



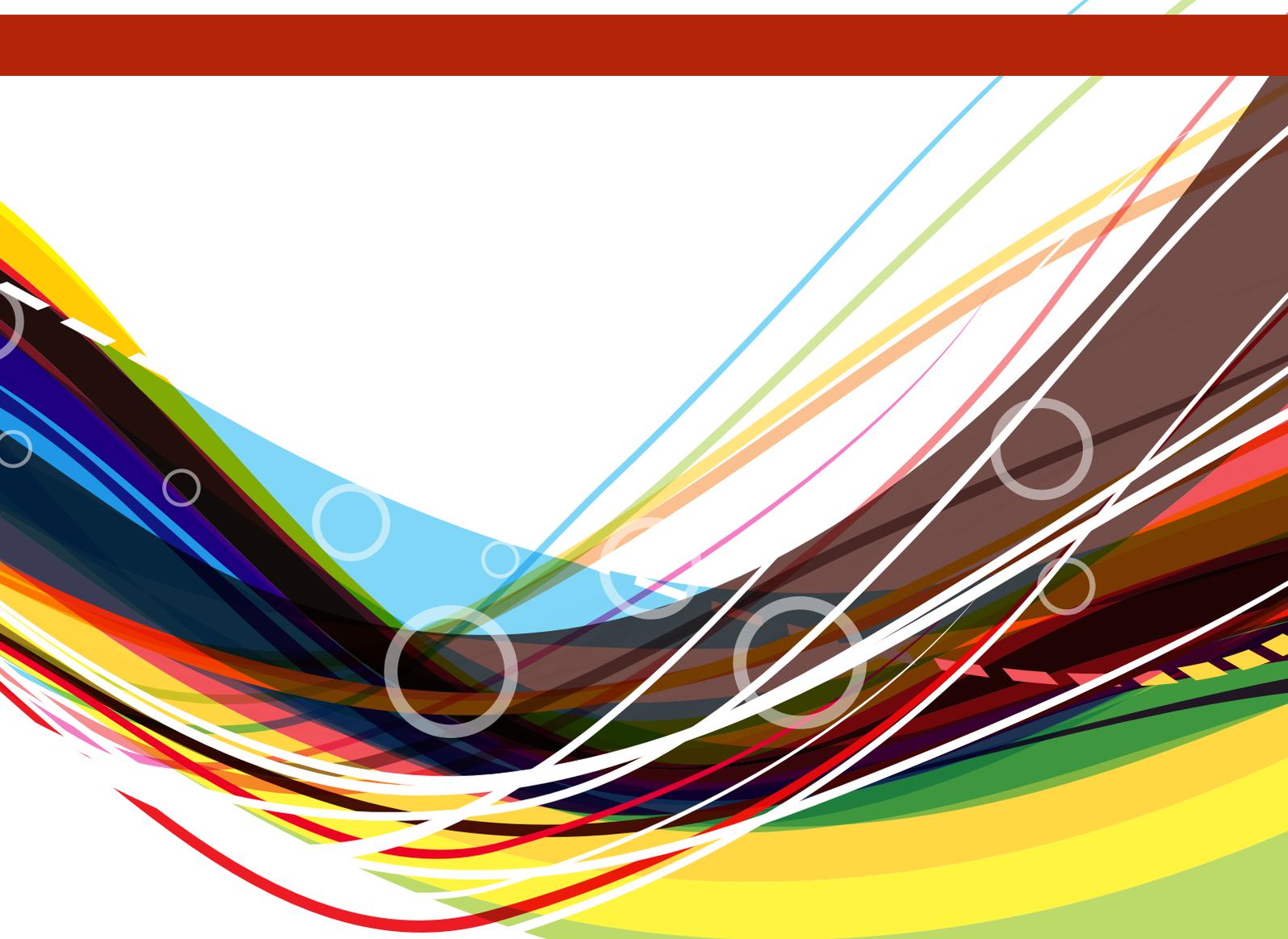
ITC

TRADE IMPACT  
FOR GOOD

50 YEARS

1964-2014

Empowering  
**women** through  
public procurement



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A woman wearing a vibrant orange headwrap with a blue patterned scarf and a purple and white plaid shirt is sitting and smiling while using a laptop. She is wearing a patterned skirt with a pink sash. The background shows a rustic wooden wall. The text 'Empowering women through public procurement' is overlaid in white on the image.

# Empowering women through public procurement



**ABSTRACT**

ID=43120

2014

F-06.08.02 EMP

International Trade Centre (ITC)

**Empowering Women through Public Procurement.**

Geneva: ITC, 2014. xviii, 65 pages.

This guide provides governments, procuring entities and other stakeholders with a deeper understanding of the challenges faced by women-owned businesses to participate in public procurement markets - offers tools to address these challenges and stimulate increased entrepreneurial activity by women-owned businesses; provides a brief overview of the public procurement objectives of public procurement systems; highlights common challenges faced by women-owned businesses in public procurement markets and discusses techniques to address them; reviews affirmative action policies and programmes to build the capacity of women-owned businesses and to encourage their participation in public procurement; discusses metrics, monitoring and evaluating progress towards policy objectives, as well as enforcing compliance with preferential procurement policies; includes bibliographical references (pp. 64-65).

Descriptors: **Women Entrepreneurs, Public Procurement, Millennium Development Goals, Gender, Developing Countries.**

English, French, Spanish (separate editions)

ITC, Palais des Nations, 1211 Geneva 10, Switzerland ([www.intracen.org](http://www.intracen.org))

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**Doc. P254.E/DBIS/TS/14-VIII**

**ISBN 978-92-9137-419-9**  
**United Nations Sales Number E.14.III.T.3**

International Trade Centre, Palais des Nations, 1211 Geneva 10, Switzerland  
(<http://www.intracen.org>)



## Foreword

Government procurement offers a unique, fiscally responsible route to empower women, combat poverty and promote inclusive economic growth. Public procurement accounts for as much as 10–15% of gross domestic product (GDP) in developed countries and over 30% of GDP in developing countries. This translates into trillions of dollars of government spending annually.

To date, however, women entrepreneurs have been largely excluded from this sizeable market due to lack of access to information on bids, understanding of procedures and ability to meet requirements. As both market regulators and participants, governments are in a unique position to change this and benefit from enlarging the pool of potential suppliers.

Investing in women-owned businesses pays dividends in terms of creating jobs and development. Small and medium-sized enterprises (SMEs) are the engines for job growth in the world economy, accounting for nearly 80% of jobs worldwide. Increasing their competitiveness increases their likelihood of success, expansion and job creation. Women entrepreneurs tend to reinvest up to 90% of their earnings in their families and communities, which links inclusive economic growth directly to development.

Inclusive economic growth has proven to be a prerequisite to achieving development goals. In his report, 'A Life of Dignity for All', the United Nations Secretary-General Ban-ki Moon observed, 'Inclusive economic growth with decent employment and decent wages has proven to be a prerequisite for achieving the Millennium Development Goals, particularly Goal 1, on eradicating extreme poverty and hunger.' Data collected by the World Economic Forum's Gender Gap Report confirms this observation, showing a positive correlation between women's empowerment, GDP per capita, and human development.

Gender equality and women's empowerment are set to be a cornerstone of the Post-2015 Development Agenda, increasing the relevance of pursuing options through procurement to deliver on development commitments.

Recognizing these important linkages, the International Trade Centre (ITC) and its partners established the Global Platform for Action on Sourcing from Women Vendors in 2010. The Global Platform is a network of policymakers, international organizations, buyers, trade support institutions, women's business associations and women-owned businesses. Network members share the objective of increasing the amount of corporate, government and institutional procurement secured by women vendors, in order to bring greater economic benefit to women and their communities.

As part of the Global Platform, ITC drafted a guide to assist governments with public procurement reform, in order to sensitize them and other stakeholders to the issues women entrepreneurs face in those markets. In December 2013, ITC presented a draft outline of the guide to a group of public procurement experts, women entrepreneurs and representatives of women's business associations who were attending the Africa Regional Workshop: Fostering the Participation of Women Vendors in Procurement Markets. During this meeting, participants provided valuable feedback to ITC on the draft outline and shared many of their experiences with us, all of which helped shape the final draft of this guide.

This guide aims to assist governments and procuring entities conceptualize, develop and implement policies and programmes that will enable women entrepreneurs to participate more fully in public procurement markets. It begins by examining some very basic, but often overlooked questions: What is a women-owned business? How do we identify those businesses? The guide then examines the many barriers and challenges that prevent or discourage women entrepreneurs from entering the public procurement market and presents a range of best practices for overcoming them.

In doing so, the guide calls attention to a very salient point: businesses owned by men and women are different. As a result, to be effective, governments must tailor their procurement reforms accordingly.

Access to public procurement markets is only half the story. Women-owned businesses also require more targeted assistance to help them overcome a history of discrimination and marginalization and succeed in the marketplace. The guide discusses strategies such as margins of preference, reservations and capacity-building programmes used by governments around the world to stimulate participation by women entrepreneurs and other marginalized groups.

This guide draws on a wide range of research, commentaries, treatises, and case studies in the field of public procurement including from Brazil, Chinese Taipei and the European Union, as well as from Africa, where consultations were held.

This guide is part of ITC's work to promote the participation of women entrepreneurs and producers in global value chains and to ensure they enjoy greater economic benefits from international trade. I hope the guide will encourage and assist governments to use public procurement to facilitate the economic empowerment of women entrepreneurs in their countries.



Arancha González  
Executive Director, International Trade Centre

# Acknowledgements

Keric Chin, a private practice lawyer and legal consultant, is the author of this guide. He based it on his 20 years of cumulative experience as an acquisition professional in the United States Air Force and as a government contracts attorney in both the federal government and private practice. He has advised clients on all facets of government contracts formation, administration, and compliance issues, litigated contract disputes and bid protests, and managed government research and development projects. He recently completed a review of New Zealand's public procurement system for Transparency International New Zealand.

ITC is grateful to the government and private sector participants who provided helpful suggestions and shared many of their own experiences with public procurement. In particular, ITC would like to acknowledge participants of the Africa Regional Workshop held in Kampala, Uganda, in December 2013. In particular, ITC would like to thank Cornelia Sabiiti, Executive Director, Uganda Public Procurement and Disposal Authority; Florence Kata, Executive Director, Uganda Export Promotion Board; Sebastian Jerry Ackotia, Director of Public Policy and Strategy, Ghana Public Procurement Authority; Adeyemi Ayinde Tajudeen Suleiman, Executive Director, Nigeria Chamber of Commerce in Sierra Leone; Dr. Maggie Kigozi, former Executive Director, Uganda Investment Authority; and all those who participated in the public procurement break-out sessions.

In addition, ITC would like to thank all those who made valuable contributions at the second Senior Executive Roundtable on Government Procurement – Sourcing from Women Vendors, and the APEC Workshop: Access to Markets – Including Women Entrepreneurs in Government Procurement Processes that took place at the Women Vendors Exhibition and Forum in Mexico in 2012; the panel on Leveraging Government Procurement to Source from Women Vendors at the ITC World Export Development Forum that took place in Indonesia in 2012; and the Inaugural Senior Executive Roundtable on Government Procurement – Sourcing from Women Vendors, held as a side event at the 8th WTO Ministerial Conference in Geneva in 2011.

ITC is most grateful to the government of Samoa for piloting the rollout of this guide, including through the delivery of training modules at the National University of Samoa. This has been made possible through the unflagging support of the Hon. Fonotoe Nuafesili Pierre Lauofo, Deputy Prime Minister of Samoa and Ms. Belinda Filo-Tafunai, Ministry of Foreign Affairs and Trade, Samoa. ITC further thanks Irene Natividad, President, Global Summit of Women, for inviting ITC and the government of Samoa to deliver the keynote address at the Ministerial Roundtable at the Global Summit of Women in Paris in 2014. This has raised awareness and interest in this important area of work.

Other experts who provided helpful feedback and assistance with the guide include Hong Siew Lim and Juan Hoyos of the International Trade Centre, and Anna Caroline Müller of the World Trade Organization.

Meg Jones, ITC Senior Programme Officer, Women and Trade, supervised the writing of this guide, with Vanessa Erogbogbo, ITC Programme Officer Women and Trade. Natalie Domeisen was responsible for editorial management and promotion, Dianna Rienstra acted as editorial consultant, Kristina Golubic created the design and artwork, and Iva Stastny-Brosig conducted the layout. Digital printing was done by Serge Adeagbo and Franco Iacovino.

The work would not be possible without the support of the governments of Australia, Norway and the United Kingdom of Great Britain and Northern Ireland.

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# Abbreviations

B-BBEE	Broad-Based Black Economic Empowerment (South Africa)
CEEC	Citizens Economic Empowerment Commission (Zambia)
COC	Certificate of Competency (United States)
FAR	Federal Acquisition Regulation (United States)
GDP	Gross domestic product
HDI	Historically Disadvantaged Individual (South Africa)
IFC	International Finance Corporation
ITC	International Trade Centre
MDGs	Millennium Development Goals
MSME	Micro, small and medium-sized enterprise
RBM	Results-based management
SBA	Small Business Administration (United States)
SME	Small and medium-sized enterprise
UNCITRAL	United Nations Commission on International Trade Law
UNDP	United Nations Development Programme
WTO	World Trade Organization
WTO GPA	World Trade Organization Agreement on Government Procurement

# Executive summary

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*Governments can use public procurement to leverage the potential of women-owned businesses for their economies. The sooner governments invest in reforms and targeted assistance to increase access to public procurement, the sooner the benefits will flow to women, their families, their communities and their nations.*

---

**T**his guide provides governments, procuring entities and other stakeholders with a deeper understanding of the challenges faced by women-owned businesses to participate in public procurement markets. It offers tools to address these challenges and stimulate increased entrepreneurial activity by women-owned businesses.

Governments have long used public procurement as a tool to promote socioeconomic objectives. These objectives are sometimes referred to as 'horizontal' or 'collateral' because they are ancillary to the primary purpose of public procurement, which is to acquire goods and services for the government.

Horizontal considerations in formulating public procurement policies are wide ranging, from promoting labour laws to encouraging local industrial development to supporting environmentally sustainable practices. To date, few governments have made a concerted effort to use public procurement as a tool to unleash the vast economic potential of women entrepreneurs.

## Promoting gender equality is 'smart economics'

The case for public procurement as a tool to promote participation by women-owned businesses is compelling from a developmental and economic perspective. A growing body of research shows that inclusive growth is critical to achieving many of the Millennium Development Goals (MDGs). At the time of publication, a stand-alone goal on gender equality and women's empowerment was proposed for the Post-2015 Development Agenda, which succeeds the MDGs.

Research shows that there is a positive correlation between gender equality and a country's gross domestic product (GDP) per capita. When women are excluded from the marketplace, the economy suffers. Promoting gender equality is, in the words of former World Bank President Robert Zoellick, 'smart economics'. The same applies to promoting participation by women-owned businesses in public procurement.

## Public procurement – a powerful tool

Public procurement 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. They regulate the public procurement process by establishing the legal and regulatory framework. Governments spend trillions of dollars annually purchasing the goods, works and services they require to fulfil their public functions.

The public procurement process involves three phases: acquisition planning and market research; source selection and contract award; and contract administration and close out. By carefully structuring the rules that govern each of these phases, governments seek to achieve various policy objectives. For most procurement systems, those objectives include value for money, integrity, equal treatment and efficiency. These objectives can and should include increased participation by women entrepreneurs in public procurement and in the economy more broadly.

## Defining and understanding the target community

An important first step to leveraging public procurement in support of women-owned businesses is to define what it means to be a women-owned business and the criteria for participation in preferential programmes. Lack of consistency, clarity and data in this area has frustrated past efforts to promote increased participation by women entrepreneurs. It continues to do so today.

The definition of a women-owned business may vary from country to country. However, it is critical that definitions emphasize ownership and control by women to avoid tokenism and illicit practices such as fronting. These definitions and associated criteria are also key to understanding market capacity, establishing a baseline against which to measure progress, targeting technical, financial and other forms of assistance, and determining which businesses are eligible for preferential status.

The definitions of and associated criteria for women-owned businesses are also critical to establishing effective certification and registration programmes. While often combined, certification and registration are distinct processes with different objectives. The objective of the certification process is to ensure that businesses meet the eligibility criteria established by the government, while the objective of the registration process is to provide a point of entry for companies wishing to do business with the government.

When combined with an effective certification system, a comprehensive, accurate, and up-to-date contractor registration system can serve a number of important functions. This serves as the point of entry for companies wishing to do business with the government and provides invaluable data to government on market capacity and demographics.

In some countries, registration systems are also used to prequalify contractors, obtain various certifications and develop approved vendor lists. Proof of registration and certification as a women-owned business alleviates the need for individual procuring entities to determine on a case-by-case basis whether a particular tenderer qualifies to bid and is entitled to preferential treatment.

## A checklist for action

Certifying and registering women-owned businesses have limited value unless governments also address the challenges that prevent these firms from accessing and fully participating in public procurement markets.

Research has identified common challenges in both developing and developed economies. They include lack of information about tender opportunities, overly complex and burdensome tender procedures, unreasonable technical and financial qualification requirements, large contract sizes, insufficient time to assemble tenders, price competition, lack of feedback from procuring agencies, and failure by those agencies to promptly pay women-owned businesses.

