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EIIP

Employment Intensive Investment Programme

► Guide on gender-responsive procurement for Employment-Intensive Investment Programmes (EIIPs)

Creating decent jobs and generating equal labour and business opportunities for women and men



► **Guide on gender-responsive procurement for Employment-Intensive Investment Programmes (EIIPs)**

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*Guide on gender-responsive procurement for Employment-Intensive Investment Programmes (EIIPs):
Creating decent jobs and generating equal labour and business opportunities for women and men*
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► Foreword

In both the private and public sectors, procurement is proving to be a significant provider of market opportunities for contractors in micro, small and medium-sized enterprises for the sourcing of goods and services. Procurement can contribute as much as 30 per cent of the national GDP of many developing countries and as much as 12 per cent of GDP of developed countries (ITC, 2014). The opportunities afforded to such contractors by procurement propel inclusive and sustainable development. In spite of their high impact on national economies, however, women entrepreneurs, persons with disabilities, persons living in fragile settings and other vulnerable groups may be excluded from the benefits they generate. At the same time, procurement is a high-impact instrument for governments and the private sector, enabling their fruitful investment in and influence on gender empowerment and social inclusion.

The ILO contributes to SDG targets 8.5 (productive employment and decent work for all men, women, young people and persons with disabilities as well as equal pay for work of equal value); 8.8 (safe and secure working environment for migrant workers, women migrants and those in precarious employment); and 12.7 (sustainable public procurement) by supporting Member States in designing, formulating and evaluating policies and programmes that address unemployment through public investment. For over 40 years the ILO Employment-Intensive Investment Programme (EIIP) has been connecting infrastructure development with employment creation, poverty reduction, and local economic and social development. Doing so specifically supports the design and implementation of procurement systems that ensure that small-scale, local contractors can equitably participate in and gain from the sustainable development that procurement should offer. One fundamental EIIP consideration concerns how infrastructure works, goods and services are procured. Moreover, through advocacy with governments and social partners as well as interventions at country level the EIIP aims to promote gender equality and social inclusion, notably of persons with disabilities and those in fragile settings. Case in point: the EIIP applies a gender-sensitive approach to the equitable participation of women in procurement by offering tools and training programmes on procurement and contracting in the construction sector. By way of this support, procurement can provide valuable business opportunities and self-employment to women entrepreneurs, access to work for women as well as advance gender equality and inclusion in the workplace.

This Guide on gender-responsive procurement for EIIP is intended primarily for global EIIP technical experts, field practitioners, partners and entities interested in promoting a gender dimension in public procurement as well as policy makers and officials of procuring institutions in the public sector.

The five sections herein present a conceptual definition of gender-responsive procurement, stating the case from an equality, equity and efficiency perspective and illustrating this in practice with concrete cases. They include examples of promising outcomes and evidence highlighting the significance of gender-responsive approaches in creating decent jobs and generating equal opportunities for men and women in the infrastructure sector. Finally, practical guidance is offered on how to ensure a gender dimension in the various phases of the procurement process where gender equality and women's participation can be promoted. This involves taking account of existing inequalities in a first stage, identifying which areas have the potential to incorporate gender equality, ensuring that contractual obligations specify the implementation of measures capable of advancing gender equality and lastly, monitoring and evaluating the impact on gender equality so as to adjust field work as needed.

I would like to recognize the valuable contribution of all those mentioned in the Acknowledgements section in enhancing the value of the Guide. Our aspiration is that this Guide will significantly contribute, along with the ILO's Decent Work Agenda, to advancing the economic and working conditions of all workers, employers and governments with a view to lasting peace, prosperity and progress.

Mito Tsukamoto

Chief

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► Acknowledgements

This Guide was drafted by Eva Majurin and María Teresa Gutiérrez, Technical Specialists covering the areas of gender, employment-intensive investment, and peace and resilience in the Development and Investment Branch (DEVINVEST) of the International Labour Organization (ILO). It was subsequently revised and updated by Nite Tanzarn, International Gender and Transport Expert.

Its development benefited from a wide consultation process within the ILO including the team of Employment-Intensive Investment Programme (EIIP) management (Chris Donnges) and technical specialists in the field and at headquarters (Simon Done, Mahmoud Odeh and Claude Yao Kouame), the Procurement Bureau (Francis Paola Burga Bravo De Rueda, Julia Gin, Odie Otieno Mary Mugambi and Vanja Ostojic), the Gender, Equality Diversity and Inclusion Branch (GEDI) at headquarters and field specialists (Emanuela Pozzan, Frida Khan and Joni Simpson), the Women's Entrepreneurship Development Programme (WED) (Virginia Rose Losada, Charleine Mbuyi-Lusamba, Jaylan ElShazly and Aatif Somji) and the Better Work Branch (BETTERWORK) (Arianna Rossi).

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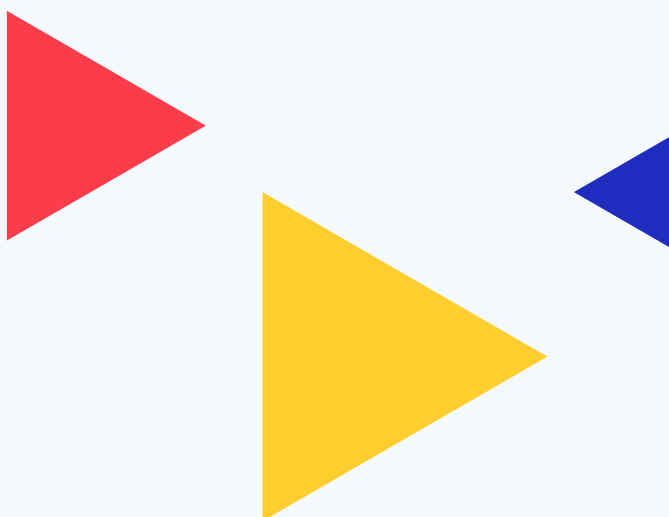
► List of Abbreviations/Acronyms

ACT/EMP	ILO Bureau for Employers' Activities
BDS	Business Development Support
BVFM	Best Value For Money
C.94	Labour Clauses (Public Contracts) Convention, 1949
CIPS	Chartered Institute of Purchasing and Supply
EIIP	Employment-Intensive Investment Programme
ERA	Enhancing Rural Access
GDP	Gross Domestic Product
GEDI	Gender, Equality, Diversity and Inclusion
GET	Gender and Entrepreneurship Together
GRM	Grievance Redress Mechanism
ILO	International Labour Organization
IFC	International Finance Corporation
ITC	International Training Centre
IYCB	Improve Your Construction Business
JCPI	Job Creation through Public Investment Unit
MSME	Micro, Small or Medium Enterprise
OSH	Occupational Safety and Health
PPRA	Public Procurement Regulatory Authority
R4D	Roads for Development Program
RMG	Road Maintenance Group
SDG	Sustainable Development Goal
SGBV	Sexual and Gender-Based Violence
SIYGCB	Start and Improve Your Green Construction Business
SMEs	Small and medium-sized enterprises
SOP	Standard Operating Procedure
UNEP	United Nations Environment Programme
UNOPS	United Nations Office for Project Services
UNSDGs	United Nations Sustainable Development Goals
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WED	Women's Entrepreneurship Development

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► 1. Introduction

Background

Procurement helps public- and private-sector entities source the goods and services they require for their operations. By providing market opportunities to contractors and decent work for those engaged by the latter, it can also serve as a means of promoting inclusive and sustainable development more broadly.

These benefits do not flow automatically to all groups of entrepreneurs and workers, however. Small-scale enterprises in general, and women entrepreneurs in particular, may be excluded owing to factors such as a lack of access to information on opportunities, direct or indirect discrimination, issues linked to the bidding process or to the contract itself.

In contractor entities, working conditions and workers' rights – including those related to gender equality – may in some cases also suffer, notably where price is a predominant selection criterion and leads to competition in a downward spiral.

When conducted in a gender-responsive manner, however, procurement can provide invaluable business opportunities to women entrepreneurs, access to work for women as well as advance gender equality and inclusion in the workplace.

The International Labour Organization (ILO) Employment-Intensive Investment Programme (EIIP) (Box 1) links public investment in infrastructure and other works with employment creation, poverty reduction, local economic and social development as well as gender equality.

One key consideration under the EIIP is how construction works, goods and services are procured.

The ILO Labour Clauses (Public Contracts) Convention, 1949 (No. 94)¹ (C.94, box 2), which came into legal effect in 1952, provides for the protection of workers' rights within public contracts. While the general background does not address the general gender dimensions of contracting, it is complemented by international labour standards promoting equality and non-discrimination, in particular ILO Convention No. 111 on discrimination (C. 111)² and ILO Convention No. 100 on pay equity (C. 100)³. More recently (2021), the ILO prepared an internal Standard Operating Procedure (SOP) for the ILO's procurement of construction services under development cooperation projects, including those under the EIIPs.⁴ The SOP is intended for ILO staff use prior to: i) drafting project proposals including construction or EIIP elements, or ii) engaging in construction procurement as part of a development cooperation project.

1 ILO C.94, Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

2 ILO C.111, Discrimination (Employment and Occupation) Convention, 1958 (111).

3 ILO C.100, Equal Remuneration Convention, 1951 (100).

4 ILO, *SOP for Procurement under EIIP and Other Development Cooperation Construction*, V1.0, 2021.

► Box 1. ILO EIIP and procurement

The ILO Employment-Intensive Investment Programme (EIIP) supports ILO Member States in the design, formulation, implementation and evaluation of policies and programmes aiming to address unemployment and underemployment through public investment, typically in infrastructure development. Its field programmes rely on employment-intensive and local resource-based approaches to the production of public assets in a range of areas such as road construction and maintenance, irrigation infrastructure, re-forestation and soil conservation.

EIIP supports the development of an inclusive and pro-poor construction sector, in which small-scale, local contractors and communities can participate equitably, thereby propelling local economic development and sustainable growth.

Key among the EIIP activities in this field is support of the design and implementation of procurement systems that enable the participation of small-scale, local private-sector contractors, for example through technical assistance to procuring entities on appropriate contracting procedures, contract types and so on, and capacity building for (potential) contractors. The EIIP also promotes community contracting to secure local ownership of infrastructure initiatives and the strengthening of local capacity.

In its work generally, and in relation to procurement, the EIIP applies a gender-responsive approach, striving to achieve equitable outcomes for women and men through measures that promote women's participation and empowerment in and through its programmes.

The EIIP offers a range of tools and training programmes on procurement and contracting in the construction sector as well as on gender equality, which this Guidance Note complements.

Complementary materials: ILO, *Developing the construction industry for employment-intensive infrastructure investments*, 2019. Nite Tanzarn and María Teresa Gutiérrez, *Illustrated Guidelines for Gender-responsive Employment Intensive Investment Programmes*, 2015.



► Box 2. ILO Convention No. 94

Convention No. 94 pertains to three main subjects: (i) the types of public contracts that should contain labour clauses; (ii) the content of labour clauses and the means for determining such content at the national level; and (iii) the methods for enforcing the terms of labour clauses.

The Convention establishes that labour clauses should be inserted in contracts awarded by central public authorities for certain construction works, the manufacture of goods, shipment of supplies and equipment or the supply of services. Principles are also established as to application of labour clauses to subcontractors, low-expenditure contracts and persons not involved in manual work.

The objectives are first, to remove wages, working time and working conditions from being used as elements of competition among bidders for public contracts by requiring that all bidders respect, as a minimum, certain locally established standards; and second, to ensure that public contracts do not exert downward pressure on wages and working conditions by placing a standard clause in the public contract to the effect that workers employed to carry out the contract shall receive wages and shall enjoy working conditions that are no less favourable than those established for the same work in the area where the work is being done by collective agreement, arbitration award or national laws and regulations.

Source: ILO, Labour Clauses (Public Contracts) Convention No. 94 and Recommendation No. 84, A Practical Guide, 2008.

This Guide on Gender-Responsive Procurement for EIIPs recognizes and applies C.94 and other conventions.

The Guide complements and is aligned with other ILO procurement and contracting documents including: i) the ILO Procurement Manual; ii) the ILO's internal SOP for Procurement under EIIP and Other Development Cooperation Construction; iii) Developing the Construction Industry for Employment-Intensive Infrastructure Investments; and iv) the Illustrated Guidelines for Gender-Responsive Employment Intensive Investment Programmes.

Why this Guide?

Public procurement accounts for a significant part of national economies and is increasingly highlighted as a lever to promote gender equality. Procurement, which often makes up 10 to 15 per cent of the gross domestic product (GDP) of developed countries and can amount to as much as 30 to 40 per cent of the GDP of developing countries⁵, offers great potential to address gender gaps in the labour market.

