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POLICY BRIEF

IMPROVING ACCESS TO PUBLIC PROCUREMENT FOR WOMEN-OWNED AND WOMEN-LED SMALL AND MEDIUM ENTERPRISES IN WEST AFRICA



AFRICAN DEVELOPMENT BANK GROUP
GROUPE DE LA BANQUE AFRICAINE
DE DEVELOPPEMENT



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WOMEN ENTREPRENEURS
FINANCE INITIATIVE

Policy brief for regional institutions in Africa

Definitions

- **Gender-responsive procurement (GRP):** the sustainable selection of services, goods, or public works from women-owned or women-led enterprises and/or those having gender-responsive policies and practices for employees and supply chains.
- **Women-owned business (WOB):** a legal entity, that, at a minimum:
 - Is at least 51 per cent owned by one or more women,
 - Is unconditionally controlled by one or more women over both long-term decision-making and the day-to-day management and administration of the business operations,
 - Is independent from non-women-owned businesses.
- **Women-led businesses (WLB):** a legal entity in any field that has a minimum of 50 per cent women identified representation in management with senior-level, strategic decision-making abilities.

Source: UN Women. 2022. "Procurement's strategic value: Why gender-responsive procurement makes business sense." New York: UN Women

Introduction

Public procurement refers to the many ways in which governments acquire goods (supplies or products), works, and services, using a range of contractual arrangements and purchasing tools. Public procurement offers an attractive market for entrepreneurs since governments around the world spend around 12 per cent of global GDP on public contracts. Public procurement was estimated to be at least \$13 trillion out of the global GDP in 2018².

Access to public procurement represents an important potential market and a significant source of business for SMEs since public contracts can stimulate an increase in investment, job generation and productivity for firms. Moreover, a well-designed public procurement framework strengthens citizens' confidence in government and private sector competitiveness, especially by creating opportunities

for small- and medium-sized businesses (SMEs). Women own 30 per cent of the small and medium businesses worldwide³, yet women-owned businesses only access 1 per cent of all procurement contracts suggesting systemic gender disparities within procurement systems⁴.

The size of public procurement represents up to 30 to 40 per cent of GDP in the least developed countries⁵. In West Africa, some countries spent up to one sixth of their GDP on public procurement⁶. At the same time, in the region, women remain underrepresented as entrepreneurs accessing public procurement opportunities. In Senegal for instance, less than 10 per cent of women entrepreneurs are aware of the legislation on affirmative procurement and less than 5 per cent declare being fully aware of the process and modes of public procurement⁷.

1 While various organizations have their own definitions of women-owned businesses, this publication uses the UN system's standard definition.
2 Open Contracting Partnership (2020) [How governments spend: Opening up the value of global public procurement](#).
3 World Bank Gender Data Portal (2019)
4 World Bank Gender and Equality in Public Procurement (2021)
5 Kirton, R.M. 2013. Gender, Trade and Public Procurement Policy. London: Commonwealth Secretariat.
6 Nigeria, Liberia, and Togo (in 2017)
7 UN Women. 2018. Évaluation du dispositif de discrimination positive en faveur des entreprises des femmes dans l'accès aux marchés publics au Sénégal.

Gender-responsive public procurement through the inclusion of women-owned enterprises can contribute to an increase in the country's economic growth, greater gender equality, and effective women's economic empowerment.

As governments and regional institutions seek to deploy strategies in post-crisis scenarios, public procurement can play a role as a mechanism to accelerate recovery and promote inclusive socio-economic policies.

Used strategically, public procurement⁸ can contribute to sustainable development and gender equality in West Africa by⁹:

- Promoting the development of women's entrepreneurship and women's economic empowerment.
- Infusing gender equality throughout the supply chain.

- Supporting a more resource-efficient economy, stimulating innovation, supporting women-owned, -led, and -staffed small and medium-sized enterprises.
- Increasing the financial performance and long-term business resilience for women-owned, -led, and -staffed SMEs.
- Promoting non-discrimination in employment, by requiring contractors to develop affirmative action programmes.
- Encouraging industrial development, by favouring locally produced goods and domestic businesses (in terms of sustainable procurement more broadly).
- Supporting environmental sustainability, by requiring contractors to supply energy-efficient products and goods made from recovered or bio-based materials (in terms of sustainable procurement more broadly).