To overcome these challenges, governments should, at a minimum, adopt the following measures:

- Publish all procurement opportunities on a central electronic clearinghouse and disseminate the same information directly to women's business organizations.
- Streamline and standardize tender documentation and prequalification procedures across procuring entities.
- Permit women-owned businesses to prequalify for groups of contracts or certain categories of goods, works and services.
- Ensure one procuring agency can use the results of prequalification procedures conducted by another.
- Tailor the technical, financial and other qualification and prequalification requirements to the size and complexity of the procurement opportunities.
- Avoid bundling multiple requirements into one large contract.
- Allow sufficient time for firms to prepare tenders.
- Encourage use of economically most advantageous or best value award criteria where appropriate. Caveat: The use of economically most advantageous award criteria may not be appropriate where the added discretion invites corruption or increases complexity.
- Provide meaningful feedback to unsuccessful bidders on the strengths and weaknesses of their tenders and areas for improvement.
- Implement and enforce rules regarding prompt payment of women-owned businesses at the prime and subcontract levels and hold procuring entities and government officials accountable for the same.

Some of these challenges are not unique to women-owned businesses; they are challenges faced by other businesses, irrespective of ownership. Any reforms addressing these challenges may have collateral benefits for other businesses. International instruments in the area of government procurement, such as the World Trade Organization Agreement on Government Procurement and the 2011 UNCITRAL Model Law on Public Procurement, can be important sources of inspiration for countries wishing to address such challenges.

However, it is important for governments to understand that the solutions to these challenges must be gender-specific. This is because businesses owned by women and those owned by men are not similarly situated. Seemingly gender-neutral rules, policies and programmes can have a disparate impact on women-owned businesses.

## Stimulating entrepreneurial activity

Removing barriers faced by women-owned businesses is a necessary step. However, their removal is unlikely to substantially increase participation by women-owned businesses in public procurements unless other steps are taken. To stimulate entrepreneurial activity, governments must develop affirmative policies, procedures, and programmes specifically for women-owned businesses.

### Targeted assistance strategies

Governments have long used 'targeted assistance' strategies to encourage or promote economic participation by historically disadvantaged individuals and other marginalized groups within society. Although few governments have done so to date, these same strategies can be used to promote increased economic participation by women-owned businesses.

This guide presents some examples of targeted assistance strategies used by governments to encourage participation by women-owned and other disadvantaged

businesses in public procurement markets. The strategies that governments adopt must be gender-specific and reflect market realities, including the capacities and capabilities of women-owned businesses in the market. Governments cannot establish preferential procurement policies in a vacuum.

### Establishing mandatory goals or targets

Establishing mandatory goals or targets for procuring entities is an important example of a targeted assistance strategy. For example, in the United States, the statutory target for small businesses 'owned and controlled' by women is not less than 5% of the total value of all federal contracts.

These targets are not quotas. They encourage procuring entities to increase the share of procurement dollars going to women-owned businesses through less controversial means, such as conducting market research, setting up outreach programmes, and building the capacity of those firms to do business with the government. To be effective, this strategy also requires monitoring, reporting and oversight mechanisms to ensure the procuring entities are making progress toward their goals.

### Subcontracting plans

The goal of small business subcontracting plans is to increase the number of women-owned businesses and other target groups participating as subcontractors on government contracts. This is a fruitful area for government intervention because it leverages both the buying power and innovation of government prime contractors.

Firms awarded contracts over a certain dollar threshold must submit plans to procurement officials establishing targets for participation by women-owned businesses in their supply chains and their strategies for achieving those targets. This approach has the potential to dramatically increase the number of business opportunities for women entrepreneurs because it pushes preferential procurement policies down the supply chain. Subcontracts are often a small firm's entrée into the broader public procurement market.

### Preferences

Preferences are perhaps the best known and most-widely used form of targeted assistance. Preferences can provide women-owned businesses with a competitive edge in public procurements, addressing to some extent the adverse effects of marginalization, and increasing their participation in the formal economy more generally.

They often involve granting a price preference or margin of preference to firms that are eligible for preferential treatment. In these cases, the procuring entities artificially increase the bid prices of the non-preferred firms by a set number of percentage points while making no adjustments to the bid prices of the preferred firms. Award is then made to the firm with lowest evaluated (as opposed to proposed) price.

Alternatively, the preference may take the form of additional points. This is the case in South Africa, where the government has developed a sophisticated preferential procurement system that awards points based on a firm's certified Broad-Based Black Economic Empowerment status level. The legislative authority to pursue preferences and reservations for women entrepreneurs already exists in a number of countries.

### Reservations

Reservations, or set asides, are arguably the most controversial form of targeted assistance, but feature prominently in many countries. They involve setting aside one or more procurement opportunities for competition among a preferred category of firms, such as women-owned businesses. Firms that do not meet the eligibility criteria are

excluded. Kenya recently announced it would amend its public procurement regulations to reserve 30% of government contracts for women, youth and persons with disabilities.

International trade agreements and rules may, to some extent, limit governments' discretion in deploying preference schemes such as margins of preference or reservations. This is because preferences and reservations have often been used to discriminate against foreign firms, whereas one of the primary objectives of international trade agreements is to open up domestic procurement markets to foreign firms.

In many cases, government can still pursue preferential procurement policies as long as those policies do not discriminate against foreign women-owned firms and are otherwise permitted by national legislation.

## Capacity-building programmes

Capacity-building programmes are an important component of a comprehensive preferential procurement system. The targeted assistance strategies discussed earlier are primarily intended to increase the demand for goods and services from women-owned businesses. For the system to be effective, the demand must be matched by supply.

To address this, governments must establish programmes that build the capacity of women-owned businesses to compete successfully in public procurement markets and deliver the goods and services that the governments require to fulfil their public functions. Women's business organizations and other trade support institutions can be valuable partners.

## Measuring progress towards policy objectives

As with any system, monitoring and evaluation are necessary to ensure compliance with preferential policies and programmes, to measure progress towards government or organizational objectives, and to make adjustments where necessary to improve the system. Although an in-depth discussion of monitoring and evaluation is beyond the scope of this guide, it does provide a brief overview of the results-based management approach used by the International Trade Centre and suggests ways in which that approach can be applied to a preferential procurement system for women-owned businesses.



CHAPTER 1

# Public procurement, a tool to shape societies

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*‘The message is simple. Women who are safe, healthy, educated and fully empowered to realize their potential transform their families, their communities, their economies and their societies. We must create the conditions so they can do so.’*

High-Level Panel of Eminent Persons on the Post-2015 Development Agenda<sup>1</sup>

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**W**hile the main goal of public procurement is to buy goods and services that governments need, public procurement can also be used to promote socioeconomic objectives. These are often referred to as ‘horizontal’ or ‘collateral’ objectives because they are ancillary to the primary purpose of public procurement, which is to acquire goods and services for the government (Quinot, 2013).

Socioeconomic objectives governments consider when formulating public procurement policies are wide ranging. Public procurement has been used to:

- **Promote non-discrimination in employment**, by requiring contractors to develop affirmative action programmes;
- **Encourage industrial development**, by favouring locally produced goods and domestic businesses;
- **Support environmental sustainability**, by requiring contractors to supply energy-efficient products and goods made from recovered or bio-based materials.

Unfortunately, few governments have used public procurement as a tool to unleash the vast economic potential of women entrepreneurs.<sup>2</sup>

## Why government purchasing affects markets

Public procurement is a powerful tool to promote socioeconomic objectives because it operates at the intersection of the government’s regulatory and buying powers (McCrudden, 2004).

### Competition laws and social regulations shape markets

Governments have the power to regulate market participants by encouraging markets through competition laws or by restraining markets through social regulation, such as health and safety laws.



## Purchasing is worth 10–40% of GDP

Governments are also active, major participants in the market. Each year, governments spend trillions of dollars buying goods, services, and works (Anderson, Pelletier, Osei-Lah and Müller, 2011; Audet, 2002). Public procurement is estimated to comprise as much as 10–15% of the gross domestic product (GDP) in developed countries and 30–40% in developing countries (Kirtan, 2013).

## Public procurement for women – 'smart economics'

Research shows that there is a positive correlation between gender equality and a country's gross domestic product (GDP) per capita. When women are excluded from the marketplace, the economy suffers. Promoting gender equality is, in the words of former World Bank President Robert Zoellick, 'smart economics'. The same applies to using public procurement policy to stimulate entrepreneurial activity by women-owned businesses

## Support women, boost national competitiveness

There is a positive correlation between gender equality and a country's level of competitiveness, GDP per capita and its rank in the Human Development Index, according to the World Economic Forum. 'While correlation does not prove causality, it is consistent with the theory and mounting evidence that empowering women means a more efficient use of a nation's human capital endowment and that reducing gender inequality enhances productivity and economic growth' (World Economic Forum Gender Gap Report 2013, p. 31).

Output per worker jumps from 13–25% when barriers that prevent women from entering certain sectors or occupations are eliminated, according to the World Bank's World Development Report 2012.

The report also warns of the consequences of keeping barriers to women in place. ‘When women’s labour is underused or misallocated – because they face discrimination in markets or societal institutions that prevents them from completing their education, entering certain occupations, and earning the same incomes as men – economic losses are the result.’

Gender equality and empowering women are critical to achieving many of the Millennium Development Goals (MDGs), which include poverty reduction, universal primary education, reduced child mortality, improved maternal health and reduced spread of HIV/AIDS.

Ban Ki-moon, Secretary-General of the United Nations, recently reaffirmed the linkages between inclusive policies and development. ‘Inclusive economic growth with decent employment and decent wages has proven to be a prerequisite for achieving the MDGs, particularly on Goal 1, on eradicating extreme poverty and hunger’ (UNGA, 2013). Inclusive growth is set to become one of the main pillars of the Post-2015 Development Agenda (United Nations, 2013).

## Policies must be gender sensitive

To harness the potential of women-owned businesses, procurement policies must be gender sensitive. Businesses owned by women and those owned by men are not the same (Kepler and Shane, 2002; National Women’s Business Council, 2009; World Bank, 2012). Women-owned businesses:

- Tend to be smaller;
- Are often less experienced;
- Have less access to human, financial and social capital;
- Tend to be in less-profitable sectors, such as retail sales and services;
- Have owners who tend to have more family and care responsibilities.

Gender-neutral laws do not create a neutral playing field. Women entrepreneurs face unique challenges as a result of past and current discriminatory practices and attitudes. Because women-owned businesses are dissimilar, it is important to consider the disparate impact of seemingly gender-neutral rules, policies and programmes.



## About this guide

This guide reflects extensive consultation with government representatives, trade support institutions and women entrepreneurs. It is designed to assist governments and procuring entities develop public procurement policies, practices, and programmes that will stimulate women-owned businesses. Well-designed preferential procurement policies can 'serve the goals of supporting small and medium-sized enterprises (SMEs) and a fair distribution of government contracts to them whilst also promoting value for money in procurement' (Linarelli, 2013, p. 450).

Government ministries and agencies involved in public procurement may wish to develop and implement their own preferential procurement policies and programmes at the ministry and agency levels, even if those policies and programmes are not rolled out government-wide. This could serve as a model for government-wide initiatives. Coherent government-wide policies would, however, seem more likely to have a significant impact and increase transparency through multiplication of rules and practices.

**Chapter 1** introduces readers to public procurement and why it is relevant to women-owned businesses.

**Chapter 2** provides a brief overview of the public procurement process and objectives of public procurement systems. Public procurement involves:

- Acquisition planning;
- Source selection;
- Contract administration and close out.

Governments regulate this process based on policy objectives. For most public procurement systems, these objectives include:

- Obtaining suitable goods, works and/or services in an economically efficient manner and on the best possible terms;
- Eliminating corrupt practices;
- Ensuring equal opportunity and equal treatment;
- Opening markets to international trade.

Promoting socioeconomic, industrial and environmental policies, including those related to women-owned businesses, are important secondary objectives of public procurement systems.

**Chapter 3** addresses the beneficiaries. Defining the target population is the starting point in designing procurement policies that promote participation of women-owned businesses. This chapter discusses the importance of defining what it means to be a women-owned business. These definitions and associated criteria are key to understand market capacity, establish a baseline against which to measure progress, target technical and financial assistance, and determine which businesses are eligible for preferential status.

**Chapter 4** highlights common challenges faced by women-owned businesses in public procurement markets and discusses techniques to address them. Removing or reducing these barriers is a necessary first step to increase women's access to public procurement markets. This can be through ensuring that international best practices in government procurement, such as those embodied in the WTO Agreement on Government Procurement (WTO GPA)<sup>3</sup> and other international instruments such as the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement are followed. However, additional targeted measures are required to ensure the success of women-owned businesses in those markets.

**Chapter 5** discusses affirmative action policies and programmes to build the capacity of women-owned businesses and to encourage their participation in public procurement.

**Chapter 6** discusses metrics, monitoring and evaluating progress towards policy objectives, as well as enforcing compliance with preferential procurement policies.

## ENDNOTES

1. United Nations (2013, p. 31).
2. To fully appreciate the economic potential of women entrepreneurs, consider the pivotal role they play in developing economies. For example, in the Southern Africa Development Community (SADC), women make up 70% of the intra-SADC trade and account for more than US\$ 4 billion worth of cross-border trading. In Uganda, Rwanda and Lao People's Democratic Republic, women make up 38%, 60% and 68%, respectively, of the registered small businesses (International Trade Centre, 2011).
3. On 6 April 2014, a revised version of the GPA entered into force. It provides for a modernized and streamlined text of the Agreement as well as enhanced market access. For further information, see [http://www.wto.org/english/tratop\\_e/gproc\\_e/gp\\_gpa\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm).



CHAPTER 2

# Public procurement systems

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*Preferential procurement policies to support women-owned businesses require participation from policymakers, procuring entities, women entrepreneurs, trade support institutions and women business organizations.*

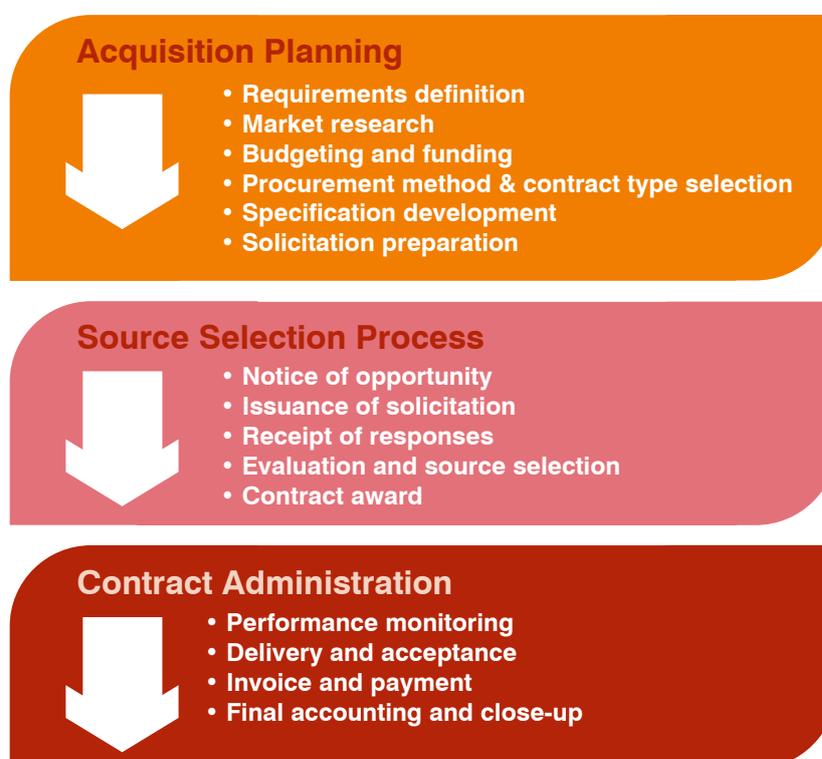
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**P**ublic procurement is 'the process through which the state acquires goods, works, and services needed to fulfil its public functions' (Quinot and Arrowsmith, 2013, p. 1).

## An overview of the process

The public procurement process encompasses three distinct but related phases, shown in figure 1.

**Figure 1. The public procurement process**



Source: Author.

## Acquisition planning

The process begins with acquisition planning and market research.

Acquisition planning includes 'the efforts of all personnel responsible for an acquisition, coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost'.<sup>1</sup> It includes:

- Identifying and defining agency needs;
- Conducting market research to determine the most suitable strategy;
- Selecting the most appropriate procurement method, including international competitive bidding, national competitive bidding, restricted competition and requests for quotation;
- Developing work specifications;
- Drafting a source selection plan with evaluation criteria;
- Preparing the formal solicitation.

Acquisition planning also involves budgeting, funding, logistics and allocating organizational responsibilities.

The scope and depth of acquisition planning depends upon the value, complexity and scope of the acquisition. The planning to procure a few reams of office printing paper is simple, while procuring a power cogeneration plant is complex. The primary and secondary objectives of the procuring entity also shape the scope and depth of the acquisition planning phase.

## Source selection

In this phase, the procuring entity selects a contracting partner. Steps include:

- Publishing or advertising the procurement opportunity;
- Disseminating the solicitation or tender documents to interested parties;
- Evaluating responses to the solicitation;
- Selecting a contracting partner;
- Finalizing the terms and conditions of performance;
- Awarding the contract.

Similar to the acquisition planning phase, the value, complexity and scope of the acquisition and the objectives of the procuring entity dictate the scope and depth of the source selection process.

## Contract administration

Contract administration 'includes all relationships between the government and the contractor that arise out of contract performance. It encompasses all dealings between the parties from the time the contract is awarded until the work has been completed and accepted, payment has been made, and disputes have been resolved' (Cibinic, Nash and Nagle, 2006, p. 1).