The EIIP supports responsible and sustainable procurement as part of its core mandate. To ensure gender equality and women's empowerment⁶, the EIIP developed this Guide on gender-responsive procurement based on the experience of EIIP and its partners in various countries. It proposes specific ways, supported by practical examples, to use public procurement strategically to:

- ▶ Promote gender-responsive procurement legislation and regulations;
- ▶ Create opportunities for women-owned or women-managed enterprises to participate equitably in procurement;
- ▶ Promote gender-responsive enterprises with the potential to create decent jobs and better outcomes for women;
- ▶ Ensure a gender dimension in all phases of the procurement processes;
- ▶ Promote gender-responsive contractor policies and practices;
- ▶ Promote equality within the workforce;
- ▶ Promote equality beyond the workforce to ensure that the procured goods, services and construction works respond to women's needs distinct from men's.

Target audience

This Guide is intended primarily for global EIIP technical experts, field practitioners and entities that collaborate with the EIIP in their everyday business relating to public procurement. It seeks to raise awareness and to provide technical background and support. It could also be useful to partners interested in promoting a gender dimension in public procurement. Policy makers and officials of procuring institutions within the public sector may also find it useful in their work.

⁵ ITC, "Empowering Women through Public Procurement", 2014.

⁶ As noted in section 2, gender is one element of sustainable procurement. Other equally essential elements, such as environmental sustainability and disability inclusion, should also be taken into account in procurement. While these guidelines cover only gender-related issues, advice and references to materials concerning the other dimensions can be obtained from the Job Creation through Public Investment Unit (JCPI) team, ILO, Geneva.

Scope and structure of the Guide

Procurement is undertaken by both government entities (public procurement) and private-sector companies (corporate procurement). This Guide relates only to public procurement in the context of EIIPs, with a focus on infrastructure. The chosen focus is based on the understanding that the use of public funds through contracts awarded by a public authority has or should have a likely development objective and should thus serve as a mechanism for social equity. With regards to EIIPs, the development objective is decent work.

Section 1 sets the context of the Guide. It defines the purpose of the guidance, the target audience and its scope and structure.

Section 2 presents an overview of public procurement and a conceptual definition of gender-responsive procurement.

Section 3 states the case for gender-responsive procurement from an equality, equity and efficiency perspective.

Section 4 elaborates on the essence of gender-responsive procurement in practice, including examples of promising outcomes.

Section 5 provides practical guidance on how to ensure a gender dimension in the various phases of the procurement cycle.





► 2. Gender-responsive procurement: Key concepts

What is procurement?

Procurement refers to the “complete action or process of acquiring goods, services or works through any of several authorized means, namely: planning, the definition of requirements, sourcing, the solicitation of offers, evaluation, approval/contract award and contract administration”⁷. It covers a range of activities from the identification of a need for a good or service through to its disposal or cessation, and includes⁸:

- Pre-award activities including needs assessment, market analysis, planning and budgeting, definition of requirements, choice of procedures and solicitation understood as short listing bidders to pre-qualify for the tendering process);
- Award activities including tendering, bid evaluation and contract award;
- Post-Award activities such as contract management, supply chain management and disposal; and
- General activities such as corporate governance, contractor relationship management, risk management and regulatory compliance.

In the context of construction, the purpose of procurement is to design and construct the proposed project. It covers the acquisition of relevant expertise from professional construction consultants, main contractors, sub-contractors, manufacturers and suppliers. It refers to the process of deciding and allocating contractual responsibility for the design, construction and supervision of a project and may relate to works, goods or services, or a combination of these⁹:

- **Works** (or “construction/building”) signifies building or repairing any type of physical fixed infrastructure at a particular location. This pertains to any type of infrastructure assets, such as buildings, roads, bridges, wells, irrigation channels, dams, drainage structures, etc.;
- **Goods** are any kind of physical objects that can be moved. This means supplying any type of construction materials or equipment to be delivered without necessarily being part of the works;
- **Services** are any kind of contracted activity that does not result directly in a physical asset, including studies, technical designs and the supervision of works, reviews, audits or evaluations.

With regards to roads maintenance, procurement may involve works (including labour); materials (gravel, concrete or bitumen) and equipment (hoes, spades, spreaders, etc.); and services (initial assessments, supervision of works, etc.). Each of these could be divided into individual elements to be procured separately or in combination, according to a procurement plan, based on a number of considerations including the capacity of the contractors to deliver the contracts.

The procurement process allows procuring entities to explore supply market opportunities and to design resourcing strategies that lead to the best possible supply outcome. For contractors, procurement by public or private entities is a market for selling their goods or services. Contractors are often enterprises of various types and sizes (for example, micro, small or medium-sized enterprises – MSMEs or cooperatives. In some EIIP projects or programmes, commercial and non-commercial partnerships may also be established with communities for the provision of labour and/or local materials.

⁷ ILO, *Procurement Manual*, Version 1.3, September 2021.

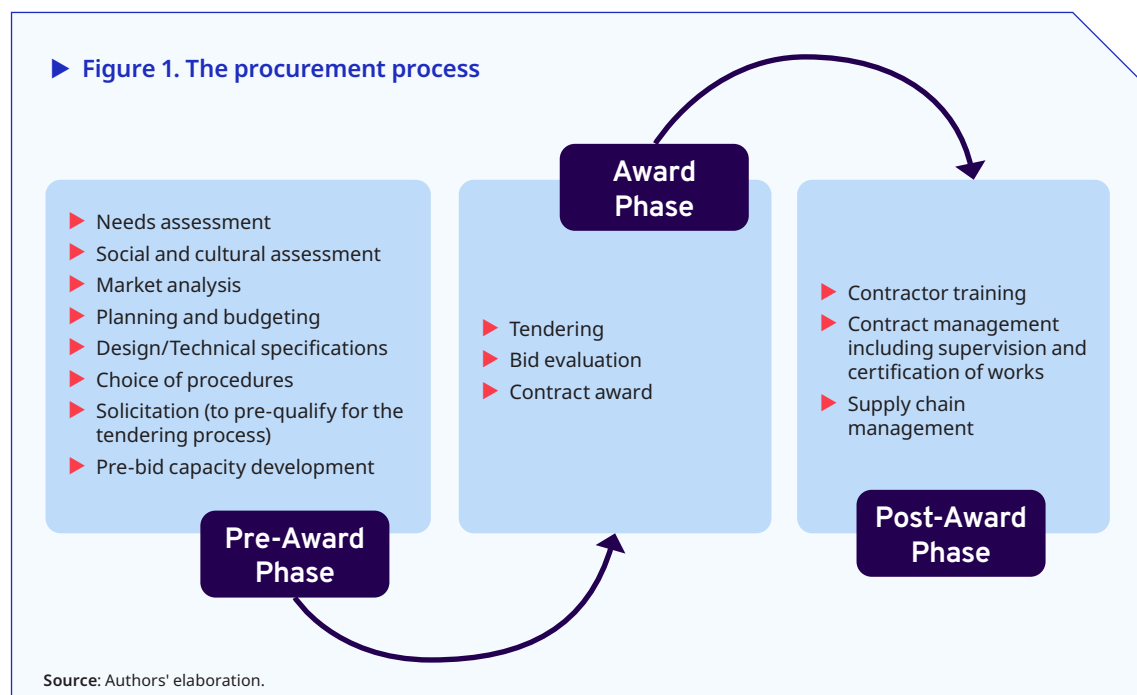
⁸ CIPS Australia, *The Definition of Procurement*, 2006.

⁹ ILO, *Developing the Construction Industry for Employment-Intensive Infrastructure Investments*, 2019.

Since the EIIP can intervene in contexts where the contractors are not necessarily well equipped to perform employment-intensive construction works, EIIP procurement may include a capacity-development component.

This is designed in line with the objective of the project, the complexity of the works and the capacity of the contractor. In instances where the contractors are well-qualified to deliver the infrastructure works, the training component is not included.

Figure 1. presents a summary of the procurement process.



... and sustainable procurement?

Sustainable procurement incorporates sustainability considerations throughout the procurement process for the purpose of achieving optimal value for money in delivering development objectives.¹⁰ Goal 8 of the Sustainable Development Goals (SDGs) urges the international community to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. Notably, target 8.5 promotes full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value. Target 8.8 upholds labour rights and promotes safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.

Target 12.7 of SDG 12 specifically refers to procurement as follows: “Promote public procurement practices that are sustainable, in accordance with national policies and priorities”. As with sustainable development, the emergence of the concept of sustainable procurement comprises three dimensions¹¹:

¹⁰ World Bank, *Sustainable Procurement*, 2019.

¹¹ UNEP, UNOPS, ILO and ITC-ILO, *Buying for a Better World – A Guide on Sustainable Procurement for the UN System*, 2011.

- **Economic sustainability:** Takes into account economic factors, including the costs of products and services over their entire life cycle, acquisition, maintenance, operations and end-of-life management costs (including waste disposal) in line with good financial management;
- **Social sustainability:** Takes into account social and labour factors, which include recognizing equality and diversity; respecting human rights; observing core labour standards; ensuring fair working conditions; increasing employment and skills; promoting gender equality and women's empowerment, and developing local communities and their physical infrastructure;
- **Environmental sustainability:** Takes into account environmental factors, which include natural resource use and water scarcity, emissions to air, climate change and biodiversity over the entire procurement cycle.

It may not be feasible, or necessary, for every procurement process to take into account the three dimensions and their respective sub-dimensions. By incorporating as many dimensions as feasible, however, procuring entities will maximize their positive impact.

The ILO encourages taking measures to build a sustainable procurement system and to improve public procurement policies and procedures at both central and decentralized levels, to ensure full involvement of community-based organizations, encourage a labour-based approach and facilitate access of local businesses to employment-intensive works.¹² This Guide focuses on the gender dimensions of sustainable procurement in the context of EIIPs. Depending on the context, it may be important for procuring entities to also factor in other dimensions such as disability inclusion or environmental sustainability.

... and gender-responsive procurement?

Gender-responsive procurement is a sub-component of sustainable procurement. SDG 5 promotes gender equality and the empowerment of women and girls. UN Women defines gender-responsive procurement as the selection of services, goods and civil works that considers their impact on gender equality and women's empowerment.¹³

The ILO EIIP operational definition of gender-responsive procurement is a process that can create equal opportunities and treatment for women and men and decent jobs for all, and better development outcomes for women and men as follows:

- Ensure that the gender dimension is explicit and verifiable through all phases of the procurement cycle: pre-award, during award phase and post-award phase.
- Provide business opportunities for women-owned or women-managed enterprises in procurement processes.
- Generate equal opportunities for women and men in the design, implementation and supervision of procured work and services: as workers, contractors and consultants.
- Ensure that contracting firms, regardless of ownership, respect human rights and observe ILO labour standards that contribute to gender equality and non-discrimination and women's empowerment¹⁴.

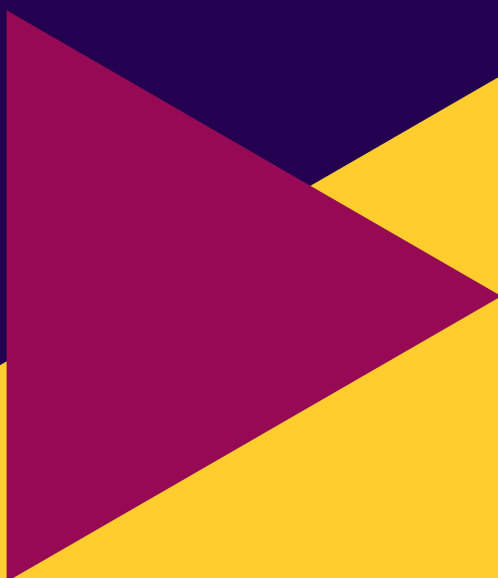
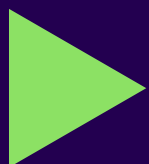
¹² ILO, *Small-scale contractor development in the construction sector*, n.d.

¹³ UN Women, 2020.

¹⁴ In a joint brief UN Women and the ILO developed a similar definition of GRP stating that *comprehensive compliance with the Women's Empowerment Principles (WEPs) and ILO labour standards would be required*. UN Women and ILO, *Rethinking Gender-Responsive Procurement: Enabling an Ecosystem for Women's Economic Empowerment*, 2021.



3



► 3. Significance of gender-responsive procurement: Advancing gender equality and women's empowerment

Ensuring gender-responsiveness in procurement is a moral and normative imperative, as it involves the respect of human rights. Issues such as equality and non-discrimination (ILO Convention No. 111) and pay equity (ILO Convention No. 100) fall under the Fundamental Principles and Rights at Work¹⁵, which are considered universal human rights that apply to all people in all States. As such, they are considered to apply regardless of the level of economic development of a country and irrespective of whether the country has ratified the relevant Conventions.

Used strategically, public procurement can serve to promote gender equality and women's empowerment and, more broadly, contribute to the achievement of the SDGs. Ensuring that the gender dimension is explicitly addressed in all phases of the procurement process opens multiple opportunities for generating equal and decent employment and business opportunities for women and men. Further to that, the works, services or goods procured are likely to be responsive to women's and men's needs.

