services. He also maps women's entrepreneurial ecosystems, and was the lead global consultant for Vital Voices' map of ecosystems for business women's networks in Latin America, sub-Saharan Africa, and the Middle East and North Africa, published in 2013.

Virginia Littlejohn co-founded Quantum Leaps in 2002 to accelerate global women's entrepreneurship. She has held positions with the National Association of Women Business Owners, the World Association of Women Entrepreneurs, the Global Banking Alliance for Women, and the International Trade Centre (ITC), a joint agency of the UN and World Trade Organization. She has been inducted into the Enterprising Women Hall of Fame and has won numerous international awards, including lifetime achievement awards from The International Alliance for Women and the America–China Business Women's Alliance.

Trinidad Inostroza is the director of ChileCompra, a public agency supervised by Chile's Ministry of Finance. She is a lawyer specializing in public and constitutional law. For eight years, she headed ChileCompra's legal department. Prior to that, she was a criminal law prosecutor in Santiago, Chile.

Vanessa Erogbogbo heads the ITC's women and trade programme. She has over 15 years' experience working on women's economic empowerment issues – predominantly on entrepreneurship, access to financial services and trade – and previously worked in commercial banking. In her current role she develops strategies, curates partnerships and oversees a team implementing programmes to make trade work for women through ITC's #SheTrades initiative, which seeks to connect 1 million women to markets by 2020.

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About the Gender and Growth Initiative

The Gender and Growth Initiative provides robust policy-oriented research and outreach on the imperative to close the gender gap and address a number of economic problems stemming from gender inequality. More women than men are in poverty in developing and developed countries. Of people living in poor households, women and girls represent 50 per cent in developing countries and 53 per cent in European countries. Many women are excluded from economic decision-making within their own households. Women are paid less than men, work longer hours as they take care of family members, are often excluded from the labour market, do not have access to finance and are denied property rights. Closing the gender gap is not only a fundamental human right, but it is also smart economics. Smart economics recognizes the importance of creating a market ecology that is favourable to female participation in economic activities.

The project builds on a specific recommendation that the Chatham House International Economics Department (since renamed the Global Economy and Finance Department) presented to the W20 as a concrete step towards meeting the G20's commitment of reducing the gap in labour force participation rates between men and women by 25 per cent by 2025: 'Increasing the share of public procurement sourced to companies that meet specified gender criteria such as share of senior leadership or specific relevant labour standards.'

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