The ultimate goal is to ensure that the government receives goods or services for which it has contracted and the contractor receives payment. Contract administration activities vary by the nature, scope and type of contract. They include:

- Monitoring contract performance (technical, schedule and cost);
- Modifying the contract to accommodate changing needs or circumstances;
- Resolving disputes;
- Conducting a final accounting;
- Closing out the contract.

## Policy objectives

Public procurement takes place within a legal and regulatory framework with specific policy objectives. These objectives may be enshrined in national constitutions, national legislation, government and agency regulations or policy statements. These policy objectives help shape each phase of the procurement process.

While policy objectives vary, common themes have been identified:

- **Value for money.** A major goal is to obtain suitable goods, works or services in an economically efficient manner and on the best possible terms. This does not necessarily mean obtaining goods, works or services at the lowest price.
- **Integrity.** Goods, works and services should be acquired without corruption and conflicts of interest. Corruption takes many forms and includes practices such as bribery, collusion, fraud and kickbacks. Conflicts of interest can be personal or organizational. The integrity of the public procurement system is an important policy objective in its own right. It also helps ensure value for money by eliminating the economic inefficiencies inherent in corrupt practices and conflicts of interest.
- **Accountability.** Interested parties, such as the general public or prospective contractors, require the means to verify whether the government is complying with the law and regulations, as well as fulfilling its responsibilities. Accountability and transparency also contributes to value for money and integrity of the system.



- **Equal opportunity and treatment.** Equal treatment of participants in the public procurement system contributes to objectives, such as integrity, and is an objective in its own right. The concept of equal treatment holds that no distinction is made between firms, except where such a distinction is justified under law or regulation. For example, a distinction based on nationality of a firm would be inappropriate unless permitted by law or regulation.
- **Fair treatment.** Fair treatment is similar to procedural due process, which is the right to notice and the opportunity to be heard before a decision is made that adversely affects a firm. For example, the government should notify a firm of its intention to suspend or debar it from doing business with the government, and provide its representatives with an opportunity to be heard on the matter.
- **Opening markets to international trade.** Regional and international agreements designed to open public procurement markets to foreign firms, goods and services are among the most important developments in public procurement over the last two decades (Arrowsmith et al., 2011). As a result, many public procurement systems include the principle of non-discrimination against foreign firms, goods and services.
- **Promoting socioeconomic, industrial and environmental policies.** Although no less important than the objectives identified above, these policy objectives are labelled as 'collateral', 'secondary' or 'horizontal' because they are considered external to the process of acquiring the goods and services. Examples include enforcement of fair labour standards (socioeconomic), promotion of national industrial competitiveness (industrial), and the use of bio-based and recovered materials (environmental).
- **Efficiency.** An important goal of all public procurement systems is to acquire goods and services efficiently by minimizing unnecessary delays, waste of resources or costs.

*Source: Arrowsmith, et al., 2011.*

## Principles guiding procurement systems

Most procurement systems are guided by three principles: transparency, competition and equal treatment.

- **Transparency** includes publicity for contract opportunities; publicity for the rules governing each procedure; a principle of rule-based decision-making that limits discretion of procuring entities and officials; and mechanisms to verify whether the rules have been followed and enforced. Transparency is important to combat corruption, collusion and nepotism. Transparency also helps to achieve other policy objectives, such as fair treatment and accountability. But transparency can come with costs. For example, it can increase the cost of doing business and reduce efficiency.
- **Competition** is important to achieving value for money because it pressures prospective contractors to put forward their best offers to win contracts. Competition also drives innovation and is important to achieving other objectives, such as equal treatment and integrity. Like transparency, competition can come with costs.
- **Equal treatment** is both a principle and an objective of most procurement systems (Arrowsmith, et al., 2011).

The expression of these general principles and objectives vary from country to country.

In the Philippines, for example, the policy is to 'promote the ideals of good governance'. Under the Government Procurement Reform Act, the system is governed by transparency, competitiveness through equal opportunity, efficiency through simplified and streamlined procedures, accountability, and public monitoring to ensure strict compliance with laws and regulations.

In Kenya, the 2005 Public Procurement and Disposal Act declares these objectives: maximize economy and efficiency, promote competition and ensure competitors are treated fairly, promote integrity and fairness, increase transparency and accountability, increase public confidence, and facilitate the promotion of local industry and economic development.

In India, the 2005 General Financial Rules state, 'Every authority delegated with the financial powers of procuring goods in the public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public procurement, and for fair and equitable treatment of suppliers and promotion of competition in public procurement.'



## Making trade-offs

Translating policy objectives into regulations and procedures may require trade-offs. Implementation of a policy objective or principle may conflict with the attainment of others. For example, governments can promote transparency by establishing elaborate appellate procedures for bidders who believe they were treated unfairly during source selection. Those same procedures make the system less efficient, by delaying acquisition of goods and services during the appeal process; they also might generate additional expenditures by procuring entities and disappointed bidders. The challenge for governments is to find the appropriate balance among competing objectives.

South Africa had to make trade-offs when it first established a preferential procurement scheme to promote black empowerment and protect or advance historically disadvantaged individuals. Prior to 2011, procuring agencies had to specify how preference points would be awarded for each tender opportunity, and then adjudicate the number of preference points awarded to each bidder. Because of the judicial remedies available, preference points became a fertile ground for legal challenges, making the system inefficient. The 2011 Preferential Procurement Regulations eliminated the discretion given to procuring entities, by setting out the specific preference points based on its certified Broad-Based Black Economic Empowerment (B-BBEE) status level. Procuring agencies no longer needed to award preference points, streamlining the procurement process (Quinot, 2013).

### BOX 1: Brazil - reconciling competing objectives



In Brazil, equality is the most important principle underlying the procurement process. The Federal Constitution, which establishes the general framework for public procurement, provides that all public entities must comply with the principles of lawfulness, impersonality, morality and efficiency. Public works, services, purchases and sales must be carried out by means of a public bid procedure that ensures equal conditions for all bidders. The law expressly forbids invitations to bid that contain provisions that frustrate the competitive process, including the imposition of any preferences or discrimination related to the place of birth or

principal place of business of the bidders, or any other matter that is irrelevant to the subject matter of the contract.

However, the principle of equality is not absolute. In 2006, the Public Procurement Act was amended to accommodate a competing objective – the promotion of micro and small enterprises. The Complementary Law No. 123 of 14 December 2006 authorized preferential treatment for these enterprises and provided for the reservation of bids exclusively for them (Article 48).

More recently, Federal Law No. 12,349/10 introduced additional preference schemes. It established a preference margin for Brazilian products and services, as well as other restrictions related to the origin of goods and services used in information technology and communication systems that the federal executive branch deems to be strategic. The government argues these measures are necessary for national development and to promote cultural and socioeconomic development, the welfare of the people, and Brazilian technological autonomy. These objectives compete with the overarching objective of equality.

*Source: Practical Law (2013); Teixeira (n.d.).*

## Stakeholders

Preferential procurement policies to support women-owned businesses require participation from policymakers, procuring entities, women entrepreneurs, trade support institutions and women business organizations.

- **Policymakers establish the legal and regulatory framework.** Public procurement is a powerful tool for change. To be effective, legislators and government officials must establish an appropriate legal and regulatory framework. This is a pre-requisite for a preferential procurement scheme for women entrepreneurs.
- **Procuring entities must be sensitized through training to implement efficiently.** Procuring entities develop and implement preferential procurement policies, procedures and programmes. Procuring officials must be sensitized to the unique barriers and challenges faced by women entrepreneurs. They require training to understand and comply with preferential procurement policies, procedures and programmes, and account for their implementation.
- **Women entrepreneurs require training to take advantage of preferential access programmes.** Women entrepreneurs require training because of the unique and complex nature of public procurement systems and the historic lack of participation by women-owned businesses.
- **Trade support institutions can bridge training gaps, especially women's business organizations.** National trade promotion organizations, sectoral associations and especially women's business associations can assist governments in reaching and sensitizing women entrepreneurs. Women tend to join women's business organizations more frequently than other industry or trade groups.

As a result, women's business organizations have a better understanding of the issues facing women entrepreneurs, a deeper knowledge of market demographics, ready access to large constituencies and more convening power. Many offer programmes to provide networking opportunities, resources, education, training, mentoring and other support services essential to the success of women-owned businesses.

## ENDNOTES

4. Title 48, Code of Federal Regulation (C.F.R.) § 7.101 (1995) (United States).

## CHAPTER 3

# Laying the groundwork to support women- owned businesses

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*It is important that the definition of a women-owned business takes into account ownership and control. The definition is pivotal to understand market capacity, establish a baseline to measure progress, develop preferential procurement policies, and target technical and financial assistance.*

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**T**o leverage public procurement in support of women-owned businesses, the first step is to define (1) what it means to be a women-owned business, (2) what it means to be a micro, small, medium or large enterprise, and (3) what the eligibility criteria are for each target group.

These definitions are key to understanding market capacity, establishing a baseline against which to measure progress, targeting technical and financial assistance, and determining which businesses are eligible for preferential status. These definitions and criteria are important because:

- **Policymakers and service providers** need to know which target groups should be assisted so that they can develop better policies and services for small businesses.
- **Small business owners** need to know into which target group they fall so that they can determine the support measures for which they qualify.
- **Researchers** need a common understanding of what small business is so that they can measure and compare its performance in different regions and sectors and with other countries (Linarelli, et al., 1998, p.34).

## Defining women-owned businesses

To avoid tokenism and achieve economic empowerment of women, women must not only have a significant ownership interest in their companies, they should manage and control their companies on a day-to-day basis. It is important that the definition of a women-owned business take into account ownership and control. For example, to qualify as a women-owned small business under the United States Small Business Act, a business must be at least 51% unconditionally and directly owned and controlled by one or more women who are US citizens.<sup>5</sup> Ownership must be direct and cannot be subject to conditions. A woman must manage the day-to-day operations of the business and she must make the long-term decisions for the business.

It is also important that governments adopt a uniform definition of women-owned businesses across their public sector departments and agencies. Among other things, this helps governments establish meaningful baselines and measure progress towards targets (see discussion on monitoring and evaluation, page 53). A recent study of

women-owned businesses in South Africa found the lack of a consistent definition across procuring entities made it difficult to assess the effectiveness of affirmative procurement policies (BWASA, 2013).

The study notes that provincial departments in Gauteng province define women-owned businesses as having at least 50% black women ownership, while the departments in the East London Industrial Development Zone define women-owned businesses as 100% women-owned. For some departments in South Africa, it was unclear what definitions were being used, even though they were purportedly tracking procurement spending on women-owned businesses.

## Defining company size

Size standards for micro, small and medium-sized enterprises (MSMEs) vary considerably from country to country, but are typically based on the number of employees, the amount of capital, annual receipts, or a combination of these factors. For example, Liberia defines MSMEs in terms of full-time, non-family employment (Government of Liberia, 2011). Botswana defines MSMEs in terms of employment and annual turnover (Government of Botswana, 2011). South Africa defines MSMEs in terms of employment, annual turnover, and capital assets (National Small Business Act, Act No. 102 of 1996).

Size standards may also vary by industry, which is the case in South Africa and the United States.

## Determine the firms eligible for preferential treatment

Having defined what it means to be a women-owned business and established size standards, governments have to decide which women-owned businesses are eligible for preferential treatment. Are only micro, small and medium-sized firms eligible? Must those firms also demonstrate they are economically disadvantaged, or meet other criteria? In the end, selecting eligibility criteria for preferential treatment will depend upon the specific objectives of the preferential procurement policy and the national context.



## Certification and registration programmes

Certification and registration programmes allow governments to identify firms that meet the eligibility criteria established for women-owned businesses and to collect data on them. Certification and registration are distinct processes with different objectives.

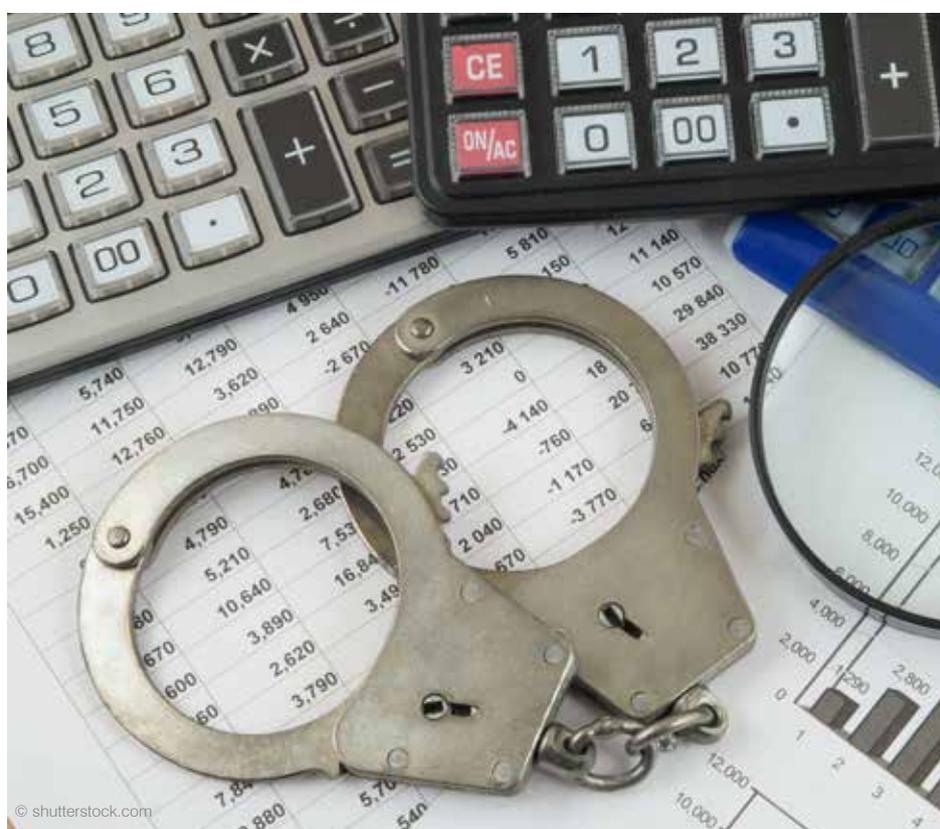
The objective of the certification process is to ensure that businesses meet the eligibility criteria established by the government, while the objective of the registration process is to provide a point of entry for companies wishing to do business with the government. Certification and registration may or may not occur together.

### Certification options

Several options exist for certification: self-certification; government certification; or certification by designated third parties, such as trade support institutions. The United States, for example, relies upon self-certification; South Africa relies upon private verification agencies; and Zambia relies upon a government agency, the Citizens Economic Empowerment Commission (CEEC).

### Addressing fraud

Illicit and fraudulent practices will occur wherever there are preferential procurement policies. Governments should be aware of 'fronting' and other practices by some firms to misrepresent their ownership and control to fraudulently gain access to preferences, reservations and other forms of targeted assistance. Fronting practices divert resources and undermine affirmative action efforts.



In the United States, for example, a security contractor for the federal government recently plead guilty to illegally obtaining US\$ 31 million worth of contracts intended for disadvantaged small businesses under the Small Business Administration (SBA) Section 8(a) Business Development Program. According to court documents:

Hedman admitted that in 2003 he created a shell company ... to ensure he could continue to gain access to 8(a) contracting preferences for which [his company] was not qualified ... Hedman selected an employee [Hamilton] ... to serve as a figurehead owner based on her Portuguese heritage and history of social disadvantage, when in reality the new company would be managed by Hedman and senior leadership at [his company]. To deceive the SBA, they falsely claimed that Hamilton formed and founded the company and that she was the only member of the company's management. They continued to mislead the SBA through 2012, even lying to the SBA to overcome a protest filed by another company accusing Hedman's former company and the shell company of being inappropriately affiliated (United States Department of Justice, 2013).

In South Africa, a top medical supply company fronted its director's domestic work to win more than R160 million worth of government tenders. Mille Net Imports CC appointed Elizabeth Tsebe as a director and 40% shareholder in 2007 without her knowledge. A four-month investigation by The Star, a South African newspaper, uncovered that Tsebe's benefits from her involvement in the company were not commensurate to her position as a shareholder. This was despite the firm winning lucrative contracts countrywide largely on the basis of its 'impressive' black economic empowerment credentials (Rampedi 2012).

## South Africa tackles fronting

Fronting practices such as this are a significant challenge to the South African economy and black empowerment (Cohen, 2013). To address this, South Africa recently amended its 2003 Broad-Based Black Economic Empowerment (B-BBEE) Act to specifically address and proscribe fronting. The amendment defines 'fronting practice' as, 'a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act'. The amendment generally proscribes any arrangement wherein the actual economic benefits flowing to black people are not commensurate with benefits flowing to the business because of its B-BBEE status level.

For example, the following practices would be prohibited if undertaken to enhance a firm's B-BBEE status level:

- Appointing a black person as an officer in the firm, but not giving her the authority to perform the duties normally associated with the position;
- Appointing a black person as an officer in the firm, but not paying her a salary that is commensurate with the position;
- Concluding an agreement with a black-owned and operated firm in order to enhance one's own B-BBEE status level, but not actually intending to implement the agreement.

Specifically, the amendment to South Africa's B-BBEE Act defines fronting as follows:

[A] transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act, including but not limited to practices in connection with a B-BBEE initiative:

- (a) In terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;

- (b) In terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation;
- (c) Involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- (d) Involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which –
  - (i) There are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
  - (ii) The maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
  - (iii) The terms and conditions were not negotiated at arm's length and on a fair and reasonable basis.