Only **1%** of the total public procurement expenses spent annually is awarded to women-owned businesses¹⁰



In Sub-Saharan Africa, **3 in 10** small, medium and large businesses are owned by women¹¹



45% of women-owned micro, small and medium-sized enterprises raise the need to set up quotas for women-owned businesses in public procurement in Africa¹²

8 Sustainable Public Procurement (SPP) relates to how organizations buy goods and services across the three pillars of sustainable development: economic, social, and environmental benefits
 9 UN Women and the ILO, 2021. "Rethinking Gender-Responsive Procurement: Enabling an Ecosystem for Women's Economic Empowerment." New York and Geneva / ITC 2014 Empowering women through public procurement. GUIDE
 10 World Bank Gender and Equality in Public Procurement (2021)
 11 World Bank, Gender Data Portal 2020
 12 UN Women, online regional surveys for women's opportunities in trade in Africa 2021

Women's obstacles to public procurement in West Africa

Women-owned and women-led small and medium enterprises have been unable to capitalize on government spending because they face several structural disadvantages which limit their growth and development.

- **Gender biases and discriminatory social norms** have negative impacts on women's access to public procurement. The gender division of labour results in women being largely concentrated in the informal and undervalued sectors. In Africa, women spend three times more time on unpaid care work compared to men¹³. This results in time poverty to prepare and submit bids and follow all procurement processes.
- **Prominent level of informality:** Informal employment is a greater source of employment for women in West Africa (95 per cent for women)¹⁴. Women are more likely to engage in necessity entrepreneurship and be in informal enterprises compared to men. The smaller scale and informal nature of women's entrepreneurship, caused by structural gender inequalities, hinder their capacity to meet the often stiff requirements of large government contracts, which require suppliers to be formally registered.
- **Lengthy delays in payments** are a major problem, especially for WOBs and deter them from engaging in procurement. Women reported that payments from public sector institutions are often late and unpredictable. Unlike large companies, women-owned and women-led SMEs lack the liquidity to pre-finance contract commitments and are therefore unable to accept long repayment terms.
- **Limited access to finance:** Even for women-led and women-owned businesses in the formal sector, high pre-qualification costs and the inability to secure pre-financing commitments from financial institutions limit their participation in public procurement. Moreover, in some countries, the existing legal, statutory, and/or customary provisions hinder women's access to finance or land and other productive resources that can be used as collateral for loans. Women face high interest rates, huge collaterals and demands for proven track records, hampering their ability to acquire the operating capital needed to bid on large procurement projects.
- **Limited information and awareness of tender opportunities:** In Nigeria, for instance, many women reported that they acquire information about procurement opportunities through men (male colleagues, relatives, and staff)¹⁵. This points to limited procurement information, but also insufficient mentoring and networking relationships among women-led businesses. Awareness and understanding of the various steps in the public procurement process are low among women-led businesses.



13 ILO, Care work and care jobs for the future of decent work / International Labour Office – Geneva: ILO, 2018.

14 ILO. 2020. The Transition from the Informal to the Formal Economy in Africa. Background paper for the GEPR Chapter 5 “The transition to formality: Comparing policy approaches in Africa, Asia and Latin America”

15 UN Women Nigeria (2018) Baseline Study. Women's Access to Public Procurement in Nigeria.

- **Perceptions of corruption:** Women-owned and women-led businesses perceived the contract award process to be biased and questioned the fairness of public procurement processes. There is a general impression that large infrastructure contracts are typically awarded to men-owned companies¹⁶.

- **Gender-based violence:** Women who engage in the public procurement process are sometimes vulnerable to sexual harassment and gender-based violence. In a survey conducted by UN Women in Senegal, 3 per cent of women interviewed reported experiencing harassment to gain public procurement¹⁷. This situation is exacerbated by the absence of a grievance-redress mechanism within most public procurement spaces, as well as the lack of gender indicators in the annual procurement audits.