Whereas public procurement represents a substantial share of GDP in both developed and developing countries, women entrepreneurs supply only 1 per cent of the public¹⁶ and corporate¹⁷ procurement market. Moreover, the percentage of public tenders awarded to women-owned businesses does not reflect their real contribution to the economy. The World Bank¹⁸ estimates that around 20 per cent of GDP is produced by women-owned SMEs.

Gender-responsive procurement can scale up the participation of women-owned or women-managed enterprises in the delivery of works, goods and services. Moreover, women-owned businesses are disproportionately represented among micro, small and medium-sized enterprises (MSMEs), which are largely labour-intensive and as such harbour great potential to expand employment opportunities¹⁹.

Gender equality is important in terms of public procurement policy because the latter can ensure equitable access and provide benefits by diversifying the supply chain. Increasing the opportunities for more economic agents, particularly small and medium-sized enterprises (SMEs) to engage in the delivery of goods and services can result in improved outcomes for the alleviation of poverty and increasing gender equality.

When operating in similar sectors, businesses led by women perform as well as businesses led by men²⁰ and they should thus be given a chance to participate through a transparent, supportive and equitable procurement system.

It should be kept in mind, however, that the fact that a company is owned or managed by women does not automatically imply that this company respects human rights, complies with international labour standards and is gender-responsive. Therefore, ensuring gender-responsiveness is key for working with any enterprise, whether owned by a woman or a man.

15 ILO, Declaration of Fundamental Principles and Rights at Work, 1998.

16 The Royal Institute of International Affairs, "Gender-smart Procurement Policies for Driving Change", 2017.

17 UN Women, 2017.

18 World Bank, 2012.

19 Cook and Nixon, "Finance and Medium-Sized Enterprise Development", University of Manchester IDPM Working Paper No. 14, 2000.

20 World Bank, Women, Business and the Law, 2014.

Benefits for procuring entities and support organizations

For procuring entities or support organizations that aim to further sustainable and inclusive development and poverty reduction, ensuring gender-responsive procurement is essential. Gender-responsive procurement offers great potential to improve compliance with ILO standards and national labour standards and laws. Enterprises that adopt gender-responsive employment practices are more likely to provide better working conditions and decent employment as well as promote equal opportunities across all employment levels.

For the procuring entity, expanding the pool of potential contractors and/or unbundling large contracts into several smaller ones may help to promote innovation by enabling new entrants, thereby mitigating some of the risks involved in relying on only one or a few very large contractors. This should be decided at the stage of project design and not during implementation.

There is evidence that women entrepreneurs are more likely to hire women²¹, contributing to women's economic empowerment. This economic empowerment of women has positive impacts in terms of growth, as it means that a country's human resources are used more fully. Estimates by McKinsey show that in a best-case scenario, advancing women's equality in the countries of Asia Pacific could add US\$4.5 trillion to their collective annual GDP in 2025, a 12 per cent increase over the business-as-usual trajectory.²² In addition, as women are more likely than men to invest their earnings in the health and education of their family, women's economic empowerment is also likely to yield significant positive dividends in terms of socio-economic development more broadly.²³

Contractor benefits

There is a strong business case for gender-responsive procurement for contractors in terms of better productivity, improved market access and increased profit margins.

The ILO Bureau for Employers' Activities (ACT/EMP) report on *Women in Business Management: The business case for change* indicates that enterprises with equal employment opportunity policies and gender-inclusive cultures are over 60 per cent more likely to have improved profits and productivity. Of the companies surveyed that monitor the impact of gender diversity in management, 74 per cent reported profit increases of 5 to 20 per cent. Furthermore, enterprises with a gender-inclusive culture are reportedly 9 per cent more likely to have improved business performance.²⁴ In contrast, actions that undermine equality at work as well as the integrity, dignity and well-being of workers may damage an enterprise by weakening the bases upon which work relationships are built, thus impairing productivity.²⁵

There is solid and growing evidence that safe and healthy workplaces with good working conditions are more likely to have higher levels of productivity than workplaces with decent-work deficits. For example, research²⁶ by the ILO-IFC Better Work programme in Viet Nam reveals that factories with better working conditions are up to 8 per cent more profitable than their counterparts, driven by increased productivity of workers. Among other findings, the research shows a correlation between high levels of productivity and profitability and the absence/comparatively low levels of sexual harassment.

21 According to the World Bank Enterprise Surveys, female ownership appears to be linked with women's employment: in male-owned firms, the average share of female workers was just 25 per cent in 2020, while in female-owned firms it was 43 per cent. (World Bank (2020), "World Bank Enterprise Surveys" cited in Gaurav Chiplunkar and Pinelopi Goldberg: Aggregate implications of barriers to female entrepreneurship, 19 Apr 2021).

22 McKinsey Global Institute, 2018, as cited in UN Women, 2020.

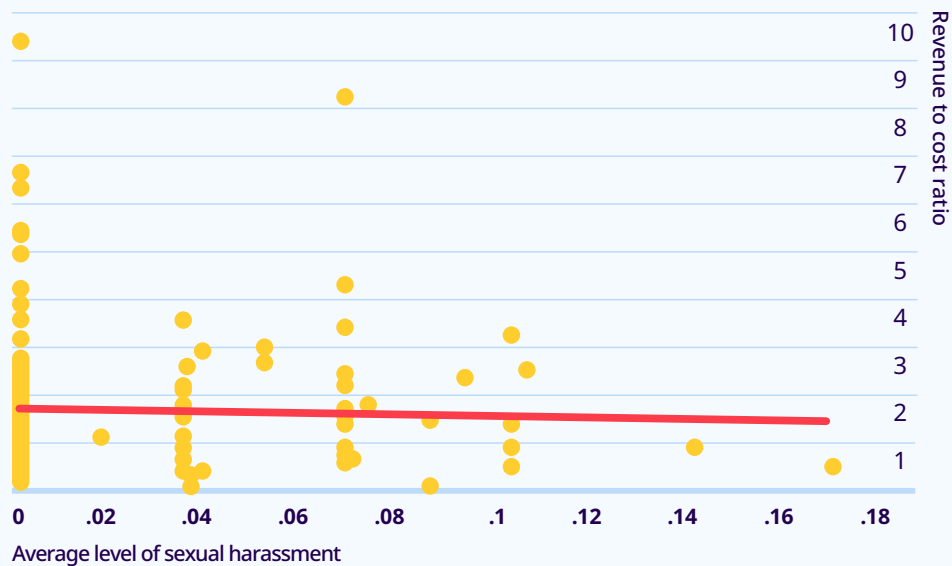
23 While the number of studies on the topic remain is limited, available research suggests that households headed by women reinvest up to 90 per cent of their income in their families, compared to 30 to 40 per cent by men. (Fortson, Chris. "Women's Rights Vital for Developing World", 2013).

24 ILO Bureau for Employers' Activities (ACT/EMP), *Women in Business and Management: The business case for change*, 2019.

25 ILO. n.d. *Sexual harassment in the world of work*.

26 ILO-IFC, *Progress and potential: How Better Work is improving garment workers' lives and boosting factory competitiveness: A summary of an independent assessment of the Better Work programme*, 2016.

► Figure 2. Profitability and sexual harassment



Source: ILO-IFC, *Progress and potential: How Better Work is improving garment workers' lives and boosting factory competitiveness: A summary of an independent assessment of the Better Work programme*, 2016.

While further comprehensive and in-depth research is needed, recent studies²⁷ seem to point to a correlation between supplier²⁸ diversity in procurement and profitability. For example:

- A McKinsey study found that approximately 34 per cent of companies that had diversified their supplier base by engaging women-owned businesses reported a positive impact on their profitability. For example, AT&T attributed US\$4 billion additional revenue to the engagement of women suppliers in 2014;
- A study by the Hackett Group found that companies with a higher adoption of supplier diversity (including, but not limited to women-owned businesses) as compared to typical companies generated 133 per cent greater returns on the cost of procurement as companies on average.

Besides ensuring better health and higher motivation, and thereby higher productivity of workers, good working conditions also help to attract new workers and retain existing ones, reducing losses in terms of recruitment and training costs, and ensuring that talent, creativity and innovation are maximized. Additional benefits include greater work participation as well as increased individual, team and organizational resilience.

Compliance with labour standards is also good for business as it may be a pre-requisite for accessing certain markets, and, even in the absence of such pre-requisites, has a positive impact on reputation, hence on a business' ability to attract customers. Conversely, non-compliance can incur significant reputational costs and may sometimes lead to financial losses (for instance, in terms of litigation costs).

27 UN Women, *The Power of Procurement: How to Source from Women-Owned Businesses*, 2017.

28 Note that the original sources refer to "suppliers" while in this Guide the term "contractors" is used.



▶ 4

► 4. Gender-responsive procurement in practice

This section presents the challenges to promoting gender equality and women's empowerment in public procurement. It also highlights a broad range of cases of gender-responsive procurement in practice as well as multiple possibilities in which procurement can be leveraged for equal opportunity.

Barriers to promoting gender equality and women's empowerment in public procurement

The multiple barriers to gender-responsive procurement manifest at both institutional and entrepreneurship ecosystem levels. Others are rooted in unequal gender power relations, social and gender norms that legitimize inequality.

Institutional barriers

Institutional barriers include:

- A public procurement legal and policy framework that does not imbed the principle of equal opportunities and treatment between women and men;
- Lack of understanding of the need for, and importance of, gender-responsive procurement;
- Inadequate capacities of procuring entities to take account of existing inequalities and to articulate gender-equality principles in public procurement;
- Lack of data disaggregated by sex to determine whether and to what extent women are excluded from government procurement opportunities, to argue a case for their inclusion/participation.

The policy actions of Kenya, Tanzania and South Africa (boxes 4, 5 and 6) show how to address these barriers.

Entrepreneurship ecosystem barriers

Small and medium-sized enterprises (SMEs) are major players in the construction industry. They often experience multiple barriers in the entrepreneurship ecosystem that limit their effective participation in public procurement as shown by the cases of Chile and Timor-Leste (Boxes 8 and 9). These include:

- The size of micro and small enterprises, operated by both women and men entrepreneurs, as contracts are often very large, and standards and certification requirements are expensive;
- Limited access to services needed to apply for and execute contracts;
- Doubts about the capacities of small businesses to deliver to the procuring entities' expectations in terms of the required volume, quality or timeframe;
- Cash flow problems: small business owners and especially women entrepreneurs often have limited financial resources and may be more reliant on payments to finance their operations; in such cases delayed payments can have a highly detrimental impact on their businesses and limit their production capacity.

Inequitable social norms and unequal gender power relations

General gender inequalities in terms of valuation and treatment, access to opportunities and resources, and division of labour also affect women's business. For example, women may have more limited educational or training opportunities than men; may own less property and other assets, and have more limited access to credit than men; women often also have to divide their time between work and family obligations, resulting in their having less time to devote to their business than men. Consequently, it is in general more difficult for women to set up and run a business than it is for men and as such, women's enterprises tend to be and remain smaller than men's (in terms of investment, number of workers and output), and also more often informal. This has direct implications on the extent to which women entrepreneurs can participate in and benefit from procurement opportunities.

In addition, women-owned businesses are under-represented in procurement because they encounter additional barriers to accessing procurement tenders and winning contracts for the following reasons:

- ▶ Women entrepreneurs may not be aware of all procurement-related opportunities available if the information is disseminated via channels and networks that are mainly accessible to or accessed by men;
- ▶ Women entrepreneurs may encounter negative attitudes, discrimination and bias, in particular in typically male-dominated sectors such as construction, even when equally qualified;
- ▶ Women entrepreneurs may encounter challenges during the procurement process: obtaining the required documents may be more challenging for women than men, for example, as the process may require travel which may prove difficult due to women's time-poverty and multiple responsibilities as well as culture-induced constraints (e.g. interaction with male officials may in some cultural contexts be deemed inappropriate);
- ▶ Women entrepreneurs may also be exposed to violence and harassment during these processes.

The above barriers are illustrated by the testimony of a South African contractor (box 3).



► **Box 3. South Africa – The experience of women contractors in the Gundo Lashu public works programme in Limpopo**

The Labour Intensive Rural Roads Maintenance Programme (LIRRMP), later renamed *Gundo Lashu* (Our Victory), was conceived as a multi-year flagship undertaking by the Limpopo Provincial Government of South Africa in 2001 as a vehicle for employment creation, skills transfer and livelihood enhancement of economically marginalized community members.

The programme generated more than 850,000 worker days of employment of which 55 per cent were for women and 35 per cent for youth, making Gundo Lashu a model for the formulation of the Expanded Public Works Programme (EPWP) of South Africa.