## The importance of recertification

It is important that businesses periodically recertify their status. A business' status may change over time due to organic growth or changes in ownership and control, thereby making the business ineligible for continued preferential treatment. Periodic recertification also limits the ability of large businesses to circumvent the rules by setting up and then acquiring businesses that have been awarded contracts under preferential procurement programmes.

Under Kenya's regulations, there is a five-year limitation on preferences for any bidder, with the possibility of renewal for an additional five years. Some argue that these time limits on preferences under Kenya's preferential procurement regulations help ensure the policy objectives underlying those preferences remain the focus of the preferential procurement scheme (Quinot, 2013).

## Registration systems – pros and cons

### The pros

When combined with an effective certification system, a comprehensive, accurate, and up-to-date contractor registration system serves a number of important functions. It acts as the point of entry for companies wishing to do business with the government and provides invaluable data to the government on market capacity and demographics. In some countries, registration systems are used to prequalify contractors, obtain various certifications and develop approved vendor lists.

Proof of registration and certification as a women-owned business alleviates the need for individual procuring entities to determine on a case-by-case basis whether a tenderer is entitled to preferential treatment (Quinot, 2013).

### The cons

Registration systems can prevent women-owned businesses from participating if the registration process is too burdensome, too complicated or too costly. A survey of

microenterprises in Botswana suggests that numerous regulatory requirements had combined to make the cost of registration too high and outweigh any possible benefit the entrepreneurs might expect from registering their businesses. These costs include taxes, registration fees, the cost of compliance with labour and other laws, and the time it takes to register (World Bank, 2011a). The survey also found that many entrepreneurs did not know how, where, or even if they were required to register.

A number of African women's business associations expressed the same concerns during the preparation of this guide. They cautioned against adding unnecessary requirements or costs to the certification and registration processes. Many women are already reluctant to formalize their businesses and register as government contractors because they do not wish to disclose information about their businesses, which they believe would subject them to taxes and other costs.

### Potential solutions

In 2013, the Botswana Ministry of Trade and Industry endorsed new guidelines on the registration of micro and small businesses that address some of the barriers to their participation in the formal sector. The new guidelines exempt those businesses from stringent licensing requirements, which are perceived as a deterrent to setting up of businesses. In endorsing the new guidelines, the ministry permanent secretary explained that the ministry viewed 'micro and small businesses as foundations for business development and ideal vehicles for economic growth and diversification' (BOPA, 2013).

The Ministry of Trade and Industry also revised the guidelines in 2011 to permit the registration of micro and small businesses that operated from residential plots or temporary shelters, which were the majority of such businesses. The ministry noted, 'Challenges in the registration of micro and small scale enterprises disadvantaged them to participate in the procurement processes of Government, Local Authorities and Parastatal Institutions' (Government of Botswana, 2011).

### BOX 2: Indonesia - A snapshot of women-owned businesses

At the request of the Government of Indonesia, the Millennium Challenge Corporation recently completed a gender survey of businesses to identify the gender-based barriers facing firms wishing to do business with the government. Among other things, the survey found substantial gender differences among Indonesian firms in terms of business size, focus and structure. Compared to their male counterparts, the Indonesian businesses owned by women tended to be smaller and younger, they were more likely to be in the retail trade and services sectors, and they were more likely to be organized as sole proprietorships. Women entrepreneurs also tended to work out of their homes at a higher rate than men and employed more women.

The survey showed that male-owned businesses participated in government procurements at a much higher rate than women-owned businesses. Out of the total number of government vendors in the survey sample, only 5% were women-owned businesses.

For both male- and female-owned businesses, the survey found the main barriers to participation in government procurements to be too many regulations; a confusing and troublesome Electronic Procurement System; confusing regulations; and corruption, collusion and nepotism. Unlike male-owned businesses, the women-owned businesses reported limited access to information as a significant barrier.

*Source: Novirianti, 2013.*



## Closing the information gap

The definition of women-owned businesses is pivotal to understanding market capacity, establishing a baseline against which to measure progress, developing preferential procurement policies, and targeting technical and financial assistance.

The lack of gender-disaggregated data available to governments often obscures the actual number of women-owned businesses competing in their economies and the sectors in which they compete. As a result, governments may incorrectly perceive that there are not enough qualified women-owned businesses in their economies or that they are not bidding for government contracts (BWASA, 2013).

A representative from the Ghana public procurement authority indicated that the absence of data on qualified women-owned businesses was a major political hurdle to moving forward with preferential procurement policies for women entrepreneurs. This situation underscores the need to capture gender-specific information on companies during the normal business registration process and the contractor registration process.

Certification and contractor registration programmes will help close the information gap to some extent by providing data on women-owned businesses seeking to do business with governments. Other potential sources of information on women-owned businesses are available to governments, including trade support institutions, international financial institutions, non-governmental organizations, educational institutions and development agencies.

In Ghana, for example, there are a number of women's business organizations and associations that have ready access to women entrepreneurs. The Ghana Association of Women Entrepreneurs reports over 2,550 members and an outreach cooperative group of more than 20,000 people. Another potential source of information on women-owned businesses in Ghana is the Ghana Living Standards Survey conducted by the Ghana Statistical Service. The fifth round of the survey collected gender-disaggregated data on non-farm household enterprises.

## ENDNOTES

5. Women-Owned Small Business Federal Contract Program, 13 C.F.R. Part 127 (United States).

CHAPTER 4

# Leveraging public procurement through reform

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*African women entrepreneurs and women's business organizations consulted for this guide confirmed that prequalification procedures pose a significant barrier to participation in public procurement.*

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**W**omen business owners seeking to enter or continue to participate in public procurement markets face significant challenges, from identifying procurement opportunities to meeting the technical and financial requirements imposed by procuring entities. This section presents examples of some common challenges faced by women-owned businesses and techniques to address them.

Some of the challenges cited in this guide are not unique to women-owned businesses. They are challenges faced by other new entrants, irrespective of ownership.<sup>6</sup> Reforms addressing these challenges may have collateral benefits for other businesses.

International instruments in the area of government procurement, such as WTO GPA and the 2011 UNCITRAL Model Law on Public Procurement, can be important sources of inspiration for countries wishing to address these challenges. They reflect international best practices in government procurement and often provide guidance. Transparency and competition through including the broadest possible range of suppliers in procurement markets are core principles of these instruments. These agreements establish rules that have the potential to help women-owned businesses integrate into procurement markets.

In addition to levelling the playing field through generally improving the procurement framework, measures to address the challenges identified in practice must be gender specific. Purportedly gender-neutral solutions are too often ineffective or result in excluding women-owned businesses. To avoid this, governments should develop and implement solutions in consultation with women's business organizations. Governments can and should leverage the capabilities of these organizations to create truly gender-specific policies.

## Increase access to information

A common complaint among women-owned businesses is that they are not aware of and do not know how to access public procurement opportunities. To address this, many countries have established web portals, or electronic gateways, to publish all public solicitations or tenders – or at least those above a certain monetary threshold.

In India, the Government Tenders Information System is the central source for government and public sector procurement, tenders and notifications issued by the Central and State Governments and other public bodies for goods, services and works. It is an interactive database that allows users to search and sort tenders by location, agency, description and value, as well as download tender documentation.



In South Africa, all national government solicitations are published in the Government Tender Bulletin, a weekly publication available online or by subscription. A number of the procuring entities in South Africa, such as Eskom<sup>9</sup>, publish tender opportunities on their websites. Vendors can also subscribe to private online services, which allow users to search, sort and download tenders. Vendors can often access tender opportunities across Africa using private online services.

By making information more available to women-owned businesses and other interested parties, electronic gateways increase transparency and reduce the opportunity for corruption, which negatively affects women-owned businesses. This is in line with new international best practices. For example, the revised WTO GPA encourages the use of electronic means in government procurement and requires procuring entities to conduct procurement in a transparent and impartial manner that avoids conflicts of interest and prevents corrupt practices.<sup>10</sup>

### Work with women's business organizations

The appropriateness of web-based solutions depends upon the level of Internet use in a given country (Linarelli, et al., 1998). Women entrepreneurs in rural communities are less likely to have Internet access or benefit from electronic procurement gateways. Information about tender opportunities could be given directly to women's business organizations and other associations that support women entrepreneurs, which can share the information with their members.

## Streamline the tender process

Public procurement procedures are often so complex, burdensome and costly that they dissuade women business owners from participating in public procurement markets. Public procurement contracts generally involve greater bid, proposal and compliance costs than commercial contracts. This often places women-owned businesses at a disadvantage because they have less experience and fewer resources to draw upon than other businesses (FreshMinds, 2008).

## Standardize and simplify

Every effort should be made to simplify, clarify, and standardize the tender process and documentation, including prequalification questionnaires:

Standardization has the potential to lower the transaction costs of contracting. Standardization also tends to produce a positive network externality. As frequency of their use increases, courts and parties become more familiar with the standardized terms and conditions, and certainty increases. Standardized terms also solve certain asymmetric information problems. Clauses become known in the field and parties are in a better position to know the risks and benefits associated with the clauses (Lineralli, et al., 2008).

The South Africa Green Paper on Public Sector Reform<sup>11</sup> drew attention to the benefits of standardization as early as 1997, noting that uniformity in tender and contract documentation will promote:

- Effective participation by new entrants and emerging enterprises in the business environment; cost effectiveness, both in financial and human resource terms;
- Understanding and interpretation by new entrants/emerging contractors;
- Simplifying the documentation process.

In South Africa, procurement regulations mandate that its procuring entities use standard bidding documents. They include an Invitation to Bid (SBD 1), Pricing Schedules (SBD 3.1 to 3.3), Declaration of Interest (SBD 4), and Formal Contract (SBD 7.1 to 7.3). Other African countries, including Liberia, Zambia and Kenya, also require the use of standard tender documents.<sup>12</sup>

The revised WTO GPA requires parties to ensure that its procuring entities make efforts to minimize differences in their qualification procedures. When procuring entities maintain registration systems, they make efforts to minimize differences in their registration systems.<sup>13</sup>

## Prequalification can create barriers

The prequalification process merits special consideration when trying to streamline and standardize. When and how prequalification proceedings are used will vary by procurement setting. In some settings, prequalification proceedings are used as part of a multi-step procurement process where interested firms must first demonstrate they meet the minimum technical, financial, legal and other qualifications for a particular project before progressing further in the tender process. The multi-step process is typically used for more complex procurements.

In other settings, prequalification proceedings are the initial point of entry into the procurement system. In this situation, interested firms must prequalify for inclusion on the procuring entity's approved vendor lists. Procuring entities often use approved vendor lists rather than open competition to solicit quotations and make low-value purchases. Women entrepreneurs are well placed to compete for these purchases because the size of the contracts and purchases are relatively small. They can only compete if they have prequalified.

Unfortunately, many women entrepreneurs are reluctant to take this step. They often find the registration and prequalification processes to be too complex or too onerous, or they may not be able to meet some of the prequalification requirements. In addition, some women entrepreneurs operating in the informal economy are reluctant to register for these opportunities because they believe it could subject them to additional taxes and other costs.



African women entrepreneurs and women's business organizations consulted for this guide confirmed that prequalification procedures and requirements pose a significant barrier to participation in public procurements. The time required to prepare and submit prequalification documentation is a major disincentive, particularly where firms must prequalify with each procuring entity with which they wish to do business. In multi-ethnic, multilingual societies this process can become even more difficult and time-consuming for some women-owned businesses when procurement documents are not in their mother tongue.

Simplifying and standardizing documentation can help mitigate these issues to some extent. It is possible to prequalify women-owned businesses for groups of contracts or certain categories of goods, works, and services, and to share this information across procuring entities. In Kenya, for example, the Public Procurement and Disposal Act of 2005 permits one procurement entity to use the results of prequalification procedures conducted by another public entity, which reduces the administrative burden on businesses.

### A word of caution

The frequency with which procuring entities prequalify vendors can adversely impact participation by women entrepreneurs. Many procuring entities prequalify vendors on a periodic basis, for example annually, biannually or every three years, rather than a rolling basis, which is the practice favoured by international instruments such as WTO GPA.<sup>14</sup> Prequalifying vendors on a periodic basis locks prospective new entrants out of the procurement system for the length of the prequalification period. This was a common complaint among the African women entrepreneurs surveyed for this guide.

## Rationalize requirements

Women-owned businesses frequently complain that procuring entities set technical qualification or prequalification criteria too high and require onerous financial requirements. To participate in procurement proceedings, prospective contractors must qualify by meeting technical, financial and other criteria necessary to fulfil the contract, such as technical competence, financial resources, equipment and other physical facilities, managerial capability, experience, and personnel. Most procuring entities require that prospective contractors have the legal capacity to enter into contracts, that they are not insolvent, bankrupt or in receivership, and that the firm's management personnel have not been convicted of specific criminal offences, or been debarred or suspended from doing business with the government.

Procuring entities have a duty to ensure the contractors have the technical and financial capabilities to perform the contracts, but care must be taken to ensure that the qualification

requirements are appropriately tailored to the size and complexity of the contract requirements. A one-size-fits-all approach will exclude many women-owned businesses.

For example, the revised WTO GPA requires procuring entities to limit conditions for participation in a procurement to those that are essential to ensure a supplier has the legal and financial capacities, as well as the commercial and technical abilities, to undertake the procurement. This also prevents procuring entities from imposing the condition that to participate in a procurement, the supplier has previously been awarded one or more contracts by a given procuring entity.<sup>15</sup>

## Stumbling blocks for women entrepreneurs

For women-owned businesses in Africa, financial criteria pose the biggest challenge. A number of African women business owners and organizations repeatedly commented that the requirement for audited financial accounts is a major stumbling block. Many women entrepreneurs interested in doing business with the government do not have the financial literacy to properly maintain their books and records, nor can they afford to have their accounts audited every year. Other financial requirements, such as performance bonds, bid guarantees, and fees for tender documents, are also beyond the reach of some women-owned businesses. Like all qualification criteria, financial requirements need to be reviewed and appropriately tailored.

Rationalizing and tailoring technical and financial qualifications should not mean compromising standards. The government and private sector representatives consulted agreed that it was inappropriate to lower minimum qualification criteria to accommodate women-owned businesses. They argued that governments and trade support institutions should work together to build the capacity of women-owned businesses to enable them to meet the criteria.

For example, if a procuring entity determines that firms must be ISO 9001 certified to perform the contract, the procuring entity should not waive the requirement to accommodate women-owned businesses. Steps should be taken to certify more women-owned businesses so they can compete for future opportunities. However, if the requirement for ISO 9001 certification is unnecessary to perform the contract, it creates a barrier to women's participation and should be eliminated.

## Potential solutions

### Teaming arrangements

Governments can make procurement opportunities more accessible to women-owned businesses by permitting teaming arrangements, where two or more firms tender together for a procurement contract. Individual firms may not meet the technical and financial qualification requirements, but they perhaps could qualify as a team. Teaming arrangements can take many forms, such as partnerships, prime-subcontractor arrangements and joint ventures.

### Specialized agencies

Another solution is to create a specialized agency to determine whether women-owned businesses are qualified. In the United States, the SBA, not the individual procuring entities, determines whether small businesses are qualified to perform contracts. The United States has established a Certificate of Competency (COC) programme, which



allows a small business to appeal a contracting officer's decision that it is unable to fulfil the requirements of a specific government contract for which it is the apparent successful bidder.

When the small business applies for a COC, SBA specialists conduct a detailed review of the firm's capabilities to perform the contract. If the business demonstrates the ability to perform, the SBA issues a COC to the contracting officer, certifying that the small business is qualified to compete for that specific contract. The COC programme helps ensure that small businesses, especially new entrants into the federal procurement arena, are given a fair opportunity to compete for and receive government contracts.<sup>16</sup>

### Limit contract size

Bundling multiple requirements into one large contract can preclude many women-owned businesses from competing for the work because they do not have the scope or depth of other firms. For example, contracts for a large roads construction project in Uganda were tendered in three lots of about EUR 40 million each. The sheer size of the contracts placed them well outside reach of Ugandan construction firms, especially small businesses from the construction sector (Ellmers, 2011).

For this reason, the United Nations Conference on Trade and Development (UNCTAD) and other international organizations recommend that procuring entities avoid combining multiple requirements under one large contract when there is an opportunity to award a number of smaller ones (Ellmers, 2011).

There are trade-offs in terms of efficiency and costs that must be weighed against the socioeconomic benefits of unbundling requirements. Zambia's Public Procurement Regulations prohibit disaggregation of requirements. But an exception is made to allow procuring entities to divide a requirement into separate lots where it is likely to increase the number of bids from small suppliers that would not be qualified to bid for the complete package as a single contract.<sup>17</sup>

### Provide sufficient time for tenders

Many women-owned businesses do not have the same level of experience and resources as large businesses when submitting tenders. Procuring entities should allow sufficient time for businesses to prepare tenders to increase competition. Compliance

with international standards that favour inclusiveness in the procurement process can help. For example, the revised WTO GPA requires procuring entities to provide sufficient time for suppliers to prepare and submit requests for participation and responsive tenders.

Many countries, including Botswana, Kenya, Liberia and Zambia, have set minimum bidding periods based on the different types of procurement methods employed, including national competition, international competition and limited bidding using shortlisted vendors.

The revised WTO GPA establishes a general minimum time-period for submission of tenders of 40 days. There are possibilities to reduce this time frame under certain circumstances, for example if electronic procurement is used or a notice of planned procurement has been published between 40 days and 12 months in advance.<sup>18</sup>

Publishing agency procurement plans and advance notices of intended procurements can help women-owned businesses plan and prepare for upcoming opportunities.