Towards affirmative public procurement in West Africa: Regional regulations and the role of regional organisations

In West Africa, the public procurement process is supported by the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS).

West African Economic and Monetary Union (WAEMU)	Economic Community of West African States (ECOWAS)
<p>8 members Benin, Burkina Faso, Côte d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo</p>	<p>15 members Benin, Burkina Faso, Cabo Verde, Cote d’Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo</p>
<p>Mandate Achieve the economic integration of member states by strengthening the competitiveness of economic activities within the framework of an open and competitive market and a rationalized and harmonized legal environment.</p>	<p>Mandate Promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations-among Member States, and contribute to the progress and development of the African continent.</p>



¹⁶ UN Women, online regional surveys for women’s opportunities in trade in Africa (2021)

¹⁷ UN Women, Évaluation du dispositif de discrimination positive en faveur des entreprises des femmes dans l’accès aux marchés publics au Sénégal. 2018.

Under the WAEMU, there are two directives on public procurement (Directive n°04/2005/CM/UEMOA and Directive n°05/2005/CM/UEMOA of 9 December 2005) whereas, in the ECOWAS zone, member states follow the provision of the ECOWAS MSME Charter. A gender-sensitivity assessment reveals that there are very few affirmative procurement clauses in the region, as explained below.

Public Procurement in the WAEMU Zone	
<p>The WAEMU countries adopted a genuine Community Code on Public Procurement, supported by a constitutive treaty that inherently confers an essential role to public procurement contracts. WAEMU countries also adopted two public procurement directives¹⁸:</p>	
<p>[1] Directive n°04/2005/CM/UEMOA of 9 December 2005 relative to the process of awarding, execution, and payment of public procurement contracts in WAEMU</p>	<p>[2] Directive n°05/2005/CM/UEMOA of 9 December 2005 relative to the control and regulation of public procurement in WAEMU</p>
<p>These directives enshrine the main principles of public procurement commonly recognized by international standards¹⁹, namely:</p>	
<p>FREEDOM in accessing the public procurement; EQUALITY treatment of bidders; TRANSPARENCY process and EFFICACY of public expenditure</p>	
<p>Within the WAEMU zone, the Observatoire Régional des Marchés Publics de l'UEMOA (ORMP) assists the WAEMU Commission in defining and implementing the rules on multilateral surveillance of public procurement and public service delegations. The ORMP is responsible for:</p>	
<ul style="list-style-type: none"> • Multilateral surveillance in the area of public procurement and delegating public services, including the application of directives. • Monitoring reforms of the public procurement and public service delegation system at the state level. • Monitoring the proper functioning of the non-jurisdictional recourse mechanism for actors at the regional level. • Evaluating the quality and performance of member states' systems based on the standard norms defined in the Paris Declaration. 	<ul style="list-style-type: none"> • Ensuring that the objectives of the capacity-building activities for staff responsible for public procurement in the WAEMU zone are achieved. • Approving the annual consolidated activity programs of the national regulatory bodies; periodically informing the high steering committee of the Regional Economic Program. • Preparing, on an annual or semi-annual basis, a monitoring report on public procurement, also based on the interventions of the national regulatory bodies
<p><input type="checkbox"/> Assessment of the gender sensitivity to public procurement:</p>	
<p>1. The WAEMU directives are not gender-oriented.</p>	<p>2. The ORMP does not have a clear gender-responsive public procurement framework for mainstreaming affirmative procurement in its objectives and activities.</p>
Public procurement in the ECOWAS Zone	
<p>The ECOWAS MSME charter was designed to strengthen the MSMEs within the region, through capacity-building programs, partnership platforms, entrepreneurship development, access to finance and business promotion. The charter, amongst other initiatives, presents strategies to boost access to public procurement for MSMEs in the region.</p>	
<p><input type="checkbox"/> Assessment of the gender sensitivity to public procurement:</p>	
<p>The ECOWAS MSME Charter urges member states to set a provision for women-led SMEs. For instance, in the ECOWAS MSME Charter (2015-2020), Article 16 stipulates that:</p>	
<p><input type="checkbox"/> <i>Each Member State and its institutions (Local Governments, Public Sector Enterprises and Parastatals) must open public competitive tender exclusively for MSMEs when the amount is equal to or less than One hundred thousand US Dollars (USD 100,000), without influencing the procurement laws as a general rule.</i></p>	
<p><input type="checkbox"/> <i>Article 16b: Member States shall set aside a proportion of public procurements for MSMEs, particularly to those headed by women. The percentage thereof, to be determined by the Member state.</i></p>	
<p>It is, however, necessary to define a threshold for the percentage of public procurement reserved for women-owned MSMEs across the Member States.</p>	

