



Public Procurement and Women's Economic Empowerment in East Africa – Challenges and Opportunities

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About the GrOW East Africa initiative

The Growth and Economic Opportunities for Women (GrOW) – East Africa initiative seeks to spur transformative change to advance gender equality in the world of work. It is funded by the Bill & Melinda Gates Foundation, the William and Flora Hewlett Foundation, and Canada's International Development Research Centre (IDRC).

Building on the success of the multi-funder GrOW program, GrOW East Africa aims to enhance gender equality and the economic empowerment of marginalized women in five countries of focus: Ethiopia, Kenya, Tanzania, Rwanda, and Uganda. It will foster new in-country knowledge, innovations, and solutions to inform policies and programs addressing unpaid care work, gender segregation in labour markets, and women's employment.

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Women in Rwanda own

over 40%

of businesses,
but only receive 5%
of procurement spending.

~ Ministry of Gender and Family Promotion, 2021.



In 2020, public procurement
accounted for

14.9%
of GDP

in OECD countries and up to 40%
in sub-Saharan Africa.

~ OECD, 2021.



Only 5%

of annual procurement spend in Tanzania
is reserved for women.

~ Republic of Tanzania, 2020.



**Advancing
gender equality**

is smart economics, sound business
practice, and essential development policy.

~ World Bank, Profiting from Parity, 2019.



Gender responsive procurement is not
being implemented to its full potential
and many countries struggle to fully
integrate women owned businesses
into public sector supply chains.

~ Fazekas et al, 2020.



In general, **gender policies are
often opaque and ambiguous**,
and without actionable and measurable
steps, thus limiting their efficacy.

~ Mergaert, 2012; Callerstig, 2014.

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Acronyms and Abbreviations

AGPO	Access to Government Procurement Opportunities	OECD	Organisation for Co-operation and Development
AFIC	African Freedom of Information Centre	SALAR	Swedish Association of Local Authorities and Regions
AU	African Union	SBA	Small Business Administration
DAC	Development Assistance Committee	SDGs	Sustainable Development Goals
EDWOSB	Economically Disadvantaged Women Owned Small Business	SMEs	Small and Medium Enterprises
ICRW	International Centre for Research on Women	WEE	Women’s Economic Empowerment
ILO	International Labour Organisation	WEF	World Economic Forum
ITC	International Trade Centre	WLB	Women-Led Business
MDGs	Millennium Development Goals	WOB	Women-Owned Business
MSMEs	Micro, Small and Medium Enterprises	WOSB	Women-Owned Small Business
OCP	Open Contracting Partnership		

Executive summary

Public (government) procurement is the process by which government agencies purchase goods, services, and works to enable them to function and maximise public welfare. It accounts for 14.9% of GDP for member countries belonging to the Organisation for Co-operation and Development (OECD), and up to 40% in sub-Saharan Africa (OECD, 2021). Public procurement is thus of crucial importance to social and economic development.

As public procurement often involves large sums of money, many countries use their procurement spend to achieve varied policy goals beyond the purchase of the required goods and services. These policy goals include matters like the economic advancement of minorities or disadvantaged groups, or the promotion of fair labour practices and climate action. In recent times, countries have begun using procurement systems to advance gender equality. This is referred to as gender-responsive procurement, and is defined by UN Women as the selection of services, goods and civil works that considers their impact on gender equality and women's empowerment (UN Women, 2022). The OECD describes it as the introduction of gender requirements and considerations into public procurement policies and practices (OECD, 2021a), whilst the European Institute for Gender Equality defines it as "procurement that promotes gender equality through the purchase of works, supplies or services by public sector bodies. This means that buyers and suppliers look at the impact of all the contracted activities related to women's and men's interests and concerns and design and deliver contracts in a way that reduces gender inequalities" (European Institute for Gender Equality, 2022).



**Ethiopia,
Kenya,
Rwanda,
Tanzania,
and Uganda.**

From the above definitions, we can see that gender-responsive public procurement may be comprised of two approaches. The first approach is to award contracts in a way that impacts gender equality, either through awarding them directly to women-owned businesses (WOBs) or by giving them to businesses that have mainstreamed gender equality in their policies and practices, even if they are not women owned (UN Women and International Labour Organisation, 2021; World Bank, 2022).

The second approach is one that considers the impact that publicly delivered services will have on gender equality.

As will be seen, many countries have limited gender-responsive procurement to the first approach, with a policy and legal focus on increasing the value of public contracts awarded to WOBs.

This report seeks to provide contextual information on the current state of gender-responsive procurement in the Growth and Economic Opportunities for Women program (GrOW) program in the East African countries of Ethiopia, Kenya, Rwanda, Tanzania, and Uganda. The report provides an analysis of legal and policy frameworks for gender-responsive procurement, and an examination of the barriers to the participation of WOBs in public procurement in East Africa. The report builds on existing work on gender-responsive procurement by considering the importance of women's participation in procurement to women's economic empowerment (WEE), and highlights interventions that may boost this participation. It is hoped that this report will be of value to policy makers in East Africa and beyond as well as civil society organisations that are working towards more responsive public procurement systems.

Despite the importance of gender-responsive procurement in WEE, it has not been implemented to its full potential and many countries struggle to fully integrate WOBs into public sector supply chains. In many countries, there is still a gender gap between the levels of entrepreneurial activity for men and women (Fazekas et al, 2020), and a resulting disparity in the number and value of procurement awards made to women, with adverse consequences for women's economic empowerment.

This disparity persists even though many countries implement measures to prioritise WOBs in public procurement through, among other things, the pre-qualification of WOBs, set-asides, award criteria, evaluation criteria, price preferences, contract terms and conditions, and contract monitoring (Arrowsmith, 2009, 108; Williams-Elegbe, 2019). In Africa, gender-responsive procurement is often implemented through set-asides for WOBs. This, however, means that a country must adopt a responsive and culturally relevant definition of WOBs, and put in place methods of certification or verification to ensure that applicable businesses qualify.