## 'Best value' or lowest price criteria?

Women-owned businesses typically cannot successfully compete against other businesses when contracts are awarded to the lowest priced, technically acceptable tender. A recent evaluation of access to public procurement markets in the European Union noted that the most frequent problem faced by small and medium-sized enterprises (SMEs) – which includes the majority of women-owned businesses – was the procuring entities' over-emphasis on price (European Commission Directorate General Enterprise and Industry, 2007). By emphasizing price rather than 'value for money', procuring entities ignore the life cycle costs associated with the purchases and forego the many innovative solutions offered by small firms.

Research suggests that procuring entities that aim to level the playing field for small businesses, including those owned by women, should consider awarding contracts to those firms whose offers represent the best overall value rather than the lowest price. In addition to price, best value determinations, also known as 'economically most advantageous' determinations, consider non-price factors such as technical merit, quality, cost-effectiveness and after-sales service.

### Best-value criteria raises concerns

African government representatives, women entrepreneurs, and business organizations raised an important concern – the need for simplicity and objectivity in the source selection process. They were concerned that best value determinations would introduce greater subjectivity and less certainty into the process. Best-value criteria could open the door to corruption and favouritism, neither of which would benefit women-owned businesses. They believed women-owned businesses would fare better when the evaluation and award process were straightforward. Did the offer meet the minimum requirements or not, and if so, was it the lowest priced? Simplicity would also make the process more accessible to women entrepreneurs, many of who do not have the same depth of experience or resources as their male counterparts.

Research confirms that there are often situations where achieving value for money in goods, works or services conflicts with other goals, such as reducing corruption, increasing efficiency, or ensuring fairness. In this case, greater discretion might improve the value for money proposition, but it can also create greater opportunities for corruption and add complexity to the process (Arrowsmith, et al., 2011).

For the African women entrepreneurs, increasing simplicity and reducing corruption appear to be the overriding concern.

Implementing international standards may alleviate such concerns. For example, the revised WTO GPA provides:

Article XV — Treatment of Tenders and Awarding of Contracts (...)

Awarding of Contracts (...)

5. Unless a procuring entity determines that it is not in the public interest to award a contract, the entity shall award the contract to the supplier that the entity has determined to be capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notices and tender documentation, has submitted:

- (a) The most advantageous tender; or
- (b) Where price is the sole criterion, the lowest price.

Article XV clarifies that non-price evaluation criteria must be made fully transparent and applied accordingly.

## Providing feedback builds capacity and capabilities

Every competitive procurement gives procuring entities an excellent opportunity to build the capacity and capabilities of their government contractors by providing meaningful feedback to unsuccessful bidders. It is important not to disclose the confidential commercial and financial information of other firms. However, post-award feedback, whether in writing or in person, can provide unsuccessful bidders invaluable information about the evaluated strengths and weaknesses of their tenders and enables them to better compete for future contracts. Feedback also helps ensure the procurement process is fair and transparent.

Providing opportunities for feedback is in line with international best practices. The revised WTO GPA obliges procuring entities, upon request, to provide an unsuccessful supplier with an explanation of the reasons why the entity did not select its tender and the relative advantages of the successful supplier's tender.<sup>19</sup>

According to government representatives and women entrepreneurs, procuring entities in Africa do not routinely provide post-award debriefings to unsuccessful bidders, even where procurement laws and regulations provide for feedback. A businesswoman involved in the building maintenance and construction industry in South Africa recounted her unsuccessful efforts to obtain a meaningful explanation as to why her company's tender for a recent procurement opportunity was deemed 'nonresponsive'.

To address the apparent lack of feedback, Uganda recently passed new rules requiring procuring entities to publish award notices with the names of the successful bidders, the proposed contract prices, the total scores for the best evaluated bidders, the names of the unsuccessful bidders and the stage at which their bids failed or were eliminated.<sup>20</sup> Procuring entities are also required to provide post-award debriefings when requested and are no longer discretionary.<sup>21</sup>

## Complaint mechanisms

Fairness and transparency are also enhanced by providing bidders with a complaint mechanism when they believe the evaluation and award of a contract was arbitrary and capricious and not in accordance with law or regulation, or the agencies have otherwise acted improperly.

International instruments, such as WTO GPA, require parties to provide timely, effective, transparent and non-discriminatory administrative or judicial review procedures for supplier challenges.<sup>22</sup>

## Prompt payments are critical

Women-owned businesses in many countries persistently complain about the failure of procuring entities to make prompt payments. This is true for the African women entrepreneurs consulted during the preparation of this guide. Echoing their concerns, a representative of the Ugandan procurement authority stated that it was not unusual for payments to be delayed from six months to one year. The representative noted that in some cases corrupt officials were purposefully withholding payment in hopes of receiving a bribe or kickback from the payee.

Because their financial resources are usually limited, women-owned businesses are less able than larger firms to absorb the impact of delayed payments. Delayed payments reduce the working capital available to women-owned businesses and negatively affect production capacity and profitability (Linarelli, et al., 1998). The effects of delayed payments are particularly acute where the women entrepreneurs are servicing loans that enabled them to compete for and perform the government contracts. In this situation, they are financing the government when payments are delayed.

## Incentives for prompt payments

- **Interest penalties.** Many countries, including the United States, India, and Botswana, have attempted to address the issue of delayed payments by enacting laws or policies requiring the procuring entities to make prompt payments and to pay interest penalties if they do not. When procuring entities are required to pay interest penalties out of their budgets, they are generally motivated to meet the prompt payment time limits.
- **Government advocates.** Many of the women business owners consulted during the preparation of this guide are reluctant to confront procuring entities directly about prompt payment or corruption issues. They feared their efforts would be of little use and they would be blacklisted from further government contracts. They noted that women-owned businesses need advocates within the government or procuring entities to act on their behalf.
- **Tying agency performance to prompt payment.** They also suggested that governments could apply pressure to procuring entities by tying the Key Performance Indicators of their chief executives to their prompt payment records and requiring procuring entities to submit compliance reports to parliament and/or other oversight bodies on a regular basis.

## Subcontractors often pay the price

Prompt payment is an issue at the subcontract level, which is often the initial entry point for women-owned businesses into the public procurement market. In this situation, the procuring entities have paid the prime contractors, but the prime contractors fail to pay their subcontractors on time or not at all. A public procurement expert from South Africa confirmed that this is a major issue for many women entrepreneurs and often results in their firms going out of business. These sentiments are echoed by The National Small Business Chamber in South Africa, which is encouraging large businesses and the government to commit voluntarily to a Prompt Payment Code<sup>23</sup>:

We see SMEs going out of business every day, in many cases due to lack of cash flow as a result of late or non-payment from their clients. Prompt payment is vital to ensure the cash flow of every business, and especially to smaller businesses, continues in a constant stream.

The Prompt Payment Code is about encouraging and promoting best practice between government, larger organisations and their SME suppliers. Signatories to the code commit to paying their SME suppliers within 30 days, and that there is a proper process for dealing with any issues that may arise ... Big business and government cannot sit on cash reserves when those all-important overdue invoices haven't been paid (Anderson, 2013).

Subcontractors on government contracts lack privity of contract with the government. However, the government's ability to impose payment protections for subcontractors should not be summarily dismissed. In the United States, for example, Congress has enacted at least three forms of protection for subcontractors on federal contracts (Manuel, 2012). The Miller Act of 1935, as amended, allows subcontractors on federal construction contracts to bring civil suit against the prime contractor's performance bond for non-payment.

The 1988 amendments to the Prompt Payment Act require federal agencies to include in their contracts a clause obligating the prime contractor to pay the subcontractor for 'satisfactory' performance within seven days of receiving payment from the government. The 2010 amendments to the Small Business Act require prime contractors that submitted subcontracting plans to notify the contracting officer whenever they pay their subcontractors a reduced price for completed work or payment in more than 90 days past due.



## ENDNOTES

6. See DG Enterprise and Industry (2007); FreshMinds Research (2008); NWBC (2006); Orser (2009).
7. The term 'tender' as used in this guide refers to procurement opportunities or solicitations generally, irrespective of the procurement method used. It encompasses open tendering, two-stage tendering, requests for proposals, requests for expression of interests, requests for quotations, competitive negotiations, solicitations, etc. Different public procurement systems or frameworks often use different terminology to refer to procurement opportunities. See, for example, UNCITRAL Model Law on Procurement (2011), EU Rules on The Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts (2004); the WTO Government Procurement Agreement; and the US Federal Acquisition Regulation (amended July 2014).
8. The Government Tenders Information System is accessible at <http://www.tenders.gov.in/index.htm>.
9. Eskom is a state-owned enterprise responsible for generating approximately 95% of the electricity used in South Africa.
10. See Articles IV and VII of the revised Agreement.
11. South Africa Green Paper on Public Sector Reform, 1997, p. 28.
12. Regulations Accompanying the Public Procurement And Concessions Commission Act of 2005, Regulation 29 (Liberia); Public Procurement Regulations, 2011, Regulation 9 (Zambia); Public Procurement and Disposal Regulations, 2011, Regulation 29 (Kenya).
13. See Article IX:2 of the revised Agreement.
14. Article IV of the revised Agreement provides, as follows:
  10. A procuring entity shall allow suppliers to apply at any time for inclusion on a multi-use list and shall include on the list all qualified suppliers within a reasonably short time.
  11. Where a supplier that is not included on a multi-use list submits a request for participation in a procurement based on a multi-use list and all required documents, within the time period provided for in Article XI:2, a procuring entity shall examine the request. The procuring entity shall not exclude the supplier from consideration in respect of the procurement on the grounds that the entity has insufficient time to examine the request, unless, in exceptional cases, due to the complexity of the procurement, the entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.
15. See Article VIII of the revised Agreement.
16. 13 C.F.R. § 125.5 (United States).
17. Public Procurement Regulations, 2011, § 29(2) (Zambia).
18. See Article XI of the revised Agreement.
19. See Article XVI:1 of the revised Agreement.
20. The Public Procurement and Disposal of Public Assets (Contracts) Regulations 2014, Reg. 4 (Uganda).
21. Ibid. Reg. 6.
22. See Article XVIII of the revised Agreement.
23. Prompt Payment Act, 31 U.S.C. §§ 3901-3907 (United States); Public Procurement and Asset Disposal Regulations, 2006, Regulation 91 (Botswana).

CHAPTER 5

# Leveraging public procurement through targeted assistance

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*Removing barriers can be compared to preparing a field for planting by removing weeds and stones and turning the soil. To stimulate growth, one must plant, water and fertilize the seeds. To stimulate entrepreneurial activity, governments must develop affirmative policies, procedures and programmes specifically for women-owned businesses.*

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**R**emoving barriers faced by women-owned businesses is a necessary step. This alone is unlikely to substantially increase participation by women-owned businesses in public procurement.

Linkages between social policy and procurement include:

- The use of procurement as a method of enforcing anti-discrimination law in the employment context, often described as ‘contract compliance’;
- The use of procurement to advance a wider conception of distributive justice, particularly affirmative action in employment;
- The use of procurement as a method to help stimulate increased entrepreneurial activity by disadvantaged groups (McCrudden, 2004).

Although this guide focuses on the third linkage, using procurement to stimulate entrepreneurial activity, the first two linkages are also important.

## Contract compliance

Public procurement contracts provide governments with an opportunity to enforce or re-enforce laws that prohibit employment discrimination by embedding compliance with those laws into the contract terms and conditions. Violating the anti-discrimination laws would then subject the offending firms to contractual and administrative sanctions, such as termination for default and suspension and debarment, in addition to any other remedies provided for by law.

## Affirmative action plans

Governments can use public procurements to promote affirmative action in employment. The United States, for example, requires ‘non-exempt’ prime contractors and subcontractors to develop affirmative action plans to ensure equal opportunity in employment for women and minorities.<sup>24</sup> The purpose of affirmative action plans is to assist contractors to identify and analyse potential problems with the participation of women and minorities in the contractor’s workforce. The United States Department of Labor, acting through the Office of Federal Contract Compliance Programs, conducts compliance reviews, investigates complaints and prosecutes enforcement actions.

## Stimulating entrepreneurial activity

The use of public procurement to stimulate entrepreneurial activity by women-owned businesses is the primary focus of this guide. Following are some examples of 'targeted assistance' strategies used by governments to encourage participation by women-owned businesses and other target groups in public procurement markets.

The government representatives consulted during the preparation of this guide pointed out that these strategies first require an understanding of the market demographics and, in some cases, the legislative authority to implement preferential procurement policies. This is particularly true for preferences and reservations, which are discussed in more detail later in this chapter.

### Establish and monitor targets

Governments can promote increased participation by women-owned businesses in public procurement markets by establishing mandatory goals for procuring entities and monitoring their progress. Using goals or targets has been a cornerstone of socioeconomic procurement policies in the United States for decades. The United States Small Business Act provides, among other things, 'To the maximum extent practicable, procurement strategies used by a federal department or agency having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers'.

The Act establishes a government-wide goal for participation by small businesses of not less than 23% of the total value of prime contracts awarded by the federal government for each fiscal year.<sup>25</sup> The Act also establishes a goal for participation by small businesses 'owned and controlled by women' of not less than 5% of the value of all prime and subcontracts awarded for each fiscal year. Since the inception of the goals for women-owned small businesses in 1994, statistics show a steady increase in the percentage of prime contracts and subcontracts awarded to those firms.

By some accounts, the federal government exceeded the 5% goal in 2012 (National Women's Business Council, 2013). The SBA closely monitors the government's performance against these goals.



## Small business subcontracting plans

The goal of small business subcontracting plans is to increase participation by women-owned businesses and other target groups as subcontractors on government contracts. In the United States, federal prime contractors and subcontractors are required to submit small business subcontracting plans to contracting officers when their contracts or subcontracts exceed a certain threshold (currently US\$ 650,000) and there are opportunities further subcontracting. These plans establish the contractor's goals or targets for participation by various small businesses in the federal contract, or alternatively across the contractor's entire business. They set out the contractor's strategy for achieving these goals and targets. Contractors are subject to penalties if they do not make a 'good faith effort' to achieve the agreed goals.<sup>26</sup>

Subcontracting plans can also be used as an evaluation factor in competitive procurements where award is based on best value. In this situation, firms are required to submit small business subcontracting plans as part of their overall proposals. These plans are evaluated together with other non-price factors, and the award is made to the firm whose proposal represents the best overall value to the government, taking into account price and non-price factors.

## Preferences

A common technique for promoting economic participation by local vendors, MSMEs, and marginalized groups is to grant a price preference or other preferential treatment when competing against large businesses or other firms. In these cases, procuring entities will increase the prices of non-preferred firms by a set number of percentage points for evaluation purposes. For example, in a full and open (or unrestricted) competition, a procuring entity might afford a price preference to women-owned small businesses by increasing the bid prices of non-preferred firms by 10% for evaluation purposes.

If a non-preferred firm and a women-owned small business both submit bids of US\$ 100,000, the procuring entity would consider the non-preferred firm's bid to be US\$ 110,000 for evaluation purposes. Assuming both bids are technically acceptable and the tender provides for award to the lowest price, technically acceptable bid, the women-owned small business would receive the award. Preference schemes can take many forms. An example is South Africa's preferential procurement policies (see box 3).

Preferences can be used to provide women-owned businesses with a competitive edge in public procurements, which to some extent addresses the adverse effects of discrimination and marginalization. Preferences can also increase their participation in the formal economy. The authority to pursue preferences for women entrepreneurs exists in several developing countries (see box 4, on next page).

Even in countries where the legislative authority exists for preferential procurement programmes, implementation is often lagging, inconsistent or non-existent. A recent study of government procurement and women-owned businesses in South Africa concluded that state procuring entities are not actively pursuing or translating into practice existing preferences for women-owned businesses (BWASA, 2013). The study attributes this inaction, in part, to shortcomings in the legislative framework, which does not explicitly address promoting women-owned businesses in public procurement.

**BOX 3: South Africa - Preferential procurement**

The South African government has established a procurement system in which firms receive preference points based on their certified B-BBEE status levels. Under this system, the maximum number of points that can be awarded to contractors during source selection is 100, of which 80 (or 90 for larger procurements) are awarded based on price. The remaining 20 'preference' points (or 10 points for larger procurements) are awarded based on the firm's certified B-BBEE status level.

A firm's status level is based on its compliance with the B-BBEE Codes of Good Practice. The B-BBEE Codes of Good Practice use a generic scorecard comprised of seven core elements: ownership, management control, employment equity, skills development, preferential procurement, enterprise and supplier development, and socioeconomic development. The system encourages firms to pursue initiatives under these elements to increase their compliance scores and status levels, and hence the number of preference points they receive during source selection.<sup>27</sup>

Under South Africa's Preferential Procurement Regulations, it is possible for completely non-HDI (Historically Disadvantaged Individual) entities to achieve higher B-BBEE status levels by pursuing initiatives under elements other than ownership and management control. The preferential procurement element reflects the amount of supplies and services purchased by a firm from empowered entities

with strong B-BBEE status levels. This means that private companies can earn more preference points by implementing their own preferential procurement policies. Similar to the small business subcontracting plans discussed above, the B-BBEE Codes of Good Practice help push preferential procurement policies down the supply chain, which creates more opportunities for marginalized groups such as women entrepreneurs.