18 Nam, Nicholas. Role of public procurement in regional integration - case of WAEMU. Presentation. April 2019

19 ibid



45% of women-owned MSMEs in Africa raise the need to set up quotas for women-owned businesses in public procurement²⁰.

Better policies for gender-responsive procurement in West Africa: What can regional institutions do?

Recommendation #1 Regional organizations (ECOWAS, WAEMU) could set and/or reinforce regional gender-responsive public procurement policy and legal frameworks by:

- Establishing or strengthening a regional legal and regulatory framework and policy for affirmative procurement.
 - Harmonize the definition of Women-owned Small and Medium Enterprises across the Member States.
 - Such a policy could establish a quota or target level of public procurement spending that should be allocated to businesses owned by women.
- Simplifying public procurement process and administrative procedures, and training WOB/WLB on the same.
- Collecting and analysing data regularly on WOB access to public tenders and internalize the analysis in decision-making to improve regulations.
- Establishing affirmative mechanisms for the institution's own procurement systems.

Recommendation #2 Combat gender discrimination and sexual harassment in public procurement processes

- Increase the number of women in all levels of public administration.
- Conduct research to assess the prevalence of sexual harassment in public procurement practices in the ECOWAS Member States.
- Use the results of the study to develop public education campaigns to combat all forms of corruption, and to combat the use of Gender-Based Violence as a coercive mechanism in particular in dealings with public administrations.

Recommendation #3 Regional organizations and governments need to enhance the capacity of national and regional procurement officials:

- Customized training and reorientation on procurement reforms and practices for national, and regional procurement officers, as well as the heads and managers of agencies.

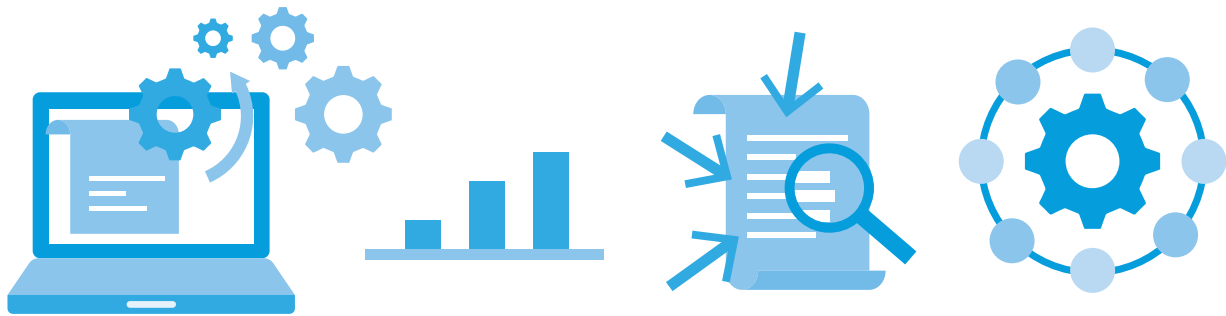
- Training for procurement professionals in applying a gender lens to their work on procurement sourcing and instituting requirements that advance gender equality among their supplier bases.

Recommendation #4 Regional organizations and governments support women entrepreneurs by facilitating their access to capital and financial services, information and networks, and markets by:

- Supporting women entrepreneurs with training to understand the systems and processes, as well as accessing procurement information and preparing strong bids in addition to accessing finance.
- Promoting intra-regional trade and procurement across countries.
- Conducting advocacy strategies to transform financing services so they meet women entrepreneurs' needs and provide credit support, especially in rural areas.