While 54 per cent of the contractors engaged by the programme were women, only 29 per cent of the supervisors were women. All consulting engineering companies were men-owned, and all technicians in the consulting engineering companies and all mentors were men. One of the women contractors who participated in the programme, highlighted some of the challenges encountered by women contractors:

- The requirement for married women entrepreneurs to furnish their husband's details before accessing credit restricts their access to financing;
- Women's firms may be used by their male partners to advance their own (men's) interests;
- Timely delivery of supplies: Suppliers are sometimes reluctant to enter into paid agreements with women contractors;
- Ablution facilities are a challenge in the construction/maintenance of rural roads;
- The safety and security of women on site and off site is often at risk: the payment of wages on fixed dates may lead to women being robbed, for example;
- The long hours at the worksite are difficult to reconcile with family obligations, and families are often not supportive of women working away from the family.

Source: ILO, Women Contractors in Employment Intensive Investment Programmes: a Case of Gundo Lashu Programme in Limpopo, South Africa, 2019.

Gender-responsive public procurement: Legal and regulatory framework

This involves incorporating the gender dimension and provisions to include women in the laws, regulations and policies that govern the implementation of the procedures and processes needed to acquire goods, works and services of public-sector organizations.

Targeted procurement is a competitive system that rewards tenderers who meet or exceed certain specified socio-economic criteria in the tender.²⁹ A targeted procurement system focused on gender responsiveness may award points to those who make optimum economic use of one or more elements such as local labour, targeted groups of workers (e.g. women, young people and persons with disability), local resources including local artisans and local materials, as well as certain categories of small contractors (women-owned or women-managed SMEs).

Targeted procurement is adopted to achieve socio-economic objectives, including gender equality and women's empowerment, while securing open and effective competition, quality outputs, value for money and accountability. It provides a framework within which affirmative action for women and other vulnerable groups can be implemented by way of minimum quotas for their participation. Incentives stated in the technical specifications or terms of reference are offered to contractors to embrace minimum quotas for women's participation in a contract as labourers, supervisors or consultants. To achieve this, the procurement process requires that positive actions/measures regarding gender equality and social inclusion are clearly defined at the project design phase so that contracting arrangements take into consideration the participation of community groups and their characteristics (gender, vulnerability, etc.), as well as their capacity to deliver the specified tasks.

Some governments have redefined their procurement laws to make explicit that increasing women's workforce participation, through greater incorporation of women suppliers, is a key objective when selecting bids for procurement contracts. For example, in Kenya (box 4) and Tanzania (box 5), 30 per cent of government procurements are set aside for economically disadvantaged groups, including women, while in South Africa, the Government set aside 25 per cent of procurement contracts for women-owned enterprises (box 6)³⁰.

²⁹ ILO, *Small-scale contractor development in the construction sector*, n.d.

³⁰ In any procurement process, it is important to ensure that the definition of women-owned businesses does not enable tokenism or fraud. UN Women highlights that the definition and eligibility criteria for women-owned businesses should minimally include the following: 1) at least 51 per cent unconditional ownership by one or more women; 2) unconditional control by one or more women over long-term decision-making, the day-to-day management and administration of the business; and 3) independence from non-women-owned businesses (UN Women, *The Power of Procurement: How to Source from Women-Owned Businesses*, 2017).

► **Box 4. Kenya – Regulatory framework to facilitate procurement by women-owned enterprises**

The Government of Kenya has facilitated access to procurement of goods and services to disadvantaged groups, and notably women, as follows:

- The Public Procurement and Asset Disposal Act of 2015 obliges all procurement to earmark a minimum of 30 per cent of the budget for enterprises owned by women, youth and persons with disability;
- It also provides for flexible and favourable bid securities' terms for enterprises owned by women, youth and persons with disability;
- Accessible and affordable credit from the [Women Enterprise Fund](#), established in 2007, through issuance of Local Purchase Orders/Local Service Orders. This facilitates participation in public procurement;
- The [Uwezo Fund](#), established in 2014, promotes, women-led enterprises at the constituency level, among others;
- Capacity building for women-owned or women-managed SMEs in public procurement.

Source: Nite Tanzarn, *Scaling up Gender Mainstreaming in Rural Transport: Policies, Practices, Impacts and Monitoring Processes – Case Study Report: Kenya*, 2017.



► **Box 5. Tanzania – Providing opportunities to women contractors**

The Public Procurement (Amendment) Act (PPA) of 2016 and the Public Procurement (Amendment) Regulations of 2016 provide for all procuring entities to set aside 30 per cent of their annual procurement volume for “special groups” with the following breakdown: 10 per cent for youth, 5 per cent for women, 5 per cent for elders, and 10 per cent for persons with disability.

The Regulations provide the following general qualification criteria for a group to be eligible for the preference scheme:

- Procuring entities should put simple requirements in the tender documents such as past experience of similar nature of procurement;
- To ensure maximum participation of special groups in public procurement, procuring entities may unbundle goods, works and services into practicable quantities;
- No tender securities are required from entities owned by special groups participating in procurement proceedings; instead, target groups shall be required to complete and sign a Tender Securing Declaration Form;
- Timely payment shall be made for any performed contracts and procuring entities shall ensure the allocation or commitment of funds prior to procurement proceedings.

The “Special Group Supporting Entity” (SGSE), composed of ministries, agencies and government departments responsible for the development and empowerment of women, youth, older persons and persons with disability, which is responsible for registering special groups, is also mandated to provide training to the businesses before their participation in procurement processes.

- Procurement is conducted in a competitive manner among the qualified special groups. Applicants are required to fulfil certain conditions (for example, register a legal entity and register with the SGSE) and not engage in fraud or corruption and honour contracts accordingly;
- Procurement entities are required to show, in their respective annual procurement plans, the contracts set aside for special groups and report quarterly progress of implementation to the Public Procurement Regulatory Authority (PPRA).

Thanks in particular to funding by the Irish Government, the ILO, in cooperation with partners like the Tanzania Women Chamber of Commerce (TWCC), has actively supported these developments, including through the Women’s Entrepreneurship Assessment carried out by the Women’s Entrepreneurship Development and Economic Empowerment (WEDEE) project in 2013, which highlighted the need for such provisions. This support continues with the Inclusive Growth, Social Protection and Jobs Programme (IGSPJ) and its EIIP component, under which various capacity-building activities are being planned and carried out for the implementation of this regulatory development.

Source: United Republic of Tanzania, Public Procurement Regulatory Authority (PPRA), *Guidelines for Participation of Special Groups in Public Procurement*, 2017. Nite Tanzarn, *Gender Analysis of Tanzania’s Rural Roads Sector*. Report prepared for the World Bank, December 2019.

► Box 6. South Africa – Building legal provisions for gender equality

South Africa's Broad-Based Black Economic Empowerment Act 53 of 2003 has affirmative procurement provisions that apply to women-owned enterprises as follows:

- Ensures that 25 per cent of all procurement contracts are awarded to women;
- Creates a gender-based database for Small, MSMEs;
- Enhances representation in decision-making processes related to public works;
- Improves participation in procurement processes;
- Recommends entrepreneurship and business-related workshops to acknowledge and empower women;
- Provides business-related guidance on how to establish and run the SMEs successfully;
- Offers funding opportunities for women for establishing MSMEs;
- Enhances capacity-building/skills development opportunities to manage personnel and management aspects of MSMEs;
- Creates opportunities in tender and procurement processes.

Source: S. Vyas-Doorgapersad and A. Kinoti, "Gender-based Public Procurement Practices in Kenya and South Africa", *African Journal of Public Affairs*, 2015.



Practical measures to enable women-led enterprises to participate in procurement

To enable enterprises owned by women to compete in procurement processes and succeed in their role as contractors, as illustrated in the Chilean (box 8), South African (box 3) and the Timor-Leste (box 9) country cases, various types of support may be required. For example, procuring entities should:

- ▶ Make procurement markets accessible on a fair, non-discriminatory and transparent basis to ensure that women entrepreneurs have equal and safe access to information about procurement opportunities and are encouraged to compete for such opportunities;
- ▶ Introduce exclusive quotas and/or increasing sourcing from businesses owned and/or controlled by women;
- ▶ Develop appropriate training for women to reach thresholds and/or adjust the binding thresholds and price preferences to women's enterprises without disrupting competition on the market;
- ▶ Adopt E-procurement as an easy and inexpensive way of accessing procurement markets (box 7);
- ▶ Avoid time-consuming and potentially risky procedures by providing one-stop shops in accessible locations with clear codes of conduct (against harassment, favouritism, etc.);
- ▶ Package work projects into multiple contracts^{31, 32}, to help women entrepreneurs compete successfully. This can also bring benefits to the procuring entity; for example, the diversification of the contractor base helps to reduce risks as compared to relying on one sole contractor. Works can be packaged into contracts by means of 1) a general contract under which a main contractor manages all works and sub-contracts special works; or 2) separate contracts are issued by the contracting authority to smaller or specialized firms;
- ▶ Optimize payments, namely: 1) Provide appropriate systems to make timely payments; and 2) Offer payment conditions that have an upfront or advance payment option to support contractors who are challenged to allocated large amounts of working capital.

31 S. Vyas-Doorgapersad and A. Kinoti, "Gender-based Public Procurement Practices in Kenya and South Africa", *African Journal of Public Affairs*, 2015.

32 It should be noted here that organizing work into smaller contracts means planning for smaller quantities of work from the outset; it does not refer to splitting contracts themselves into smaller contracts, which would not be allowed under ILO rules.

► **Box 7. E-procurement**

E-procurement is an increasingly common practice in the field of civil works tendering, and is used for either parts of, or the whole contract-management system. Procurement plans and invitations to tender are announced on websites, while databases can help to monitor the performance of contractors and progress of works. E-procurement presents advantages for procuring entities, reducing the transaction costs of distributing tender documents and facilitating the management of rural infrastructure works with large numbers of small contracts. If considering e-procurement, the capacity and accessibility to technology of the entire target market should be a top consideration, to ensure that the market has sufficient access to the required technologies/bandwidths, and that a training component is available in the project.

E-procurement can help women entrepreneurs participate in procurement processes by:

- Facilitating their access to information on tenders;
- Facilitating the submission and attribution of tender documents without having to visit various offices, a factor that can enhance women's ability to apply given their mobility constraints;
- Increasing transparency in the process, which can also help to reduce the risk of women being subjected to sexual harassment, for instance.

For e-procurement to benefit women and not inadvertently restrict their access to opportunities, it is essential that women have equal access to computer skills training and IT equipment.

Source: ILO, Developing the construction industry for employment-intensive infrastructure investments, 2019.



► **Box 8. Chile - Making public procurement accessible to SMEs, including women-owned enterprises**

In 2015, ChileCompra, a public agency that is supervised by Chile's Ministry of Finance, joined ITC's SheTrades initiative and adopted an action plan focused on equalising access to public procurement policies for women and men by identifying and addressing gender-specific challenges, and building the capacity of women suppliers. The action plan endorsed modifications to regulatory policies in the state Public Procurement Law and resulted in a published document advising inclusion of gender criteria in public agency purchases.

ChileCompra also launched *Sello Empresa Mujer*, a Women Supplier Certification that helps procurement agencies identify women-owned enterprises with more than 50 per cent female employees. By 2017, more than 345 companies had received this certification.

ChileCompra also developed a "commercial management" and a mentorship programme that trained women state suppliers with leadership tools, provided them with the certification, formed a women's association of state suppliers known as the *Asociación de Mujeres Empresarias Provedores del Estado*, and afforded custom assistance with state business opportunities. More than 500 suppliers were trained in 2016 and 2017.

ChileCompra oversees *Mercado Público*, an e-marketplace selling products and services primarily composed of micro, small and medium enterprises. This online platform has helped address common barriers that MSMEs face including extremely large contracts; lack of access to information; limited skills, experience and time to prepare bids; and cumbersome bureaucracy. This, in part, has resulted in MSMEs accounting for about 45 per cent of public procurement transactions in Chile.

By 2016, the share of women's participation in public procurement was approximately 37 per cent, or more than 21,345 women who were able to quote, offer or take purchase orders.

Source: Public Procurement, a Tool to Boost Women's Economic Empowerment. Speech delivered by ITC Executive Director Arancha González at Scuola di Politiche, Milano 10 November 2017.

► **Box 9. Timor-Leste – Intersectoral provisions to achieve gender equality and women empowerment**

The Roads for Development Program (R4D) and Enhancing Rural Access (ERA), ILO-implemented rural roads programmes in Timor-Leste, have adopted several measures to support gender-responsive procurement, both in terms of providing opportunities to women contractors and requiring gender-responsiveness of all contractors. The Social Safeguards Framework for Rural Road Works guides the implementation of inclusive and rights-based practices in the R4D Program offering a comprehensive set of provisions to be implemented by the contractors including social and labour specifications and conditions.