*Source: Taylor and Roga, 2009; Quinot, 2013.*



**Table 1. National legislation examples authorizing preferential procurement policies for women-owned businesses**

Country	Authority
Kenya	<p><b>Public Procurement and Disposal Act 2005, s. 39(4):</b></p> <p>(4) The preferences and reservations shall apply to –</p> <p>(a) Candidates such as disadvantaged groups, micro, small and medium-sized enterprises.</p> <p><b>Public Procurement and Disposal (Preference and Reservations) Regulations, 2011, s. 2:</b></p> <p>'Disadvantaged group' means persons perceived to be denied by mainstream society access to resources and tools that are useful for their survival in a way that disadvantages them; or individuals who have been subjected to prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities; and includes enterprises owned by women, youth and persons with disabilities.</p>
Namibia	<p><b>Tender Board of Namibia Act, Act No. 16 of 1996, s. 15(5):</b></p> <p>(5) In comparing tenders, the Board shall give effect to the price preference policy of the government to redress social, economic and educational imbalances in a democratic society and to encourage industrial and commercial interests in Namibia.</p> <p><b>Local Authorities Tender Board Regulations, 2011, Annexure A:</b></p> <p>(i) Bona fide Namibian tenderer implementing affirmative action policies:</p> <p>If in the opinion of a local tender board, based on information furnished to that board by a Namibian tenderer, such tenderer is implementing affirmative action policies and programmes to redress social, economic or educational imbalances in a democratic society, the board may grant a price preference of 2–3% on the merits of each particular case, based on factors such as structured training programmes, apprenticeship courses of approved standards for labour, technical staff and managerial cadre, substantial employment of women and handicapped persons, and other programmes or activities benefiting disadvantaged Namibian citizens.</p>
South Africa	<p><b>Constitution of the Republic of South Africa, Act No. 108 of 1996, s. 217:</b></p> <p>(1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective.</p> <p>(2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for –</p> <p>(a) Categories of preference in the allocation of contracts;</p> <p>(b) The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.</p> <p>(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) may be implemented.</p> <p><b>Broad-Based Black Economic Empowerment Amendment Act, Act No. 46 of 2013:</b></p> <p>'Broad-based black economic empowerment' means the viable economic empowerment of all black people [including], in particular women, workers, youth, people with disabilities and people living in 10 rural areas.</p>
Zambia	<p><b>The Public Procurement Act, Act No. 12 of 2008, s. 63(2):</b></p> <p>(2) A target group for any preference or reservation scheme shall be determined in accordance with government economic and social policies and may include –</p> <p>(a) Citizens or local suppliers;</p> <p>(b) Goods, works or services manufactured in or provided from Zambia or a particular region or performed by Zambians or persons from a particular region;</p> <p>(c) Zambian suppliers in a particular industry or economic sector;</p> <p>(d) SMEs;</p> <p>(e) Enterprises owned by women; or</p> <p>(f) Any other group designated by government policy.</p>

Women are included within the category of ‘persons disadvantaged by unfair discrimination’. The study states:

While South Africa has a unique and progressive regulatory environment that shapes the mechanism of public procurement as a policy instrument to promote the economic empowerment of previously marginalized groups, the advancement of [women-owned businesses] as suppliers to government is secondary in this context, particularly given the absence of a legislative framework targeting [women-owned businesses] exclusively (BWASA, 2013, p. 2–3).

The study’s findings argue for a comprehensive national policy framework that explicitly targets the increased participation by women-owned businesses in public procurement.

## Reservations or set-asides

Another common technique for promoting economic participation by local vendors, MSMEs, and marginalized groups is to reserve or set-aside certain procurement opportunities solely for members of those groups. Similar to preferences, set-aside programmes can take many forms. Only one country – the United States – has established a set-aside programme specifically for women-owned businesses.<sup>28</sup>

The US Congress passed the Equity in Contracting for Women Act in 2000 authorizing procuring entities to set aside procurements for women-owned small businesses under certain circumstances. For constitutional reasons, the set-asides are limited to industries in which women-owned businesses are underrepresented. Implementing the programme was delayed until 2011 due in part to US constitutional issues.

Other countries are pursuing reservation schemes that benefit women entrepreneurs and other marginalized groups (see box 5).

### BOX 4: Kenya’s reservation scheme

In 2013, President Uhuru Kenyatta announced that Kenya would amend the public procurement regulations to reserve 30% of government contracts for women, youth and persons with disabilities (Gathira, 2013). Consistent with the President’s directive, the Government of Kenya amended its public procurement regulations on June 18, 2013, allocating 30% of its procurement spend for purposes of ‘procuring goods, works and services from micro and small enterprises owned by youth, women and persons with disability’.

For purposes of the reservation (and preference) schemes, the amended regulations state that an entity owned by youth, women or persons with disabilities shall be a legal entity that is registered with the government and ‘has at least 70% membership of youth, women, or persons with disabilities and leadership shall be one hundred per

cent youth, women and persons with disabilities, respectively’.

*Source: Gathira (2013); Legal Notice No. 114, 18 June 2013, the Public Procurement and Disposal (Preference and Reservations) (Amendment) Regulations, 2013, Regulations 31& 32 (Kenya).*



## Avoiding abuses

To avoid abuses by firms that have received preferences or set-asides, limitations must be placed on their ability to subcontract work and assign or transfer their contracts to other firms (see box 6). Without these limitations, there is the potential for firms that are eligible for preferential treatment to act as fronts for those that are not, which undermines the socioeconomic goals of the preferential procurement programmes.

**Table 2. Safeguarding preferential contracts**

Opportunities for abuse	Potential solutions
<b>Service contracts:</b> The recipient of a service contract under a preference or reservation scheme subcontracts all or a majority of the work to a firm that is ineligible for preferential treatment.	<b>Subcontracting limitation:</b> Require the recipient to perform at least 50% of the work in house.
<b>Supply contracts:</b> The recipient of a supply contract under a preference or reservation scheme acquires all or a majority of the supplies for the contract from a firm that is ineligible for preferential treatment.	<b>Subcontracting limitation:</b> Require the recipient to perform at least 50% of the cost of manufacturing the supplies (not including the cost of materials). In the case of a non-manufacturer, require the recipient to provide supplies that have been manufactured by certified women-owned businesses.
<b>Assignment or transfer:</b> The recipient of a service or supply contract under a preference or reservation scheme transfers the contract to another firm that is ineligible for preferential treatment.	<b>Anti-assignment provision:</b> Require the recipient to obtain written consent (or a waiver, if required by law) from the responsible procuring entity before the recipient can assign or transfer the contract to another firm.

*Source: Based in part on Federal Acquisition Regulation (FAR) Part 19, Small Business Program.*

## International agreements and guidelines

International trade agreements, such as WTO GPA, and procurement guidelines by international financial institutions, such as the World Bank, serve as sources of inspiration for countries wishing to address challenges faced by women-owned businesses. These businesses are often newcomers to procurement markets dominated by other businesses. A major obstacle they may face in establishing themselves as successful and competitive bidders is that unreformed procurement systems favour incumbent firms (their competitors) through well-established communication channels and cronyism.

### WTO's agreement on public procurement

WTO GPA's procedural requirements are designed to open markets. They help create transparent and fair procurement systems, and thereby ensure that women-owned businesses are not excluded from information relating to procurement opportunities. They must have a fair chance to compete. The revised text of WTO GPA outlines explicit obligations that parties need to prevent conflicts of interest and corrupt practices, which are other factors that may unfairly prevent women-owned businesses from winning contracts.

WTO GPA's built-in requirement for domestic review of procurement decisions provides women business owners with important platforms to voice their concerns and address remaining unfair practices that put them at a disadvantage.

One of the most important features of WTO GPA is that women-owned businesses, upon the accession of their country of origin, gain the opportunity to bid on contracts



in the markets of other GPA parties. These factors taken together make WTO GPA an important tool for women-owned businesses desiring to take advantage of new business opportunities in the public procurement sector.

However, these international agreements and rules may, to some extent, also limit governments' discretion in deploying preference schemes such as reservations or margins of preference. This is because preferences and reservations often discriminate against foreign firms. One of the primary objectives of international trade agreements, as well as international donors such as the World Bank, is to open up domestic procurement markets to foreign firms:

The basic rationale for free trade policies is that opening up markets to foreign competition improves economic prosperity. Underlying this is the theory of comparative advantage ... [This] states that both total economic welfare of the free trade group and the welfare of each individual country will be maximized by free trade between the members: such free trade leads each state to specialize in the areas in which it has comparative advantage, resulting in the most efficient use of resources and thus enhancing wealth (Arrowsmith, et al., 2011, p. 25).

The principle of free trade or non-discrimination<sup>29</sup> is contained in Article IV<sup>30</sup> of the recently revised WTO GPA:

#### Non-discrimination

1. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of any other Party and to the suppliers of any other Party offering the goods or services of any Party, treatment no less favourable than the treatment the Party, including its procuring entities, accords to:

- (a) Domestic goods, services and suppliers;
- (b) Goods, services and suppliers of any other Party.

2. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:

- (a) Treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership; or
- (b) Discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of any other Party.

**BOX 5: European Union - An overview of preferential procurement**

Public procurement has become an important policy tool for EU Member States because of the size of the public procurement markets in those economies. In 2009, public procurement accounted for nearly EUR 2,300 billion and 19% of GDP.

Recital 1 of Directive 2014/24/EU provides that the award of contracts on behalf of Member States, regional or local authorities and other bodies governed by public law entities is subject to the principles of equal treatment, non-discrimination, mutual recognition, proportionality and transparency. The objective of the procurement rules and the principles upon which they are based is primarily to strengthen the single market and the EU's competitiveness. However, social and environmental policies are now playing an increasingly important role in European public procurement.

The increasing importance of social and environmental policies is clearly evidenced in recent revisions to the EU Procurement Directives. For example, Recital 2 of the Directive 2014/24/EU states:

Public procurement plays a key role in the Europe 2020 strategy, set out in the Commission Communication of 5 March 2010 entitled 'Europe 2020, a strategy for smart, sustainable and inclusive growth' (...) as one of the market-based instruments to be used to achieve smart, sustainable and inclusive growth ensuring the most efficient use of public funds. For that purpose, the public procurement rules adopted pursuant to Directive 2004/17/EC ... and Directive 2004/18/EC ... should be revised and modernised in order to increase the efficiency of public spending, facilitating in particular the participation of small and medium-sized enterprises (SMEs) in public procurement and to enable procurers to make better use of public procurement in support of common societal goals.

Recital 36 explicitly supports the use of public procurement to promote participation by people with disabilities and disadvantaged persons:

Employment and occupation contribute to integration in society and are key elements in guaranteeing equal opportunities for all. In this context, sheltered workshops can play a significant role. The same is true for other social businesses whose main aim is to support the social and professional integration or reintegration

of disabled and disadvantaged persons, such as the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups. However, such workshops or businesses might not be able to obtain contracts under normal conditions of competition. Consequently, it is appropriate to provide that Member States should be able to reserve the right to participate in award procedures for public contracts or for certain lots thereof to such workshops or businesses or reserve performance of contracts to the context of sheltered employment programmes.

Recent revisions to the EU Procurement Directives also reflect an increasing acceptance of social considerations in the Court of Justice for the European Union. The Beentjes Case 31/87 is often cited. The Court of Justice held that measures undertaken to combat long-term unemployment could be part of the award criteria for public contracts where the procuring entity awards the contract to the most economically advantageous offer, it has no direct or indirect discriminatory effect on tenders from other Member States, and proper notice is given. The Court made a similar ruling in the case of Nord-Pas-de-Calais, Case 225/98 (Hettne, 2013).

Contracting authorities in the EU have a wide range of possibilities for determining contractual clauses based on social considerations. In its Interpretive Communication on the possibilities for integrating social considerations into public procurement, the Commission provides the following examples of lawful social clauses:

- The obligation to recruit unemployed persons, and in particular long-term unemployed persons, or to set up training programmes for the unemployed or for young people during the performance of the contract.
- The obligation to implement, during the execution of the contract, measures that are designed to promote equality between men and women or ethnic or racial diversity. In the case of services contracts, this might for example involve establishing a policy aimed at promoting ethnic and racial diversity in the workplace, through instructions given to the persons in charge of recruitment, promotion or staff training. It may also involve the appointment by the contractor of a person responsible for implementing such a policy in the workplace.

- The obligation to comply with the substance of the provisions of the ILO core conventions during the execution of the contract, in so far as these provisions have not already been implemented in national law.
- The obligation to recruit, for the execution of the contract, a number of disabled persons over and above what is laid down by the national legislation in the Member State where the contract is executed or in the Member State of the successful tenderer. (Nielsen, n.d., p. 56–57)

Despite the increasing importance of social and environmental considerations, it is still difficult to determine how much leeway procuring entities have to pursue social and environmental policy objectives. The 'strategic use of public procurement' for these purposes is informed and constrained by EU treaties and harmonized EU rules, and the body of case law interpreting the role of social considerations in this framework is quite limited (Hettne, 2013).

The implications for the use of public procurement to promote participation by women-owned businesses are also unclear. At a minimum, Member States can take steps to eliminate the common barriers and challenges faced by women-owned businesses. Eliminating these barriers and challenges would benefit small businesses generally. It appears that procuring entities in the EU have the authority to require their contractors to implement measures

that are designed to promote equality between men and women and the obligation to ensure preferred supplier lists contain a reasonable proportion of women-owned businesses.

How these measures are constructed and implemented is as important as whether they can be used in the first place. Beyond these types of measures, however, it does not appear as though public procuring entities in the European Union currently have the authority to implement more targeted measures such as preferences and reservations.

*Source: Beuter, 2011; Hettne, 2013; Nielsen, n.d.*



## Room to accommodate preferences

Despite these provisions, there appears to be plenty of room to accommodate preferences and reservations for women-owned businesses. WTO GPA is a plurilateral agreement within the framework of the WTO, which means not all WTO members are parties to the Agreement. Currently, the Agreement has 15 parties comprising 43 WTO members.<sup>31</sup> Another 28 WTO members participate in the GPA Committee as observers. Out of these, 10 members are in the process of acceding to the Agreement.<sup>32</sup> WTO Members that are not party to the Agreement do not have any rights or obligations under the Agreement.

## Flexibility

Flexibility exists for parties to WTO GPA because WTO GPA only applies to 'covered procurements', which are government procurements carried out by procuring entities of WTO GPA parties for covered goods, services and construction works that have a value at or above a specified threshold.<sup>33</sup> The non-discrimination provisions do not apply to procurements below the applicable GPA thresholds and governments are free to pursue 'collateral' or 'horizontal' procurement policies, including those that favour women-owned businesses. Even when the value of the procurement is at or above the applicable WTO GPA thresholds, governments can still pursue preferential procurement policies as long as they do not discriminate against foreign women-owned firms.<sup>34</sup>

## Exceptions and derogations

WTO GPA also permits exceptions and derogations for targeted programmes, which can accommodate preferential procurement policies for women-owned businesses. The United States and Canada negotiated exceptions for small business and minority set-aside programmes. It may be more difficult for developing countries to negotiate the same or similar exceptions in the future.<sup>35</sup> To make the Agreement more attractive to developing countries that may wish to accede to the GPA in the future, WTO GPA parties have introduced new and improved special and differential treatment provisions in the Agreement to provide flexibility as needed.

Article V of the revised GPA spells out the possibility for developing countries acceding to the GPA to negotiate transitional measures such as offsets, price preference programmes, initially higher thresholds and phasing-in of entities, subject to the agreement of the other parties and the acceding member's development needs.

As a result, there appears to be sufficient room under WTO GPA to accommodate preferences and reservations for women-owned businesses while also complying with the non-discrimination provisions of the agreement. This is particularly true for developing countries.

## World Bank guidelines

Similar to WTO GPA, the World Bank's guidelines for the procurement of goods, works and non-consulting services permit the use of domestic preferences under limited circumstances. Under the guidelines, borrowers may, with agreement of the World Bank, grant a margin of preference in the evaluation of bids under International Competitive Bidding procedures for:

- Goods manufactured in the country of the borrower when comparing bids offering such goods with those offering goods manufactured abroad;
- Works in member countries below a specified threshold of gross national product per capita, when comparing bids from eligible domestic contractors with those from foreign firms. (World Bank, 2011b.)

To some extent these provisions accommodate preferential procurement policies for domestic women-owned businesses, at least for those procurements over International Competitive Bidding thresholds. Similar to WTO GPA, there appear to be no restrictions on procurement policies favouring women-owned businesses as long as those policies do not discriminate against foreign firms.<sup>36</sup>

Developing countries may have more latitude to use preferences in the future to assist marginalized groups, such as women entrepreneurs, based on changing donor policies and attitude. Under the Paris Declaration (2005), the Accra Agenda for Action (2008) and the Fourth High Level Forum for Aid Effectiveness (Busan 2011), major international donors committed to using country procurement systems as the first option and giving preference to local and regional procurement (Ellmers, 2011).

Complying with international best practices, as embodied in instruments such as WTO GPA and others, results in transparency and good governance. These benefits can effectively counterbalance the limited restrictions these instruments pose to governments' discretion to implement discriminatory preference schemes.



## Building business capacity

Capacity-building programmes are an important component of a comprehensive preferential procurement system. The targeted assistance strategies discussed so far are largely intended to increase the demand for goods and services from women-owned businesses. For the system to be effective, demand must be matched by supply. It is incumbent upon governments to establish programmes that build the capacity of women-owned businesses to compete successfully in public procurement markets and deliver the goods and services that governments require to fulfil their public functions.