Recommendation #5 Gender disaggregated data within Member States

- Member states should collect sex-disaggregated data about bidders, and suppliers from procurement systems and/or company registers at the local, national, and regional levels to monitor their progress towards gender-responsive contracting.
- Develop and integrate gender-responsive benchmarks and indicators in the framework for conducting annual procurement audits.
- Conduct research to document experiences, factors, and bottlenecks that impact WOB bid frequency and bid success rates.
- Leverage various research and GRP tools to drive procurement reforms and cultural change to undertake procurement from a gender perspective.



The recent move in the West African region towards e-procurement offers an opportunity to address many of the existing regulatory and administrative constraints to gender-responsive procurement

(for example: Asking the sex of the applicant on the e-procurement platform enables and facilitates the classification of vendors, collection of data and measurement of progress, as well as simplifies the inclusion of more gender-responsive aspects in the procurement process, but beyond that, the reformist momentum can be used to put other more substantive things on the table.)

BOX 1:

Gender-responsive procurement-related provisions in treaties

The African Union's Agenda 2063 calls for the allocation of at least 25 per cent of public procurement to be for women-owned businesses, Goal 17: Full Gender Equality in All Spheres of Life Target 17.4: At least 25 per cent of annual public procurement at national and sub-national levels are awarded to women.

The Southern African Development Community (SADC) Protocol on Gender and Development aims to provide for the empowerment of women, to eliminate discrimination and achieve gender equality by encouraging and harmonizing the development and implementation of gender-responsive legislation, policies and programmes and projects.

The revised SADC Protocol on Gender and Development 2016, in its article 17 on economic empowerment, requires State Parties to:

- Undertake reforms to give men and women equal rights and opportunities to economic resources and improve access to control and ownership over productive resources, land and other forms of property, financial services, inheritance, and natural resources.
- Review their national trade and entrepreneurship policies to make them gender responsive.
- In accordance with the special provisions of article 5, develop strategies to ensure women benefit equally from economic opportunities, including those created through public procurement processes.

BOX 2:

UN Women-led work on women in the AfCFTA

Public procurement represents a significant opportunity to build a more inclusive economy, ensure equitable socio-economic recovery and promote gender equality through increased participation of women-owned and women-led businesses in public procurement. Open, accountable, data-driven approaches to public procurement will improve every element of government spending. But for these to be fully effective, they must be inclusive of all businesses.

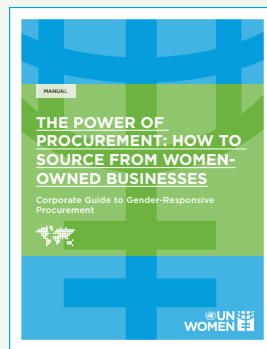
The under-representation of women-owned and women-led businesses in public procurement is a critical issue for a more equitable society. Improving representation, and gender responsiveness more broadly, including women’s entrepreneurial footprint in the economy has significant potential for stimulating entrepreneurship as well as inclusive economic empowerment and growth.

To overcome existing barriers and challenges there is a critical need for more reliable, sex-disaggregated procurement data, where both OCP and UN Women have crucial roles to play – not least by publishing relevant data through open data throughout the public procurement process in the Open Contracting Data Standard format and the Women Count Flagship Programme of UN Women, which helps governments improve gender-data collection and analysis. Also, more insights are required to better understand what is holding progress back in making procurement more inclusive, which is largely context-specific.

Relevant publications may be found here:



Empowering women through public procurement and enabling inclusive growth



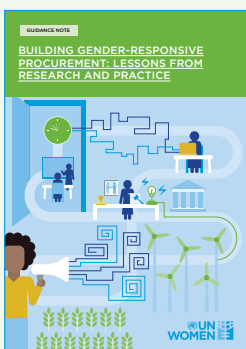
The power of procurement: How to source from women owned businesses



Legal frameworks for gender responsive procurement



How to empower women-led businesses and make public procurement more inclusive



Building gender-responsive procurement: Lessons from research and practice