The national procurement law currently in force is silent on gender equality. However, gender equality is constitutionally guaranteed and laid out in the objectives of the national 2011- 2030 Strategic Development Plan and other policy provisions. Elements of gender sensitivity in procurement are also specified in the Declaration of Maubisse of 2015 (updated in 2018), an inter-ministerial declaration to achieve gender equality and women empowerment in line with SDG 5, which provides that the Ministry of Public Works (MPW) should:

- Guarantee that construction companies led by women receive preference as part of the process of public tendering for government infrastructure projects; and
- Develop and approve a policy that guarantees that infrastructure projects supported and financed by the government employ at least 30 per cent women.

One remaining challenge is the absence of legal provisions on gender-responsive procurement, despite the firm policy commitment reflected in the Maubisse declaration. The ILO continues to support the government's efforts in this regard.

Source: Democratic Republic of Timor-Leste, Ministry of Public Works, *Social Safeguards Framework for Rural Road Works*, 2018; UN Women Asia Pacific, Democratic Republic of Timor-Leste, 6th Constitutional Government, Declaration of Maubisse, 2015.



Strengthening the ecosystem for women's entrepreneurial development

In addition to measures related to procurement systems and processes, it is also critically important to ensure the ecosystem for women's entrepreneurship provides optimal conditions for women entrepreneurs to participate in procurement. Dedicated assistance may often need to be provided in areas such as training and certification of women entrepreneurs, as well as providing them with access to finance.

The ILO has a range of approaches and tools to support women entrepreneurs (box 10) to strengthen their capacity. These include training packages to equip women entrepreneurs with business management skills³³; financial literacy training and the facilitation of access to financial services through the ILO social finance programme³⁴; and assistance on vocational skills building³⁵. In designing support interventions, it is essential to first gain a clear understanding of the needs of women entrepreneurs; the WED Assessment tool can be helpful in developing this understanding. To ensure that these needs are incorporated into plans and budgets, the assessment is best (and arguably must be) undertaken at the project development stage. Experience also shows that integrated approaches providing support (for example, management training with loans) are more effective in terms of their impact and sustainability than implementing one type of intervention on its own.

Promoting equality in the workforce through public procurement

In addition to promoting the participation of women-owned enterprises in procurement, the other dimension of gender-responsive procurement relates to contracted firms, whether owned/managed by men or women, respecting gender equality principles. In particular, this involves addressing the barriers that restrict women's equal participation in works relative to men through gender-responsive contractor policies and practices.

The observance of ILO labour standards and ensuring fair working conditions may be included as obligations in contracts. For ILO-issued contracts, paragraph 12 of the [Terms and Conditions applicable to ILO contracts](#) covers responsible business practices that must be adhered to and labour clauses (box 11) to be respected in all cases.

33 For more information, visit the website of the ILO WED Programme: www.ilo.org/wed.

34 For more information, visit the website of the ILO Social Finance Programme: <https://www.ilo.org/empent/areas/social-finance/lang--en/index.htm>.

35 For more information, visit the website of the ILO Skills Branch: <https://www.ilo.org/skills/lang--en/index.htm>.

► **Box 10. ILO tools to support women's entrepreneurship in the construction sector****Tool to foster the business environment for women entrepreneurs – WED Assessment**

This methodology supports the analysis of women's entrepreneurship development (WED) in a given national context, leading to the formulation of policy recommendations and the development of a WED National Action Plan. The assessment is centred on six "framework conditions" deemed essential to achieving both comprehensive and incremental improvement in developing the level and strength of women's entrepreneurship: 1) A gender-sensitive legal and regulatory system that advances women's economic empowerment; 2) Effective policy leadership and coordination for the promotion of WED; 3) Access to gender-sensitive financial services; 4) Access to gender-sensitive business development support (BDS) services; 5) Access to markets and technology; and 6) Representation of women entrepreneurs and participation in policy dialogue.

Source: ILO, Assessment of Women's Entrepreneurship Development, 2020.

Tool to design adequate financial and non-financial business development services for women entrepreneurs – WE Check

The We Check women's entrepreneurship self-check is an institutional assessment for gender-responsive business support. It aims to help financial and non-financial business support agencies to improve their economic performance and social impact by expanding their offers to women entrepreneurs with market-based and demand-driven products and services. This process seeks opportunities to improve how organizations design and deliver products and services to women-led enterprises or women in general.

Source: ILO, Women's Entrepreneurship Self-Check (WE-Check), 2020.

Tool to strengthen women entrepreneurs' skills and attitudes – GET Ahead (Gender and Entrepreneurship Together)

The GET Ahead training programme aims to address some of the barriers to women in starting and running a business, such as a lack of knowledge, lack of skills, low confidence, and family expectations and responsibilities. It helps to bridge the gender gap by strengthening key business management and soft skills. Modules 1 and 2 enable trainees to develop a clearer understanding of how biological and socio-cultural differences may affect women's ability to engage in entrepreneurship. Modules

3 to 7 help trainees develop a viable business plan that consolidates their business idea through activities structured around five building blocks (marketing, operations, finance, people and risk management). Finally, modules 8 to 10 aim to develop trainees' soft skills, including effective communication, negotiation, decision-making and networking.

Source: ILO, Gender and Entrepreneurship Together (GET Ahead), An ILO Women's Entrepreneurship Development Tool, n.d.

Construction-specific business management tools

The ILO offers business management skills packages specifically tailored for the construction sector, emanating from the global **Start and Improve Your Business** family of training programmes. These include the **Improve Your Construction Business (IYCB)** series and **Start and Improve Your Green Construction Business (SIYGCB)**. Both have been designed to suit the specific needs of small building and public works contractors, and include subjects such as business management basics, tendering, pricing and costing, complying with legal requirements and marketing. In the case of SIYGCB, this is done from the perspective of a green construction business or entrepreneur who wishes to gradually green his or her products and services.

Source: ILO, Site management. Workbook (IYCB 2) The Improve Your Construction Business (IYCB) series (1996) has been designed to suit the specific needs of small building and public works contractors. (ilo.int), 1996. Also, ILO, Business management. Workbook (IYCB 3) (ilo.org), 1996.

Guide for financial and business development service providers to strengthen their service provision through gender inclusion

The gender-inclusive service provision guide aims to assist providers of financial or business development services to be able to: 1) understand gender inclusion as it relates to their business model; 2) identify the differentiated needs of women entrepreneurs in their market; and 3) apply their understanding of gender inclusion to their content, product design and delivery to improve the products and services offered to women entrepreneurs. The guide thus, provides a section on understanding the importance of gender inclusion, a section on preparatory steps to help service providers establish a starting point for gender inclusivity in their work, practical strategies on how to put these inclusion techniques into practice, how to measure success and next steps for maintaining gender inclusion in delivery of services.

Source: ILO, Gender-inclusive service provision: A quick guide for financial and business development services providers, 2022.

► **Box 11. Sample contract clauses on international labour standards**

The following extract presents sample contract clauses on international labour standards:

During the course of works, the Contractor shall observe and take necessary action to comply with relevant national legislation and regulations in regard to conditions of recruitment and employment of workers and occupational safety and health. In particular, the Contractor shall in all circumstances respect and make appropriate arrangements to uphold basic norms and standards pertaining to:

- The freely exercised right of workers, without distinction, to organize, to further and defend their interests as well as the protection of those workers who exercise their right to organize;
- Prohibition of forced or compulsory labour in all its forms;
- Equal remuneration for men and women for work of equal value;
- Prohibition of employment of children below 14 years of age or the minimum age for employment permitted by the law of the country where the works are carried out or the age of the end of compulsory schooling in that country, whichever is higher;
- Equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin. The Contractor shall ensure that wages are paid in legal tender in full and directly to the workers concerned.

The Contractor shall ensure that the wages of its personnel, their hours of work and the other labour conditions including social security are at least as favourable to the worker as those established for work of the same character in the trade or industry concerned in the area where the work is carried out.

Source: ILO, Developing the construction industry for employment-intensive infrastructure investments - Guide, Annex II, Sample contract clauses, 2019.

In addition, consideration should be given to including measures to foster equality in the procurement process and corresponding terms of reference as follows:

- The tender announcement should stipulate that gender equality is to be promoted and respected;
- Pre-bid training can serve to improve awareness and build the capacity of consultants and contractors in designing and implementing measures promoting gender equality;
- Targets for women's employment in male-dominated areas may be introduced;
- Gender equality enhancing measures such as mobilization and awareness-raising as well as breast feeding, childcare and separate toilet and/or changing facilities should be integrated into the contract as billable items. With regard to childcare, action could be taken to link contractors to service providers and subsidize/cover the cost of childcare provision.

Some of these measures may be beyond the mandate of procuring entities but may be possible for projects with a procurement component to implement. Procuring entities should adopt a gradual approach, requiring some measures to be in place at the outset, while giving contractors time for, and accompanying them with the implementation of other measures.

Equality and non-discrimination in access to and terms of employment

In the construction sector as in the economy more broadly, discrimination continues to persist despite being illegal in many countries. This takes the form of discrimination resulting in unequal opportunities (where women are not hired for jobs for which they would be qualified solely because they are women) and treatment (e.g. pay inequity in the following section of Equal pay for work of equal value). For example, in the UK, a survey by Randstad and Construction News revealed that 48 per cent of women in the construction industry felt they had experienced discrimination, three fourths of respondents who felt they had been passed over for a promotion were women, and 49 per cent of the companies surveyed had never employed a female manager.³⁶

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) prohibits discrimination, that is “any distinction, exclusion or preference made on the basis of race, colour, sex,

religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”. The Convention allows, however, for special measures of protection or assistance to persons who, for reasons such as sex, age, family responsibilities or social or cultural status are recognized to require special protection or assistance, which will not be considered discrimination under the Convention.

Equal opportunities and treatment can be promoted by adopting and implementing appropriate enterprise-level policies and practices. For example, in terms of recruitment, firms can adopt a policy to encourage applications from women, review their recruitment processes to eliminate biases and, may also adopt short-term quotas to ensure a minimum number of recruitments from the under-represented sex, usually women (as mentioned above, as a special measure, such quotas would not be considered discrimination). In relation to equal treatment, contractor-level guarantees relating to various working-condition issues should be developed and applied, such as access to training and career advancement, pay, maternity protection, measures to promote balance between work and family responsibilities.

The development and implementation of such measures will benefit from encouragement and support from procuring entities. In some instances, procuring entities stipulate in tender announcements that a minimum percentage of workers should be women, and use different mechanisms (such as self-attestation) to verify this. In most cases, awareness-raising, advice and training on gender equality as well as support on practical issues, such as childcare, will also be needed for these minimum quotas and for more substantial equality at work to be realized.

In ILO-issued contracts, ensuring equality of opportunity and treatment with respect to employment and occupation in line with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) is a contractual obligation under the Terms and Conditions applicable to ILO contracts.

³⁶ Lucy Alderson, “Why is construction still holding women back?”, *Construction News*, 8 March 2018.

Equal pay for work of equal value

Currently, the gender pay gap is 18.8 per cent throughout the world, ranging from 12.6 per cent in low-income countries to 20.9 per cent in upper middle-income countries.³⁷

Direct discrimination in relation to pay occurs when there is a difference in wages between a woman and a man doing the same job. Such wage differences are still pervasive. Also prevalent, and equally challenging to address, are payment practices whereby women and men receive unequal pay for jobs or tasks that are different, but of equal value. In the construction and public works domain, women may be involved in tasks that are perceived to require less physical strength and ability and may, therefore, be paid less. In Cambodia, for example, a 2017 survey by CARE Cambodia found that almost all women in the Cambodian construction sector received US\$1-3 less per day than their male colleagues due to their work being purportedly less physically taxing.³⁸

In the case of output-based payment systems, where strength is a key determinant of output and individual output determines pay, women may receive lower pay than men for the same effort and number of hours. Whereas the tasks allocated to women may be different from those allocated to men, it should not be assumed that their value in terms of the contribution to the work project is lesser than that of the tasks carried out by men, or that they entail less skills.

The Equal Remuneration Convention, 1951 (No. 100) provides for equal remuneration for men and women for work of equal value, and the national laws of many countries prohibit pay discrimination.

Appropriate contractor-level policies to provide equal pay for work of equal value are important for promoting and realizing pay equity. If payment is determined by the time worked, and if women and men perform identical tasks, it is imperative that they receive equal pay for equal work. Means of factoring in the effort that women and men dedicate to their work should be considered and integrated into payment systems. Also, in some cases, women and men may perform different tasks. In such cases, ensuring pay equity would also mean evaluating the value of these tasks and ensuring that their remuneration is commensurate with this value. The case of Uganda (box 12) provides information specific to road and bridge works.

In relation to output-based payment systems, the “Employment through Labour-Intensive Infrastructure in Jordan” project has developed a payment system whereby the contractor is paid for the overall output (achieved by the sum of the efforts of all workers, women and men), and contractors then pay workers per amount of time worked. In the case of different work being performed by women and men, procuring entities can facilitate contractors’ access to evaluations of jobs using methods free of gender bias.