### Women's business organizations: force multipliers

Women's business associations and organizations are ideally suited to assist governments to develop and implement programmes targeted at women entrepreneurs. Governments can leverage the knowledge and capabilities of women's business organizations at almost every stage of the procurement system: conducting needs assessments and establishing baselines; developing policies and programmes; implementing and delivering programmes; and monitoring and evaluating progress. Women's business organizations are force multipliers.

Women's business organizations are well positioned to assist women entrepreneurs with finding and accessing subcontract opportunities because those organizations are part of an existing network of women-owned businesses, which are potential prime contractors, and have an in-depth understanding of the industries in which their members work. They are well positioned to facilitate teaming arrangements by matching member businesses.

A recent survey of women-owned business in Indonesia showed a positive correlation between business association membership and the ability of a firm to successfully win government contracts (Novirianti, 2013).

## Technical assistance

Women contend with more obstacles when starting and growing a business. Their businesses tend to be smaller. Women generally have less experience and access to finance and social capital and they operate in less-profitable sectors (World Bank, 2012). They also face a variety of other constraints, such as child and dependent care responsibilities, cultural and social biases, and biased laws and regulations.

Technical assistance can mitigate these obstacles to some extent. A 2009 review of SBA's Women's Business Center Program found that education has been one of the best options for closing the gap between women and men entrepreneurs. The review found, 'Entrepreneurial education is successful in serving women if, in addition to academic learning, it provides training in practical skills, support services and experiential learning aimed at increasing women's understanding and access to human, financial, and social capital' (National Women's Business Council, 2009). The review also notes that learning environments designed specifically for women are more successful.

Technical assistance can be delivered through various channels, including government agencies, trade support institutions such as women's business associations and organizations, and educational institutions. Some public procurement areas that could benefit from technical assistance include:

- Certification and registration processes;
- How to find and access tenders opportunities;
- Preparation and submission of tenders;
- Understanding contract terms and conditions;
- How to work with procuring officials and entities;
- Basic cost accounting and financial literacy;
- How to form teaming arrangements.

## Financial assistance

Financial assistance must be targeted at women-owned businesses to be effective. Evidence shows that where financial assistance is targeted at MSMEs generally, women-owned businesses tend to fare less well than their male counterparts. In Botswana, for example, a study conducted by the Southern Africa Gender Protocol Alliance found that commercial banks, the Citizen Entrepreneurial Development Agency, Local Enterprise



Authority, Botswana Export Development and Investment Authority and Botswana Development Cooperation tended to exclude women.

The study found that programmes specifically designed for women, such as the Women's Finance House Botswana and Women in Business Association, made a significant difference to women's empowerment (Southern Africa Gender Protocol Alliance, 2012).

Many of the factors that affect access to finance are country specific. For example, a 2004 World Bank report found that women-owned businesses in Uganda have limited access to finance because banks often require land as collateral (Ellis, et al., 2004). Because land allocation practices in Uganda favour men, women business owners are significantly disadvantaged. Currently, the use of non-land security to access finance is not a viable option. In December 2013, Uganda passed into law the Chattels Securities Bill, although it is still awaiting assent from the president. The bill will establish a legal framework for the use of personal property or chattel as security. However, it remains to be seen what, if any, impact it will have on women's ability to access financing.

Recognizing the importance of financing to nascent businesses, the Government of Kenya recently amended its procurement regulations requiring procuring entities to facilitate financing for businesses owned by youth, women or persons with disabilities.<sup>37</sup> The new financing provisions require procuring entities to authenticate contract awards to youth, women, and persons with disabilities and enter into agreements with the relevant financing institutions stipulating that the contracted enterprises shall be paid through the accounts they have opened with the financiers.<sup>38</sup>

Kenya has established the Uwezo Fund to provide youth and women entrepreneurs with grants and interest-free loans as well as mentorship opportunities.<sup>39</sup> The Uwezo Fund was established as part of the government's capacity building programme and is intended to help youth and women take advantage of the 30% reservation of government contracts for those demographic groups.

### BOX 6: Ethiopia - A model for women-owned banking

The establishment of Enat Bank, SC, in 2013 reveals the power of women united in a common cause. This is a story of triumph over adversity. It is a unique success story that should make all Ethiopians proud. Enat Bank was founded by a diverse group of 11 powerful Ethiopian women, who have shepherded Enat from an idea to a reality.

The founders had a vision to create a new bank that was open to everyone, with a special focus on women to help them access credit and other products. The team of women found many supporters, but raising the funds was a major hurdle. The more difficulties they faced, the more unified and determined they became to make Enat a reality. Each founder contributed her own time and resources.

The creation of Enat marks a unique point in Ethiopian and African banking history. Women own 64% of the bank, and are in major leadership positions from the senior bank management to the Board of Directors. The founders realized their vision through commitment and hard work, and are prepared to continue to nurture the bank as it establishes itself.

The founders believe after Enat succeeds in Ethiopia, it can be expanded across Africa.

This tight-knit group of women are Enat's primary ambassadors, helping bring Enat's vision to the world. Enat Bank hires and mentors bright young women to continually research the best ways to ensure the bank's products reach women.



Source: Reproduced from the Enat Bank website <http://www.enatbanksc.com/about-us/history.html>.

In Liberia, the government has partnered with the World Bank Group's International Finance Corporation (IFC) to provide access to SME finance and equipment leasing. IFC and Goldman Sachs launched a US\$ 600 million global facility in March 2014 that will increase access to finance for as many as 100,000 women entrepreneurs in developing countries (IFC, 2014). This Women Entrepreneurs Opportunity Facility will extend lines of credits and share risk with local banks in developing countries to help ensure and promote access to finance for women entrepreneurs.

Financial assistance can take many forms. The keys are to identify and mitigate barriers, such as land ownership, and tailoring assistance specifically for women-owned businesses.

## Mentor-protégé programmes

Mentoring is an effective means of delivering technical assistance to women-owned business and increasing their access to social capital, including networks, memberships in associations, relationships, and access to institutions in society. Women's business organizations are ideally suited to this task, given their ability to match member business owners with one another as mentors and protégés.

Governments can also establish more formalized mentor-protégé programmes. In the United States, for example, the federal government has established a formal mentor-protégé programme that partners small businesses (protégés) with large businesses (mentors) for business development purposes. Under the programme, mentors and protégés may enter into joint ventures as small businesses to compete for prime contracts and subcontracts.<sup>40</sup>

### BOX 7: Business support for women entrepreneurs

In 2009, Chinese Taipei's Council of Labor Affairs established the Phoenix Micro Startup Plan to boost the number of women participating in the labour force by encouraging them to start their own businesses. The Phoenix Micro Startup Plan offers a full range of services to women entrepreneurs, including:

- **Start-up funding and financing.** Participants can access low-interest loans through the plan without guarantors or collateral.
- **Consulting and guidance services.** There are more than 100 consultants from various fields that provide free consultation services and guidance to new businesses.
- **Marketing and promotion.** The plan has established an online shopping mall, publishes promotional materials and holds exhibitions to showcase the achievements of programme participants.
- **Follow-up support.** Entrepreneurs receive follow-ups every three months to evaluate their business operations.
- **Training.** The plan offers a variety of courses, from basic courses covering industrial trends and start-up preparation, to intermediate courses covering business skills, financial

planning and marketing. Advanced courses are tailored to the needs of the different groups of entrepreneurs. The programme also offers digital courses, internships and company visits.

In recent years, Chinese Taipei has initiated a number of other plans and programmes to support women entrepreneurs. They include the Female Entrepreneurship Guidance Plan, the Female Entrepreneurial Elite Plan and the Flying Geese Program. The government is also establishing the Female Entrepreneurship and Innovation Alliance, which is a network of female entrepreneurs.

*Source: Government of Chinese Taipei (2012); Sun (2012).*



## Establishing business champions

African women entrepreneurs and business organization representatives uniformly recommended establishing business champions in government procurement authority offices and procuring entities to advocate on behalf of women business owners and to provide assistance. These advocates could be empowered to raise prompt payment issues with payment officials, which could insulate women entrepreneurs from corruption pressures and potential retaliation by disgruntled officials. These champions could monitor compliance with preferential procurement programmes and act as liaisons between the government and women’s business organizations.

The value of women business champions has been demonstrated in Uganda. Ugandan customs and border officials were harassing women vendors engaged in cross-border trade. The fact that many of the women vendors had difficulties understanding and completing the required export documentation aggravated the situation. According to a representative from the Uganda Export Promotion Board, the situation improved dramatically when women advocates were positioned at the border to help the vendors complete the required documentation and facilitate their interactions with the customs and border officials.

As a result of this intervention, the customs and border officials changed their attitudes and behaviours towards the women vendors and no longer created obstacles to their business transactions. The officials and women vendors have reportedly developed a positive working relationship.

## Building government capacity

In addition to building the capacity of women-owned businesses, it is important to build the capacity of government officials and procuring entities. Procuring officials need to be sensitized to the unique barriers and challenges facing women-owned businesses and the objectives of inclusive public procurement policies and programmes. Training is required to ensure compliance with policies and programmes as well as accountability for their implementation.

### BOX 8: Ghana - Mainstreaming procurement training

The government has recently made great strides in reforming Ghana’s public procurement system, particularly in its capacity building efforts. Ghana’s approach to mainstreaming procurement training into the tertiary education system, with new degrees being offered at the Higher National Diploma and bachelor’s levels, is particularly noteworthy. Both the Ghana Institute of Management and Public Administration and Takoradi Polytechnic offer the new curricula.

The Ghana Institute of Management and Public Administration offers short-term training sessions in procurement for internationally financed projects to government officials from across the region. Ghana is also taking important steps towards professionalizing a career path for procurement officers. Ghana’s reforms address systemic problems facing the public procurement system.

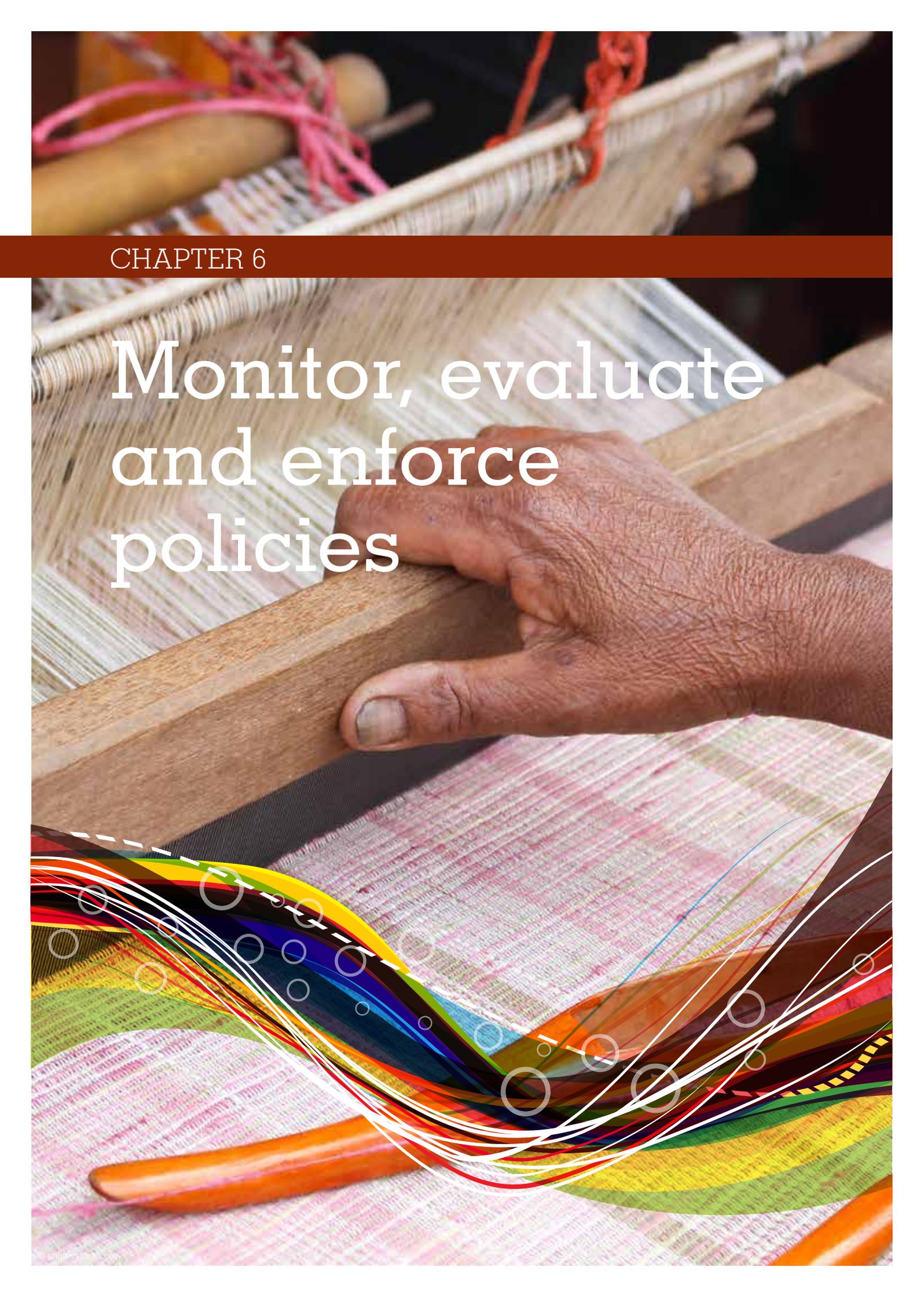
The reforms also offer an opportunity to sensitize procurement officials to the many unique issues women business owners face in the public procurement space and the benefits of preferential policies.

*Source: World Bank (2013).*



## ENDNOTES

24. Exec. Order No. 11,246, 30 Fed. Reg. 12319 (Sept. 24, 1965) (United States); Federal Acquisition Regulation (FAR), 48 C.F.R. Subpart 22.8 (United States).
25. 15 U.S.C § 644(g) (United States).
26. FAR, 48 C.F.R. Subpart 19.7 (United States).
27. Quinot (2013) points out that revisions to South Africa's Preferential Procurement Regulations in 2011 significantly simplified the process by which preference points are determined. Under the prior regulations, procuring agencies had to specify how preference points would be awarded for each tender opportunity and then adjudicate the number of preference points awarded to each bidder. Given the judicial remedies available in South Africa, Quinot notes that the award of preference points became fertile ground for legal challenges, which made the system inefficient. The 2011 Preferential Procurement Regulations eliminated the wide discretion given to procuring entities by setting out the specific number of preference points to be awarded to a bidder based on the bidder's certified B-BBEE status level, which eliminated the need for procuring agencies to do so.
28. The United States, as a Party to the WTO GPA has ensured that this set-aside programme does not conflict with its obligations under the Agreement by inserting a General Note into its Appendix I to the GPA.
29. 'Non-discrimination' as used in this context means discrimination against foreign suppliers, goods and services is prohibited.
30. On 30 March 2012, the Parties to WTO GPA adopted a revision to the GPA. See GPA-113, 2 April 2012, available at [http://www.wto.org/english/tratop\\_e/gproc\\_e/gp\\_gpa\\_e.htm](http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm).
31. Armenia; Canada; the European Union with regard to its 28 Member States; Hong Kong, China; Iceland; Israel; Japan; Korea; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Switzerland; Chinese Taipei; and the United States.
32. Albania, China, Georgia, Jordan, the Kyrgyz Republic, Moldova, Montenegro, New Zealand, Oman, and Ukraine.
33. See WTO GPA (2012), Article II.2.
34. Rwanda harmonized its domestic preference scheme with its obligations as a member of the East African Community Common Market by providing a price preference to domestic entities as well as those of other member states (Quinot, 2013). By doing so, Rwanda is meeting its obligation of non-discrimination members while also pursuing its 'collateral' or 'horizontal' goals.
35. Some argue, 'The extent of a GPA contracting party's autonomy to pursue its own domestic justice policies depends on its market power, on its ability to offer on the GPA negotiating table substantial other procurements unaffected by preference programmes' (Linarelli, 2011, p. 456). Notably, no developing countries have acceded to WTO GPA as of 2013. Armenia, which is classified by the United Nations as an 'economy in transition', was the last country to accede to WTO GPA on 15 September 2011. However, the recent revisions to the GPA should to some extent address the concerns of developing countries.
36. Similar to WTO GPA and World Bank Guidelines, other prominent regulatory regimes, such as the UNCITRAL Model Law on the Procurement of Goods, Construction and Services (Model Law), also accommodate preferential procurement policies for women-owned businesses, particularly where those policies do not discriminate between domestic and foreign women-owned businesses. The Model Law states that the evaluation criteria may include '[a] margin of preference for the benefit of domestic suppliers or contractors or for domestically produced goods, or any other preference, if authorized or required by the procurement regulations or other provisions of law of this State' (Article 11.3).
37. Legal Notice No. 114, 18 June 2013, the Public Procurement and Disposal (Preference and Reservations) (Amendment) Regulations, 2013, Regulation 33 (Kenya).
38. Wanderi (2013) suggests the doctrine of cession in anticipando could be used to ensure access to finance for women, youth and people with disabilities. Under that doctrine, which is widely used in South Africa, once a woman entrepreneur receives a contract under the new reservation or preference scheme, she can cede the right to claim future payments under the contract while retaining ownership of the other contractual rights. To that end, Wanderi notes that the woman entrepreneur will have acquired the right to claim payment by virtue of the new financing provisions (Regulation 33).
39. See <http://www.uwezo.go.ke/en/index.php>.
40. 13 C.F.R. § 124.520 (United States).