In ILO-issued contracts, ensuring equal remuneration for work of equal value in line with the Equal Remuneration Convention, 1951 (No. 100) is a contractual obligation under the Terms and Conditions applicable to ILO contracts.

37 ILO Global Wage Report 2018/19, “What lies behind gender pay gaps”, cited in ILO. 2019. *A Quantum Leap for Gender Equality - For a Better Future of Work for All*.

38 CARE Cambodia survey cited in Sineat Yon. 2018. “Female construction workers in Cambodia get short changed”. *UCA News*, Phnom Penh, 3 October 2018.

► **Box 12. Uganda – General specifications for road and bridge works**

The Uganda general specifications for road and bridge works, 2005:

- Include a section on gender. Gender is a monthly billable and paid item in the bills of quantity;
- Oblige contractors to prepare a gender management plan including details of:
 - Recruitment policy and procedures
 - Gender awareness raising meetings
 - Gender-sensitive working conditions
 - Gender-sensitive facilities to be provided at the workplace
 - Participatory gender-sensitive monitoring;
- Oblige the contractor to provide a staff to deal with gender;
- Oblige the contractor to liaise with government /non-governmental organizations dealing with gender;
- Oblige the contractor to ensure that:
 - Employment opportunities are posted in visible, frequented locations and the notices reach women and youth leaders
 - Both women and men are represented in any information and consultative meetings held at the site and gender and social issues are raised and analysed
 - Equal payment is made to women and men for similar work and payment of wages is made to the workers and not their representatives
 - Flexible working hours are introduced to cater to women
 - Separate toilet and accommodation facilities are provided for women and shelters for children
 - Reports on labour attendance, disaggregated by gender, are submitted monthly
 - Reports are submitted on how gender concerns are addressed in recruitment, promotion, payment, provision of gender-sensitive facilities, on-the-job training, etc.

Source: Nite Tanzarn, "Guidelines for Mainstreaming Gender in Rural Transport", 2019.

Promoting work–life balance

Workers in the infrastructure sector, and women in particular, often find it challenging to combine work and family commitments. During pregnancy, women workers may find themselves pressured to do work which could be harmful to their health (such as lifting heavy loads). Alternatively, they may not be selected for work or may even be dismissed. A survey by Care International in the construction sector in Cambodia established cases of pregnant women workers being dismissed instead of being awarded maternity leave.³⁹

Considering that childcare responsibilities often fall disproportionately on women, they may also find it challenging to combine this role with paid work in the construction sector. This is particularly so where childcare facilities or services are not provided, where the worksite is far away from their homes and travel to and from the worksite is time-consuming, or where work schedules are rigid and incompatible with care responsibilities.

ILO Convention No. 183 (1952) on maternity protection provides for:

- ▶ Health protection for pregnant and breastfeeding women, including measures to ensure that pregnant or breastfeeding women are not obliged to perform work which is prejudicial to the health of the mother or the child;
- ▶ A period of a minimum of 14 weeks of maternity leave (with cash benefits);
- ▶ Employment protection and non-discrimination, including prohibition for employers to terminate employment during pregnancy or maternity leave;
- ▶ Daily breaks or a reduction of hours of work for breastfeeding.

ILO Convention No. 156 (1981) on workers with family responsibilities stipulates that workers who have responsibilities in relation to dependent children or other members of the immediate family who clearly require their care or support should be able to engage in employment without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. To create effective equality of opportunity and treatment between women and men, Convention 156 urges Member States to develop or promote community services such as childcare or family services and facilities.

As a minimum, contractors need to ensure that there is no discrimination towards or inappropriate treatment of women who are pregnant, and that national maternity protection provisions are respected. The provision of (unspecified) light work in the case of pregnancy has been adopted as a measure among some EIIP projects, for example.⁴⁰ Similarly, in construction works, mobile rest facility with shadow for breast-feeding mothers, should be provided.

Further measures that are not strictly required by law, but which help workers to reconcile work and family, should also be encouraged. These include flexible work schedules and/or the provision of transport to help workers to attend to their family responsibilities while engaging in EIIP work. The cases of Nepal (box 13) and Lebanon (box 15) clearly stipulate these provisions.

Additional transformative measures that promote a more equitable sharing of these responsibilities – for example through paternity leave provisions or the provision or cost-sharing of childcare services – should also be encouraged.

³⁹ CARE Cambodia survey cited in Sineat Yon, “Female construction workers in Cambodia get short changed”, *UCA News*, Phnom Penh, Cambodia, 3 October 2018.

⁴⁰ See the public works component of the “Productive Social Safety Net” (PSSN) programme implemented by the Tanzania Social Action Fund (TASAF) with ILO support. See: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_675197.pdf.

The provision of childcare services by the contractor could be integrated as a billable item in the contract or procuring entities or projects could link the contractor to an outside provider (such as a local childcare business) and cover (part of) the cost of these services. When well designed, childcare services could be set as a measure within community contracting (box 14).

► **Box 13. Nepal - Integrating gender equality provisions into the contracting process**

Nepal's Public Procurement Act of 2007 does not contain a reservation for women-headed enterprises, and there are no legal provisions to ensure that gender equality clauses are included in contracts. Statistics on women's access to public procurement are not available, but municipality-level data indicates that significant challenges remain. In Kailali municipality, for example, out of 506 contractors registered in the Federation of Contractors Association, only 10 per cent were women, and in the fiscal year 2016/7, not a single project was won by a female contractor. Of the contracts in which gender-equality measures were specified none were approved by the municipality.

Significant efforts are being made to advance gender equality through procurement. The ILO Strengthening National Rural Transport Programme (SNRTP), funded by the World Bank and which aims to enhance the availability and reliability of transport connectivity for rural communities, has supported the government in developing bid-related documentation that contains gender-equality provisions for use in road construction contracts. These include the following provisions:

- A requirement that contractors and their subcontractors abide by all labour laws;
- A requirement that contractors and their subcontractors adopt a Code of Conduct for preventing Gender-Based Violence (GBV) and Violence Against Children (VAC);
- A requirement that contractors and their subcontractors provide equal pay to men and women for work of equal value, as well as paying women's wages directly to them; and
- In relation to the provision and management of labour camps for construction works, a requirement that separate toilets should be provided for women and men.

At the practical level, the SNRTP prioritizes the involvement of women in Road Maintenance Groups (RMGs). Among other measures, the RMG guideline:

- Defines a target and quota for women's participation (ideally 100 per cent of the selected maintenance workers should be women, but they should in no case make up less 33 per cent of the total workers);
- Adopts a performance-based contracting system for the RMGs, meaning women and men with family responsibilities are able to adjust their work schedules according to their needs.

As a result, approximately 70 per cent of the members of the RMGs under the SNRTP project are women.

Sources: Upasna Acharya, "Where is the equality? A look at gender equality and social inclusion data in Nepal's procurement system"; Nepal, Ministry of Federal Affairs and Local Development. SNRTP (Strengthening the National Rural Transport Programme). Draft "Model Bid" document and "Special Specifications" document. Internal project documents, 2018.

► **Box 14. Community contracting and gender-responsive procurement**

Community contracting for infrastructure works involves a process whereby communities identify and prioritize solutions to their challenges, and implement concrete actions such as infrastructure construction, rehabilitation or maintenance works under an appropriate contracting relationship with a contracting authority. Such works are usually relatively small, technically simple, and utilize local labour, materials and skills. While the role of the community in such arrangements varies, the most common community contract is for the execution of works where the community is the contractor and has the responsibility for organizing and implementing the works. Contracts may be signed between the client (typically the Local Government or the ILO) and the community, a contractor and the community, or with a group of people (e.g. women or youth groups) from the community. Capacity building of the community and monitoring of the works are essential components of community contracting.

Community contracting differs from private sector contracting in that it does not involve competitive bidding for the award of a contract, but engages the community through the entire project cycle in a participatory way with a view to creating ownership and capacity. However, community contracting still requires distinct contract documents and procedures.

When engaging with communities, it is essential to ensure that discriminatory practices are not perpetuated or reinforced. For example, in many cases, women traditionally undertake various community-related tasks without being paid for their work; in the case of community contracts, care must therefore be taken to ensure that all work is recognised and remunerated appropriately. Similarly, women are often excluded from community leadership structures, meaning they may not automatically be involved in discussions about community works unless specific efforts to guarantee their participation are made.

However, when well designed, community contracting can help to further women's empowerment and gender equality. Helpful measures may include:

- In cases where a specific group from within the community is selected for works, giving special consideration to women's groups;
- Setting a minimum percentage for the representation of women in decision-making positions and among workers;
- Ensuring that the principles enshrined in core labour standards, such as equal pay for work of equal value, are adhered to; and
- Introducing practical measures such as child care support to enable women to participate in the community works programmes (if feasible, childcare could be organized through the setting up of community childcare businesses as spin off employment generation mechanisms).

Source: ILO, Employment-Intensive Investment Programme: Local resource-based approaches and community infrastructure, n.d.

Addressing sexual and gender-based violence (SGBV) in the world of work

Both women and men can be subject to sexual harassment, but women are disproportionately affected. Sexual harassment tends to be under-reported. There are indications that workers in the construction sector – especially women – are subject to SGBV with detrimental impact to their health, dignity and work, family and social environment. A survey conducted by the Engineering News-Record in the United States reported that 66 per cent of the 1,248 respondents (of whom two thirds were women) had experienced sexual harassment during their career in construction work⁴¹. In Uganda, the World Bank cancelled a US\$265 million road construction project after a government contractor was found to have been engaged in misconduct, including sexual harassment of female workers.⁴² Several factors that are specific to the construction sector, such as its male-dominated work environment, the physical nature of the work or the worksite sometimes being in isolated locations, may contribute to a comparatively high incidence of SGBV.

The ILO Violence and Harassment Convention, 2019 (No. 190) stipulates that violence and harassment in the world of work constitute a human rights violation and are unacceptable and incompatible with decent work. Convention No. 190 acknowledges that gender-based violence and harassment disproportionately affect women and girls. Additionally, it recognizes that an inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations, is essential to ending violence and harassment in the world of work. It calls for the prevention and elimination of violence and harassment as well as for the protection for those affected becoming and important occupational safety and health issue.

Contractors can take action to eliminate violence and harassment from the world of work through various measures, including developing anti-harassment policies accompanied by appropriate practical mechanisms for prevention as well as the protection of the victims. Lines of action could include setting a clear zero tolerance for SGBV, creating confidential and fair grievance redress mechanisms (GRMs), providing psychological support to victims, and developing investigation procedures and sanctions for perpetrators.

Procuring entities can play an important role by leading by example through their policies and mechanisms, and by raising awareness and building the capacity of contractors. The cases of Nepal (box 13) and Lebanon (box 15) illustrate specific actions taken in this regard. While it is important for contractors to be committed to preventing and addressing violence and harassment, and to have mechanisms in place for compliance, it may also be more suitable for SGBV victims to approach an outside entity for redress of their grievance in cases of inappropriate treatment. Indeed, such grievances may be handled more objectively by outside entities. Procuring entities could thus make available their SGBV grievance redress mechanisms for contractor employees or facilitate access to other available mechanisms.

41 “#MeToo in Construction: 66 per cent Report Sexual Harassment in ENR Survey ». *ENR (Engineering News Record)*, 11 October 2018.

42 Elias Biryabarema, “Sexual harassment prompts World Bank to cancel Ugandan project”, *Reuters*, 22 December 2015.

► **Box 15. Lebanon – Public works for women’s empowerment, livelihood promotion for refugees and host-community development**

The programme aims at creating short- to mid-term employment opportunities for Lebanese host-community members and displaced Syrians through infrastructure works. Measures taken by the programme to enable women to participate and benefit include:

- Developed a gender strategy to guide gender mainstreaming in the planning, implementation and monitoring of the project, and to identify and outline practical measures to further gender equality.
- Set a target of 10 per cent for women’s participation in the project, and provide guidance to implementing partners on ways to achieve this.
- Train contractors on gender-responsive recruitment and management as a prerequisite to submitting bids, and making women’s recruitment mandatory.
- Recruited Social Safeguard Officers and training on gender-responsive safeguard practices including how to address workplace sexual harassment.
- Ensure worksites have the required logistics facilities to enable women and men to work in decent conditions (for example, having separate toilets and rest areas for women and men).
- Structure work teams in a way that women and men are comfortable working together (for instance, ensuring women can work with men from their families or communities, rather than complete strangers).
- Allow multiple family members to participate in EIIP so there is less objection to women working in public spaces.
- Assign tasks amongst women and men so that women have the chance to learn and refine their skills from the men who have more experience.
- Adopt a task-based payment system so that women cannot be paid less than men for the same work.
- End the work day in the afternoon, so women and men can manage their family responsibilities.
- Encourage the provision of free, safe and convenient transport.
- Ensure women’s participation in the identification of infrastructure projects to ensure that the infrastructure developed responds to their needs.

Results

- Improved women’s access paid decent work with a contract and regulated working hours and conditions.
- Women make up on average 10 per cent of the EIIP workforce across the projects with a participation rate of a high 24 per cent in one of the projects.
- The programme has enabled women to gain new technical and soft skills, economic empowerment from the incomes earned through the programme, as well as social empowerment from engaging in public works alongside men.

Source: ILO, Employment-Intensive Investment Programme. Lebanon: Public works for women’s empowerment, refugee livelihood promotion and host community development, n.d.

Gender-responsive occupational safety and health

Many worksites do not provide safe and separate facilities for female and male workers. A lack of separate toilet and/or changing facilities can be another barrier to women's participation, increase the risk of sexual harassment and assault for women. Health risks are also greater where women do not have access to suitable facilities.

By its very nature construction-related work presents high health and safety risks, which need to be mitigated with appropriate measures and equipment. Several ILO Conventions provide guidance on this subject, including Occupational Safety and Health Convention, 1981 (No. 155), and Safety and Health in Construction Convention, 1988 (No. 167)⁴³ : The right to a safe and healthy working environment is recognized as one of the fundamental principles and rights at work.⁴³

In addition to compliance with the relevant national legal provisions and recommendations for ensuring worker safety and health, contractors should also consider the gender dimensions of occupational safety and health (OSH) and take appropriate measures in this regard. For example, separate safe, hygienic and secure toilet, changing and sanitary facilities should be provided for women and men. Introducing such measures is essential for workers' health and will help to improve recruitment and retention of women as well as reduce health-related absenteeism and low productivity. These basic provisions are integrated in the majority of the cases that illustrate this Guide: Uganda, Nepal, Lebanon and Timor-Leste, with specific actions taken in this regard.

Regarding specific work tasks, at times assessment of what are safe tasks for women and men is not carried out, resulting in misconstrued views of what women and men can/should or cannot/should not do. For example, in terms of lifting heavy weight, it would be incorrect not to take into account possible differences in the body weights and sizes of individual workers and to assume that everyone is able to lift or carry exactly the same weight. It would be equally incorrect to automatically assume that women are too weak to lift the same weights as men. Very often, such misconstrued perceptions lead to employers preferring not to recruit women. To address this, the execution of those work tasks could be organized on a group basis, to balance and distribute the complexity or weight. The case of a female company director in Timor-Leste (Box 16) brings light to this issue.



⁴³ ILO, Declaration on Fundamental Principles and Rights at Work (1998), [para. 2 amended in June 2022 at the 110th Session of the International Labour Conference](#).

► **Box 16. Timor Leste – Women-led businesses building the road to a better future**

The Enhancing Rural Access (ERA) Project, financed by the European Union and implemented by the ILO in partnership with the Ministry of Public Works, provided work for 8,000 people from rural communities.

The project's training component focused on topics such as developing well-priced bids, financial planning, and employing and training community labour. It was offered to over 400 company directors, with a stipulation that 30 per cent of the trainees should be women.

The community initially doubted that female-led firms could successfully construct the difficult mountainous road. Additionally, was the challenge of fulfilling the 30 per cent defined quota of women's participation as both trainees and workers. This is because in Timor Leste, women are traditionally prohibited from doing heavy work.

One of the female company directors who received contracts and training under the ERA Project believes that in reality most women do heavy work on a daily basis but this remains unrecognized.

She managed to mobilize the community to participate by building close relationships with the village chief, the hamlet chiefs and the youth representative on the local council, and persuaded them to mobilize young men and women, as well as married women, for the labour force.

As a woman director she prioritizes giving opportunities to other women, and thinks her presence also played a motivating force: "before, women were afraid to speak up in meetings but when they see a female company director, they start to talk".

Source: Marianne Kearney, "ERA Stories: Proving Women Can", 2015.

Using public procurement to promote equality and social inclusion beyond the workforce

Public procurement can also serve to promote equality and social inclusion beyond the workforce of individual firms. The cases of Tunisia (box 17) and Nepal (box 18) illustrate how infrastructure works create opportunities for professionals of different sectors, particularly for women engineers who, when working in the field, are an inspiration for girls. Projects may also rely on external consultants/firms experienced in gender responsiveness and having the capacity to design and supervise inclusive projects. The design of infrastructure works usually include capacity-building activities aiming to improve the employability capacities of the target group.

The effect, however, reaches beyond contributing to economic diversification and the empowerment of women. Public procurement can help promote opportunities for disadvantaged groups including persons with disabilities (box 19), ethnic minorities, as well as those living in fragile communities. For instance, procurement practices could provide that appropriate measures are taken to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications systems, and to other facilities and services.⁴⁴ Additionally, procurement could provide opportunities to further broader objectives like building peace and strengthening resilience in fragile settings (box 20). By taking into consideration the context and dynamics of each community, procurement could ensure that women and other disadvantaged groups benefit from conflict-sensitive and peace-responsive procurement practices.

44 UNDIS, n.d., HLCM Procurement Network Guidelines on the Implementation of Indicator 8: *Procurement*.

► **Box 17. Tunisia – Empowering women through the induced effects of investment for economic diversification**

The Support Programme for the Development of Underprivileged Areas was launched in 2012 with the aim of supporting decent work creation. The programme adopted an incremental strategy that initially focused on alternatives that are culturally more acceptable but result in economic empowerment and gradually, transformational social change.

To support employment creation for women, the programme has invested heavily in initiatives to support the formation of women-led SMEs and cooperatives through leveraging on livelihood opportunities arising from the infrastructure investments in agriculture.

While the programme is yet to attract women workers, women engineers have successfully been included in the programme's infrastructure development activities.

Source: ILO, Employment Intensive-Investment Programme. Tunisia: Empowering women through the induced effects of investments for economic diversification, n.d.

► **Box 18. Nepal: Promoting womens' empowerment at different stages of project involvement**

The ILO Strengthening National Rural Transport Programme (SNRTP), developed the following additional actions to empower women at different levels of involvement:

- Prioritizing the enlisting of female engineers in the programme and encouraging young female engineers by providing internship opportunities to enable them to gain field exposure for six months.
- Prioritizing the involvement of female administrative and finance associates in the programme, to avoid women being recruited only for manual labour;
- Providing specific training on maintenance skills, bio-engineering and plantation work to empower female RMG members;
- Supporting the access of women to financial services through assistance for the opening of individual bank accounts in the national commercial bank for their monthly wage transfers and linking them to cooperatives and local banks for further savings and credit services;
- The provision of official identity cards for RMG members to enable them to access various support services (for example, to enable them to complete the administrative formalities related to opening bank accounts, to attend monthly check-ups at local health centres);
- The provision of accident insurance up to Nepalese rupee (NPR) 500,000.

Source: ILO, Nepal: Road maintenance as a vehicle for social inclusion and decent work for women, n.d.

► Box 19. Disability inclusion

Persons with disabilities comprise an estimated 15 per cent of the global population and are one of the largest minority groups in the world. The ILO Disability Inclusion Strategy 2014-17 sets the direction for how the Organization as a whole works on disability rights as a cross-cutting issue. The ILO's work on disability inclusion focuses on promoting pathways into decent work for people with disabilities in developing countries.

The ILO Employment Intensive Programme (EIIP) have included persons with disabilities as a target group in a wide variety of contexts. EII projects have progressively developed their ability to respond to diverse social conditions and groups among their target populations in terms of the employment generated, skills and capacities developed, and the use of infrastructure created.

A recent joint study with the disability team in the GEDI branch of EIIP focused particularly on work performed in Jordan, Philippines, Tanzania and Timor-Leste. The need for mainstreaming gender responsive and inclusive procurement along the different phases of the process support the findings of the report, which emphasizes the need for (community) consultation, capacity development, partnerships and monitoring processes looking at opportunities and challenges of fitting disability inclusion into a wider inclusion approach.

Additionally, EII projects have emphasized the need for project activities to include persons with disabilities as well as having structures in place that ensure inclusion. Some measures project activities could take include:

- Mobilize persons with disabilities to participate in the project;
- Ensure inclusion of persons with disabilities as workers and beneficiaries of other support for work and employability;
- Develop employment opportunities and environment to be inclusive of persons with disabilities;
- Support contractors, businesses and other employers to engage on disability through aware-raising and promotion of the "business case" for employment;
- Promote or facilitate mechanisms for job-matching for persons with disabilities;
- Ensure infrastructure and other investment in assets take into account accessibility and, where possible, use principles of universal design;
- Advocate for inclusive policy in public works schemes and design;
- Include persons with disabilities in assessments and planning. Where possible, do so through consultation with disabled people and their representative organizations;
- Ensure inclusive beneficiary targeting mechanisms. Set targets for disability inclusion, for instance through percentage of workers with disabilities;
- Specify measures for inclusion in procurement and contract management;
- Establish monitoring frameworks and approaches to assess disability inclusion.

Source: ILO, *ILO Disability Inclusion Strategy and Action Plan 2014-2017: A twin-track approach of mainstreaming and disability-specific action*, 2015. ILO, *Disability Inclusion in EIIP: Stocktaking and way forward*, 2022.

► **Box 20. Promoting peace, resilience and gender equality through procurement in fragile settings**

Currently, about 1.8 billion people live in fragile contexts. Decent work can provide, across the humanitarian-development-peace nexus, a pathway to long-lasting peace and stability and resilience, as highlighted in ILO Recommendation No. 205 on Employment and Decent Work for Peace and Resilience (2017), which also recognizes the critical importance of gender equality for preventing and responding to crises, enabling recovery and building resilience.

Conflict-sensitivity and peace-responsiveness

In fragile and conflict-affected settings, it is essential that procurement is done not only in a gender-responsive manner, but also in a conflict-sensitive and peace-responsive way. Initiatives that are based on a good understanding of peace, conflict and gender dynamics are more likely to achieve their decent work and employment goals, and also contribute to gender equality and strengthening social cohesion and peacebuilding.

Peace-responsiveness refers to the ability of actors operating in conflict-affected or fragile contexts to be conflict sensitive and deliberately contribute to sustainable peace. In conflict-affected settings, conflict-sensitivity and peace-responsiveness in procurement could entail:

- Carrying out a gender-responsive peace and conflict analysis (PCA) to get a good understanding of the peace, conflict and gender dynamics and of how projects including procurement processes can contribute to peace, gender equality and avoid doing harm and exacerbate tensions and conflict;
- Ensuring that information about procurement opportunities reaches women and men of all ethnic groups, members of host and refugee communities, etc., equally, and that they have equal access to for instance pre-procurement training opportunities;
- Ensuring transparency of the process and ensuring that all parties, particularly in conflict-affected countries have equal chance in bidding and that the selection does not exacerbate existing or potential grievances inequalities;
- In cases where quotas are defined for women's participation, giving also consideration to whether quotas or targets for other disadvantaged groups (e.g. female heads of household) might be needed;

- Considering the possibility of encouraging and enabling the submission of joint bids by entrepreneurs from different groups to help foster inter-group contact and collaboration.

Disaster resilience promotion

Women are often the hardest hit in terms of socio-economic impacts of both sudden- or slow-onset disasters and climate change. This disproportionate exposure and vulnerability is explained by several factors, including for instance lower levels of access to economic resources as well as to education and information. On the other hand, disasters and crises in general provide opportunities to address discriminations and rights violations and to challenge stereotypes based on gender. To enable women's empowerment and leadership in disaster contexts and to enhance the equitability and effectiveness of disaster prevention, preparedness, response and recovery, it is thus essential to leverage women's knowledge, skills and experiences.

In disaster-affected contexts, it is essential that infrastructure that is constructed or rehabilitated through procurement is both resilient itself (for instance, that it is flood- or earthquake proof) or helps to protect communities against disaster risk (for instance, terracing to protect farms from floods), but also that it serves women's needs as well as men's. For example, the infrastructure works being procured should also be infrastructures used by women for economic or family activities (e.g. markets or roads used for business; care facilities to help with women's disproportionate care burden, etc.).

In addition, in disaster-prone contexts, it is also important to consider the availability of and access of women's businesses participating in procurement to, for instance:

- Tools and services for disaster risk analysis and reduction (e.g. risk assessment for business location)
- Support for disaster-resilient practices in the construction of workplaces and safe practices in business operations and procedures;
- Support for business continuity management in order to enable enterprises to prepare for and stay in operation in a sustainable manner in crisis situations;
- Financial services and risk transfer mechanisms such as insurance against extreme weather events.

Sources: ILO, Recommendation on Employment and Decent Work for Peace and Resilience, 2017 (No.205). ILO, Gender equality and women's empowerment in the world of work in fragile, conflict and disaster settings, 2022. ILO, Peace and conflict guidance note for ILO's programming in fragile and conflict-affected contexts, 2021. Picard, Mary, *Beyond Vulnerability to Gender Equality and Women's Empowerment and Leadership in Disaster Risk Reduction: Critical actions for the United Nations system – A United Nations Joint Study on the Status of Gender Equality and Women's Leadership in DRR*, UN Women, UNFPA and UNDRR, 2021.