CHAPTER 6

# Monitor, evaluate and enforce policies

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*'Without effective planning, monitoring and evaluation, it would be impossible to judge if work is going in the right direction.'*

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**M**onitoring, evaluation, and enforcement are necessary to ensure compliance with policies and programmes, to measure progress towards government or organizational objectives, and to make adjustments to improve the system. 'Monitoring and evaluation can help an organization extract relevant information from past and ongoing activities that can be used as the basis for programmatic fine-tuning, reorientation and future planning. Without effective planning, monitoring and evaluation, it would be impossible to judge if work is going in the right direction, whether progress and success can be claimed, and how future efforts might be improved' (UNDP, 2009, p.5).

An in-depth discussion of monitoring and evaluation is beyond the scope of this guide, but following are some basic concepts when planning for and developing a monitoring and evaluation framework within the context of public procurement and women-owned businesses.

## Establish appropriate metrics

'Metrics provide a focus for organizations and their members; clearly stating goals through metrics allows individuals to focus their drive on achieving those goals' (Reed, Luna & Pike, 2005, p. 87). Metrics, also known as performance indicators, are critical for monitoring and evaluation. Metrics can help to:

- Inform decision-making for ongoing programme or project management;
- Measure progress and achievements, as understood by different stakeholders;
- Clarify consistency among activities, outputs, outcomes and impacts;
- Ensure legitimacy and accountability to all stakeholders by demonstrating progress;
- Assess project and staff performance. (UNDP, 2009, p. 61).

To be effective, a metric must be both valid and reliable. The metric must measure what it purports to measure (validity) and it must produce the same results every time, given the same circumstances (reliability). Above all, the metric must be aligned with and linked to the goals of the organization's strategy (Reed, et al., 2005).

The results-based management (RBM) approach used by the International Trade Centre and United Nations organizations provides a useful framework for conceptualizing and formulating expected results and metrics. The process begins by defining the expected results of the planned intervention in terms of impacts, outcomes and outputs.<sup>41</sup>



## Impacts

Impacts are 'actual or intended changes in human development as measured by people's well-being' (UNDP, 2009, p. 56). Impacts refer to the underlying goals of a planned intervention and generally convey substantial and direct changes to global, regional, national or local social, economic and political conditions in which people live. For example, the expected impact of a preferential procurement policy for women-owned businesses might be reducing poverty and hunger or contributing to a stronger economy.

## Outcomes

Outcomes are the next level of expected results, occupying the middle ground between impacts and outputs. Outcomes are 'actual or intended changes in development conditions that interventions are seeking to support' (UNDP, 2009, p. 56). They provide a clear statement of what will change in a particular region, country or community as a result of the intervention, and typically relate to changes in institutional performance or behaviour among individuals or groups.

For example, an expected outcome of a preferential procurement programme for women-owned businesses might be increased participation by women-owned businesses in the government supply chain or in the formal economy.

## Outputs

Outputs are the 'short-term development results produced by project and non-project activities' (UNDP, 2009, p. 58). They are the tangible goods or services produced by the intervention to achieve the outcomes. Because they are the most immediate results of an intervention, the government or responsible organization exercises the greatest control over outputs. Generally, more than one output is needed to achieve an outcome.

For example, if the expected outcome of the preferential procurement programme is increased participation by women-owned businesses in the government supply chain, the outputs of the programme might include developing and implementing a certification process for women-owned businesses and supplying public procurement training materials to women's business organizations.

## Assessing progress

Having defined the expected results, the next step is to specify the metrics or performance indicators that are used to assess progress. There are three types of performance indicators: impact indicators, outcome indicators and output indicators. Impact indicators describe the long-term changes in people's lives and development conditions at the global, regional and national level (UNDP, 2009).

Measuring the impact of interventions can be complex, costly and difficult. This is due to the considerable time lag between programme implementation and the anticipated impacts, as well as the influence of other factors on the ultimate results. The further removed results are from the intervention, the more difficult it becomes to determine how much variance is accounted for by the intervention, as opposed to other factors. Box 11 provides some examples of impact indicators.

**Table 3. Impact indicator examples**

Sample impacts	Sample impact indicators
<b>Improved educational performance</b>	<ul style="list-style-type: none"> <li>• Percentage of girls and boys completing primary school</li> <li>• Percentage of girls and boys enrolled in primary school</li> </ul>
<b>Stronger economy</b>	<ul style="list-style-type: none"> <li>• Percentage increase in GDP</li> <li>• Unemployment rate for men and women</li> </ul>
<b>Reducing poverty</b>	<ul style="list-style-type: none"> <li>• Poverty rate for women and men</li> <li>• Percentage of population living in extreme poverty</li> <li>• Percentage of women and men living in extreme poverty</li> <li>• Percentage of girls and boys living in extreme poverty</li> <li>• Level of infant malnutrition, broken down by girls and boys</li> <li>• Percentage increase in GDP per capita</li> </ul>

Source: Author.

Outcome indicators assess progress towards specified outcomes. They help verify whether, and to what extent, the intervention has produced the intended changes in the development situation (see box 12).

**Table 4. Outcome indicator examples**

Sample impacts	Sample impact indicators
<b>Increased participation by women entrepreneurs in the formal economy</b>	<ul style="list-style-type: none"> <li>• Percentage of GDP attributable to women-owned businesses</li> <li>• Number of registered women-owned businesses</li> </ul>
<b>Increased participation by women entrepreneurs in international trade</b>	<ul style="list-style-type: none"> <li>• Percentage of international trade attributable to women-owned businesses</li> </ul>
<b>Increased participation by women-owned businesses in the government supply chain</b>	<ul style="list-style-type: none"> <li>• Percentage of total procurement spending awarded to women-owned businesses each year</li> <li>• Number of prime contracts and subcontracts awarded to women-owned businesses each year</li> <li>• Total number of women-owned businesses receiving contract awards each year</li> <li>• Total number of new women-owned businesses receiving awards each year</li> <li>• Level of commitment by procuring agencies to promote the use of women-owned businesses</li> </ul>

Sample impacts	Sample impact indicators
<b>Improved access to the public procurement market by women-owned businesses</b>	<ul style="list-style-type: none"> <li>• Number of women-owned businesses registered as government contractors</li> <li>• Number of new women-owned businesses registered as government contractors each year</li> <li>• Total number of women-owned businesses that have prequalified for approved vendor lists</li> <li>• Number of new women-owned businesses prequalified for approved vendor lists each year</li> </ul>
<b>Increased availability of information on procurement opportunities</b>	<ul style="list-style-type: none"> <li>• Annual percentage increase in the number of women-owned businesses submitting tenders for government contracts</li> <li>• Percentage of women entrepreneurs surveyed that are aware of where to find information on procurement opportunities</li> </ul>

Source: Author.

Output indicators measure the production of outputs, i.e., goods and services, in support of the specified outcomes. Because outputs are tangible and deliverable, it is easier to identify indicators for them (see box 13).

**Table 5. Output indicator examples**

Sample outputs	Sample output indicators
<b>Certification process for women entrepreneurs developed and implemented</b>	<ul style="list-style-type: none"> <li>• Number of agencies authorized to certify women-owned business</li> <li>• Number of women-owned businesses certified each year</li> </ul>
<b>Payment system reformed to ensure prompt payment of women-owned businesses</b>	<ul style="list-style-type: none"> <li>• Average number of days required to pay women-owned small businesses after submission of invoice</li> <li>• Percentage of women-owned businesses paid within specified timelines</li> </ul>
<b>Technical assistance programmes established for women entrepreneurs</b>	<ul style="list-style-type: none"> <li>• Number of centres or organizations providing technical assistance to women-owned businesses</li> <li>• Number of women-owned businesses receiving technical assistance</li> <li>• Percentage of women-owned businesses receiving technical assistance</li> </ul>
<b>Training programmes established for government procurement officials</b>	<ul style="list-style-type: none"> <li>• Annual number of government officials receiving training on preferential procurement programmes for women-owned businesses</li> <li>• Percentage of government procurement officials who have received training</li> </ul>

Source: Author.

## Selecting meaningful indicators

The challenge in selecting performance indicators is to ensure they meaningfully capture the key changes. If the wrong thing is measured or if it is measured in the wrong way, the data could be misleading and could adversely affect decision-making (UNDP, 2002). The choice of indicators could also lead to unforeseen consequences. UNDP cites an instance in which a country changed its funding system from one based on the number of drugs administered to one based on the number of patients treated. Because of this, the doctors became friendlier with patients but wrote fewer prescriptions. Reducing the number of prescriptions for medicine was not necessarily the policymakers' objective when the country changed its funding formula.

To assist with selecting meaningful indicators, ITC and others use the 'SMART' criteria:

- **Specific:** Is the indicator specific enough to measure progress towards the results?
- **Measurable:** Is the indicator a reliable and clear measure of results?
- **Attainable:** Are the results in which the indicator seeks to chart progress realistic?
- **Relevant:** Is the indicator relevant to the intended outputs and outcomes?
- **Time-bound:** Are data available at reasonable cost and effort?

It is important to consider the following points when selecting performance indicators:

- Who sets indicators is fundamental to ownership and transparency, as well as to the effectiveness of the indicators. Setting objectives and indicators should be a participatory process.
- A variety of indicator types are more likely to be effective. The demand for objective verification may mean that focus is given to the quantitative or simplistic at the expense of indicators that are harder to verify but may better capture the essence of the change taking place.
- The fewer the indicators the better. Measuring change is costly so use as few indicators as possible. However, there must be sufficient indicators to measure the breadth of changes occurring and to provide cross-checking. (UNDP, 2009, p. 62.)

Indicators require a baseline, target and timeframe in order to allow governments and other stakeholders to properly assess the results of interventions (UNDP, 2002).

## The US Small Business Administration

The US SBA offers one example of a government agency that uses metrics to track the performance of socioeconomic interventions in the public procurement space. Congress established the SBA to aid, counsel, assist and protect the interests of small business concerns, to ensure a fair proportion of federal purchases and contracts are placed with those businesses, to preserve free competitive enterprise, and to maintain and strengthen the overall economy of the nation.<sup>42</sup> Congress mandated the use of a single metric for measuring the success of the small business programmes in the public procurement space – the percentage of total procurement dollars awarded to small businesses.<sup>43</sup>

At the conclusion of each fiscal year, the head of each federal agency is required to report to the SBA whether or not it has met the agreed goals for participation by small businesses, including, women-owned small businesses. The SBA submits a report to Congress, detailing the government's overall performance against the statutory goals, reasons for failure to achieve those goals, and recommendations on proposed remedial actions. Both the goals and metrics are expressed as a percentage of total procurement dollars.

Whether the current metric used by the SBA is the most effective measure of success is a matter of debate. According to Reed, et al. (2005 p. 25) the current metric can be skewed by increases and decreases in overall spending and does not necessarily correlate with the overall efficacy of the small business programme. They argue that the current metric does not capture the true benefits of the small business programme, which they contend are innovation and entrepreneurship. '[T]o promote innovation and entrepreneurship requires a constant refreshing of the socioeconomic population, with small businesses constantly being cultivated and added to the public procurement agency's contracting core'.

Two new metrics for measuring the success of the small business programme could be: (1) total number of small businesses receiving awards, and (2) total number of new small businesses receiving awards.<sup>44</sup> Using the two new metrics, the researchers

concluded that the small business programme was more effective than the current metric would suggest (Reed, et al., 2005.)

The SBA example illustrates the importance of clearly defining the goals of the intervention and selecting metrics or performance indicators that closely align with it. Selecting the appropriate metrics is only the beginning of the process. Once selected, they must be monitored and evaluated.

## Monitoring – data collection and analysis

Monitoring can be defined as ‘the ongoing process by which stakeholders obtain regular feedback on the progress being made towards achieving their goals and objectives’ (UNDP, 2009, p. 8). Monitoring involves, among other things, the ongoing collection, analysis and reporting of data on specified metrics, as well as other information relevant to stakeholders, such as the financial, human and material resources used in the programme.

Data collection and reporting should be institutionalized and standardized across procuring entities to allow for meaningful analysis. This requires substantial planning. A recent study in South Africa finds that the systems employed by state procuring entities to monitor their progress towards national and provincial preferential targets are largely rudimentary and by implication, ineffective. Generally, these systems only report procurement spend annually, and there is no centrally administered monitoring framework for women-owned businesses in public procurement (BWASA, 2013).

Monitoring efforts in South Africa are further complicated by the fact that targets for participation of women-owned businesses in public procurement, to the extent they existed, vary across procuring entities, as does the definition of a women-owned business. The study does note that a few state entities have institutionalized progressive monitoring techniques, including, incorporating procurement targets into the contracts of senior managers.

## Evaluate results and make adjustments

Evaluation is a rigorous and independent assessment of either completed or ongoing activities to determine the extent to which they are meeting stated objectives and contributing to decision-making. Evaluation can apply to many things, including an activity, project, programme, strategy, policy, topic, theme, sector or organization.

The goals of monitoring and evaluation are very similar. Both seek to provide information that can help inform decisions, improve performance and achieve planned results



(UNDP, 2009). The key distinction between monitoring and evaluation is that the latter is done independently to provide programme managers and other stakeholders with an objective assessment of whether the programmes are on track. Evaluations are also more rigorous in their procedures, design and methodology, and generally involve more extensive analysis.

Women's business organizations can serve as valuable sounding boards when monitoring and evaluating the results of the data collection and analysis efforts, and deciding what adjustments to make to procurement policies and programmes. These organizations can help interpret and give context to the data and suggest ways to improve performance.

## Enforce compliance if necessary

An important consideration for governments is how to enforce compliance with preferential public procurement policies and programmes, both within and outside of the government. Some types of enforcement actions have already been cited in this guide. For example, procuring entities in a number of countries are subject to interest penalties for failing to pay contractors promptly.

With respect to contractors, governments can impose administrative (e.g. suspension and debarment) and contractual (e.g. terminations) penalties on firms that violate public procurement policies. Whatever form they take, enforcement mechanisms must have real consequences to ensure compliance.

Oversight need not only come from the government. Civil society can play an important role in overseeing national procurement systems (World Bank, 2013). In West Africa, for example, a regional network of stakeholders from Ghana, Sierra Leone, Liberia and Nigeria was established to monitor public procurements in the region. The West African Regional Network is comprised of civil society organizations, public institutions, media, and private companies, and is coordinated by the Ghana Anti-Corruption Coalition.<sup>45</sup>

## ENDNOTES

41. The results-based framework also takes into account 'activities', which are the tasks undertaken to produce outputs, and 'inputs', such as human, financial and material resources. This guide discusses outputs, outcomes, impacts and the associated performance indicators. For an in-depth discussion of how ITC and UN organizations use the RBM framework to plan, monitor and evaluate interventions, see UNDP (2009).
42. 15 U.S.C. § 631(a) (United States).
43. 15 U.S.C. §§ 631b, 644(g) (United States).
44. Other commonly tracked metrics are the number and size of contract awards.
45. See <http://gaccgh.org/progs/west-africa-contract-monitoring-programme#.Uz0XkyidXgo>.
46. United Nations, 2013, p. 34.
47. <http://sustainabledevelopment.un.org/focussdgs.html>

A close-up photograph of a person's hands writing on a document with a blue pen. The document contains a bar chart and some text, including the words 'Tax Rate and Income'. The background is blurred, showing more of the document and the person's hands. A semi-transparent pink banner is overlaid at the top of the image.

CONCLUSION

# Towards greater commitment to women-owned businesses

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*‘No society has become prosperous without a major contribution from its women.’<sup>46</sup>*

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**D**ue to their regulatory and buying powers, governments have a unique opportunity to unleash the tremendous economic potential represented by women-owned businesses. To date, little attention has been paid to how governments can use public procurement policies and programmes to unlock this potential, despite a growing body of evidence that shows gender equality and women’s empowerment are pivotal to sustained economic growth and attaining development goals.

Countries with smaller gender gaps are more competitive internationally, they have higher GDP per capita and they rank higher in the Human Development Index (World Economic Forum, 2013).

Recognizing the pivotal role of women in today’s economies, the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda has called upon the governments of the world to create the conditions that allow women to fully realize their potential so that they can ‘transform their families, their communities, their economies and their societies’. Governments can help create these conditions through their public procurement policies.

One way forward is to ensure commitments are made at the international level on gender equality and women’s empowerment. At the time of publication, the goal of achieving gender equality and women’s empowerment, which is at the core of MDG 3, had been proposed as a stand-alone goal in the Post-2015 Development Agenda.<sup>47</sup> To operationalize this in a fiscally responsible way, governments can use their procurement process as an instrument to increase sourcing from women-owned enterprises.

This would be consistent with other targets proposed by the General Assembly’s Open Working Group on the Sustainable Development Goals: ‘12.7 promote public procurement practices that are sustainable in accordance with national policies and priorities’. Most governments have national-level gender policies in line with commitments made at the international level to the Convention on the Elimination of All Forms of Discrimination Against Women and other international treaties. MDG 3, relating to gender equality and women’s empowerment, is a development priority.

Key elements to effectively using public procurement policy to stimulate increased entrepreneurial activity by women include:

- Gender-specific reforms, designed to remove the barriers and challenges faced by women entrepreneurs, thereby increasing their access to public procurement markets;
- Targeted assistance designed to cultivate participation by women-owned businesses in those markets over the long term.

It is important that governments recognize and leverage the capabilities and knowledge of women’s business organizations. The sooner governments invest in these reforms, the sooner the benefits will flow to women, their families, their communities and their nations.



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