▶ 5

► 5. Gender-responsive procurement: Guidance for EIIP practitioners

This section provides summary guidance on how gender equality and women's empowerment can be promoted at different stages of the procurement process. Checklists are recommended as practical tools for integrating gender considerations at each stage of the public procurement cycle, from needs assessment to contract management and payment. While the tips are divided into the phases at which they are primarily applicable, it is important to factor them in at the design stage of projects with a procurement component so they can be incorporated into plans and budgets.

To be fully effective, it is vital that the integration of gender equality starts before the actual procurement process begins. The first step is to take account of existing inequalities, (potential and/ or likely) outcomes, differentiated by gender, and identify the features that have the potential to promote gender equality. Second, the question must be addressed as to how a good, service or construction work is to be designed so as to create the optimal outcome for gender equality. This must then be integrated into the design of the specific good, service or construction work. Contractual obligations should be introduced to require the implementation of measures to promote gender equality. Once a contract has been awarded, the impact on gender equality should be monitored continuously to be able to adjust the goods, service or construction work as needed. A final evaluation should be conducted to provide input into future public procurement processes. Comprehensively integrating gender equality into every step of the procurement process is essential to obtaining the full benefit of public procurement's potential to attain gender equality.

Pre-award/ Preparatory phase

When designing a project, addressing the following questions may be useful for the content and process-related elements in column 1 below. Many of these aspects should be established at the programming level before launch of a tender; this is particularly the case for contract scope, application procedure and pre-bid capacity development and support.

► **Table 1. Checklist for EIIP practitioners during the preparation phase**

Design	<ul style="list-style-type: none"> ► Does the project design team include both female and male consultants? ► Is the project design team aware of the gender considerations in the scope and technology? ► Does the project design capture the voices and needs of women and men? ► Does the budget capture gender-related support measures?
Announcement/ Advertisement	<ul style="list-style-type: none"> ► Are the channels used to advertise the procurement opportunity accessible to both women and men? ► Does the tender announcement contain clear messages on non-discrimination? ► Are women-owned/-led enterprises or gender-responsive suppliers encouraged to compete for the contract?
Bid requirements	<ul style="list-style-type: none"> ► Are applicants required/encouraged to implement* gender-equality-related policies and measures such as: <ul style="list-style-type: none"> ► Provisions for a certain share of the work to be attributed to women (including in managerial positions); ► Provisions for equal access to training and non-discrimination in career advancement; ► Provisions for maternity leave; ► Provisions for childcare or flexible workplace arrangements to support the combination of work and family responsibilities; ► Measures to prevent and address violence and harassment in the workplace; ► Measures to guarantee equal pay for work of equal value; ► Appropriate OSH-related measures such as separate sanitary facilities for men and women, appropriate lighting, among others. <p><small>*At the stage of bid submission, these elements could be confirmed, for instance, by means of a declaration or proven through self-certification. See also section on monitoring gender-equality performance during implementation in Table 2.</small></p>
Other bid requirements	<ul style="list-style-type: none"> ► Do any requirements hinder women entrepreneurs or other under-represented groups in the relevant market from competing successfully, such as requirements for financial guarantees or academic/technical qualifications that women or other under-represented groups are less likely to have? ► If so, could these be adjusted or replaced with requirements that are easier for women or other under-represented groups to fulfil?
Contract award criteria	<ul style="list-style-type: none"> ► What relative importance is given to social factors such as the existence of decent work policies and equality measures (see Bid requirements section above), as compared to price only?* <p><small>*Note: For the ILO, acceptance of the conditions outlined in the labour clauses contained in the Terms and Conditions applicable to ILO Contracts are a mandatory requirement for participation in tenders.</small></p>
Contract scope	<ul style="list-style-type: none"> ► In contexts where women are over-represented among MSMEs, to what extent are the volumes of goods/services to be procured in line with the capacity of micro and small enterprises led by women to compete for the contract? Could the project design allow for smaller quantity of works to enable micro and small enterprises led by women to compete more successfully? Or could the joining of forces by micro and small-scale women entrepreneurs in submitting a bid be encouraged and facilitated? ► Are gender-related support measures, such as the provision of childcare services, integrated into the contract as a billable item as executable by the contractor or by an external party?
Application procedure	<ul style="list-style-type: none"> ► Do any steps in the procurement process present disproportionate challenges/risks for women (for example, requirements for multiple visits to various offices, which may be time-consuming and further exacerbate women's time constraints, or which may expose women to the risk of violence and harassment)? ► Could the process be streamlined, can guarantees of transparency and safety be provided, and could women be provided with additional support during the process (notably easy-to-access and safe facilities for completing and submitting bid documentation)?
Pre-bid capacity development and support	<ul style="list-style-type: none"> ► Are gender-equality issues covered in pre-bid training? ► Are places reserved for women in generic pre-bid training? ► Do potential women bidders have additional capacity-building needs, and is training or other support provided to meet these needs? ► Do potential women contractors have needs for other (non-training) types of support (such as financial services), and could their access to such services be facilitated?

Award/ Bid evaluation phase

When evaluating the bid, gender-equality aspects should be included in the evaluation criteria, which may be based on programming goals, established prior to the launch of the tender.

It is important for tender evaluation panels to include members who are fully familiar with national labour legislation and in particular, the provisions relating to gender equality and non-discrimination.

In this respect, it would be helpful to review all national labour legislation from a gender-equality perspective, and to develop a checklist of what is required by law.

For ILO contracts, the labour clauses contained in paragraph 7.1 of the [Terms and Conditions applicable to ILO contracts](#) (box 11) must be respected in all cases. These clauses relate to ILO international labour standards concerning freedom of association and collective bargaining; the prohibition of forced and compulsory labour; equal remuneration for women and men for work of equal value; equality of opportunity and treatment and non-discrimination in respect of employment and occupation; the prohibition of child labour; payment of wages; the provision of wages, hours of work and other conditions of work; and safety and health.

Post-award phase

Monitoring gender-equality performance

Once implementation is under way, it is essential to ensure that it is in line with the commitments made in the application and the contract.

At the ILO, contract management is the responsibility of the budget owner or project. This aspect should be outlined in a project document and appropriate knowledge and resources earmarked for this in parallel to outlining these requirements in a tender process.

In addition to self-reporting by the contractor, external spot checks may be needed to ascertain whether the contractor's gender-equality-related policies are in fact being adhered to or not. The possibility of such spot checks being conducted should be established early in the procurement process so that contractors are aware, even if the spot checks themselves may be unannounced.

Whatever the exact monitoring modalities, it is essential that the voices of women and men who work (in different functions) for the contractor are heard and included as respondents, as are other means of ensuring that they can fully express their opinions, such as a guarantee of confidentiality and anonymity, the availability of same-sex interviewers/evaluators, among others.

Sometimes, confirmation of incremental progress towards full implementation of specific gender-related measures is planned and achieved. This may be a necessary and helpful practice and way of engaging with contractors who are committed to improving contract implementation, with support from the procuring entity, and are afforded to opportunity to do so. In such cases, (self-) assessment by contractors could prove useful at the beginning of the contract and can be pursued with corrective actions or plans with which the procuring entity can support the contractor.

Capacity building of contractors

Capacity enhancement is an essential element of a gender-responsive procurement process, both in terms of strengthening capacity in technical or managerial terms-especially for women, where they may have had less opportunities for such training in the past-as well as building the capacity of consultants and contractors to design and implement gender-responsive workplace policies and measures.

In EIIP projects, worksite learning is integrated into infrastructure construction or maintenance initiatives as an essential component.

In some cases, however, women contractors may need additional technical or business management training, or other types of support (access to certain types of financial services, technical assistance with business registration, etc.). Similarly, there may be gaps in the capacity of all contractors (men and women alike) in terms of being able to introduce and implement decent work policies and measures, including ones that relate to gender equality.

Active support to strengthen the capacity of contractors in these respects should thus be factored into projects.

Additional aspects of contract management

Good contract management yields positive impact for all actors involved. Attention should be paid to aspects of contract management that may have a particularly significant impact on small businesses such as those frequently headed by women. These include:

- ▶ **Honouring contract conditions, notably in relation to payments:** While on-time payments are important for all businesses, the impact of late payments is more detrimental to businesses with a heavier reliance on such payments. Procuring entities should therefore ensure that they do not hinder businesses through late payment.
- ▶ **Optimizing administrative and monitoring requirements:** While effective monitoring of delivery, working conditions and other aspects of contract execution are essential, procedures and administrative requirements related thereto should be streamlined to avoid exacerbating women's time constraints through lengthy, cumbersome and time-consuming processes.

► **Table 2. Tips for procuring entities for the implementation phase**

Monitoring gender equality performance	<ul style="list-style-type: none"> ► Are mechanisms in place to ascertain whether implementation is in line with the commitments made in the application and the contract (such as contractor self-reporting and/or additional external spot checks)? ► In monitoring processes, are the views of both women and men sought in ways that enable them to express any possible concerns (by ensuring confidentiality and anonymity, the availability of same-sex interviewers/evaluators, etc.)?
Capacity building	<ul style="list-style-type: none"> ► Is capacity building foreseen in technical or managerial competencies? Are any inequalities in previous access to such capacity building addressed? ► Are the training needs of contractors assessed and addressed in terms of being able to implement decent work policies and measures, including ones that relate to gender equality? ► Does the supervising team have the capacity to monitor gender sensitivity in implementation?
Gender sensitivity of consultant's supervising team	<ul style="list-style-type: none"> ► Does the project consultancy team have the capacity to supervise the works in a gender-sensitive manner? ► Are women engineers and technicians involved in contract supervision? ► Is monitoring data sex/gender disaggregated?
Facilitating access to support services/facilities	<ul style="list-style-type: none"> ► Could efforts be made to facilitate the access of contractors to, or to ensure direct provision of, services or facilities that help contractors to achieve gender equality at work (for example, childcare support)?
Other aspects of contract management	<ul style="list-style-type: none"> ► Do procuring entities honour contract conditions, especially in relation to payments, to prevent negative impact of late payment on women's businesses? ► Are administrative requirements during implementation streamlined to avoid exacerbating women's time constraints through lengthy, cumbersome and time-consuming processes?

The ILO encourages taking measures to build a sustainable procurement system and to improve public procurement policies and procedures at both central and decentralized levels. This Guide focuses on the gender dimensions of sustainable procurement in the context of EIIPs, identifying ways to tackle institutional and entrepreneurial barriers as well as inequitable social norms, and highlighting initiatives and actions taken in different countries to promote gender equality and women's empowerment in public procurement. As shown throughout this document, gender-responsive policies and legal frameworks open the path to facilitate access of women-led and women-managed businesses to employment-intensive works in a gender responsive manner. They can be a powerful lever to create decent jobs and generate equal labour and business opportunities for women and men in the infrastructure sector.

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► Glossary of key concepts⁴⁵

Bidder⁴⁶	A vendor who submits, or may be reasonably expected to submit, an offer to sell goods or services to the ILO in response to an ILO RFQ, ITB or RFP
Best Value For Money (BVFM)⁴⁷	BVFM refers the outcome that represents the most economically advantageous combination of cost-related and non-cost related factors linked to the goods or services being procured. Value for money is measured by reference to the needs and interests of the ILO.
Consulting services⁴⁸	Covers a range of services that are of an advisory or professional nature and are provided by consultants. These include feasibility studies, project management, engineering services, finance and accounting services, training and development.
Gender-responsive procurement⁴⁹	The sustainable selection of services and goods that takes into account the impact on gender equality and women's empowerment.
Gender-responsive firm/enterprise/contractor⁵⁰	A legal entity that promotes gender equality and meets local and international labour and human rights standards.
Goods⁵¹	All tangible items, including equipment, purchased and received by the ILO.
Non-consulting services	Services which are not consulting services. Non-consulting services are normally bid and contracted on the basis of performance of measurable outputs, and for which performance standards can be clearly identified and consistently applied. Examples include drilling, aerial photography, satellite imagery, mapping and similar operations.
Procurement process⁵²	The process that starts with the identification of a need and continues through planning, preparation of specifications/requirements, budget considerations, selection, contract award and contract management.
Women-owned business⁵³	Includes at least 51 per cent independent ownership and unconditional control by one or more women as well as independence from non-women-owned businesses.
Works⁵⁴	Works includes: the construction, alteration, renovation, extension or demolition of buildings, roads or structures; landscaping; tree-felling; and excavations.

⁴⁵ The ILO recommends using the terminology of the ILO Procurement guide and some of the definitions are aligned to this document

⁴⁶ ILO, 2021 Version 1.3

⁴⁷ ILO, 2021 Version 1.3

⁴⁸ World Bank, 2019

⁴⁹ UNSDG, 2021

⁵⁰ UNSDG, 2021

⁵¹ ILO, 2021 Version 1.3

⁵² World Bank, 2019

⁵³ UNSDG, 2021

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