In three of the East African countries under review (Kenya, Tanzania, and Uganda), gender-responsive procurement is subsumed within legal requirements setting aside a proportion of government contracts to targeted businesses, which include businesses owned by women, youth, the elderly, and persons with disabilities. This approach means that WOBs compete with the other target groups and the set-asides do not address the particular obstacles faced by women entrepreneurs. The other two countries reviewed (Rwanda and Ethiopia) do not prioritise women-owned businesses, but provide margins of preference for local bidders.

Also highlighted in this report are the significant barriers to WOBs' participation in public procurement. These include the absence of legal rules on gender-responsive procurement; the lack of integration between gender equality frameworks and the public-procurement system; discriminatory practices by procurement officials; household dynamics that limit

women's agency to make business decisions; discriminatory customary and inheritance laws limiting women's access to assets; financial barriers; and the complexity of the procurement system and procurement corruption, which disproportionately affects WOBs. Other barriers that affect the impact of government measures to prioritise WOBs include the lack of information and data on women's participation in procurement, the uneven distribution of procurement contracts and the bundling of public requirements, which locks smaller businesses out of public contracts.

These obstacles continue to hinder women's economic advancement, and to substantively address them, this report makes several recommendations, which are:

- I. **Address structural and systemic issues in the procurement process by simplifying it.** Governments must take action to simplify the procurement process and unbundle larger contracts to provide access to smaller companies.
- II. **Enact laws to mandate the prioritisation of WOBs in public procurement.** Legislatures in countries that do not provide a legal requirement for gender-responsive procurement must enact laws requiring it. These laws must be accompanied by detailed guidance on how the public sector should implement the legal requirements, and there must be integration between country frameworks on gender equality, women's economic empowerment, and gender-responsive procurement.



III. Enforce existing laws against gender-based discrimination.

Governments should enforce existing legislation that prohibit discriminatory practices such as discriminatory lending and discriminatory inheritance practices, while biases against women can be addressed through comprehensive public education on gender-based discrimination.

IV. Address financial barriers to women entrepreneurs in public procurement and more generally.

In public procurement, governments can address financial barriers through removing bid guarantee requirements for WOBs, advance and prompt payment on public contracts, government guarantees for WOBs. Beyond procurement, financial institutions ought to consider the development of financial products that suit women entrepreneurs.

V. Mitigate public procurement corruption.

Governments should implement measures to address procurement corruption that disproportionately affects WOBs through ethical training and the institution of ethical incentives for public officials, as well as with improved accountability measures when public officials breach procurement rules.

VI. Commit to long-term capacity building, advocacy, and awareness.

WOBs fare better within procurement systems when WOBs receive training on how to access procurement opportunities, and procurement officials are trained on how to integrate WOBs into the procurement system. Governments, civil society, and educational institutions should partner together to implement long-term national awareness and advocacy on the importance of gender-responsive procurement to ensure that citizens and other stakeholders understand and support policy approaches to it.



1. Introduction to public procurement and women's economic empowerment

Public (government) procurement may be described as the framework of laws, institutions, and practices relied on by the public sector to buy the goods, services and construction needed to needed to function and maximise public welfare. The public procurement process is comprised of several stages, which include procurement planning, the tender selection process, and contract administration. Procurement planning involves procurement needs analysis, market research, budgeting, and drafting bid specifications and is often an area of the procurement process that receives the least amount of public attention. The tender selection process involves advertising procurement opportunities, certification and registration of proposed contractors, the receipt of responses, bid evaluation, contractor selection and contract award. Contract administration involves monitoring and contract close-out (International Trade Centre, 2014).

Public procurement consumes a significant amount of public resources, and monopsonic public authorities can have a significant influence on market conditions. In 2020, public procurement accounted for 14.9% of GDP in OECD countries (OECD, 2021) and up to 40% in sub-Saharan Africa, reaching 30% of total government expenditure in some countries (Chowdhury et al, 2018). In Kenya, public procurement accounted for 10-12% of GDP and 70% of government expenditures in 2020 (University of Nairobi, 2021: Open Contracting Partnership, 2020), whilst in Rwanda, it accounted for 13.5% of GDP in the same year (Joyeuse et al, 2020; World Bank and Government of Rwanda, 2020). Further, in some countries, some public agencies function as a monopsony (Van Weele 2010) and can thus have a significant impact on market conditions and equal opportunities (Sarter, 2020; Wright and Conley, 2020).

Considering the amounts involved and the market influence of the public sector, public procurement spending can be used to achieve other goals beyond the purchase of the required goods and services, which can include the pursuit of gender equality through redressing economic disparities between men and women, especially in the context of the Covid-19 pandemic (United Nations Population Fund, 2020).

The importance of gender equality and women's economic empowerment

Gender equality seeks to narrow inequitable gaps between men and women. It refers to the state in which access to rights and opportunities are unaffected by gender (OECD, 2019) and is crucial to eradicating poverty, improving women's rights, and spurring economic growth (International Centre for Research on Women, 2011). Inequities in access to economic resources and gender differences in economic empowerment are characteristics of gender inequality, making women's economic empowerment (WEE) a key element in achieving gender equality. Although discussions on gender equality and WEE have been in focus at least since the 1970s (Sarter, 2020; de Haan, 2017), the issue found universal support in the passage of the Millennium Development Goals, which was further reiterated by the Sustainable Development Goals (SDGs). The SDGs in Goal 5 seek to address *inter alia*, continuing inequalities in access to paid employment, wage and advancement gaps between men and women in the labour market, sexual violence and exploitation, the unequal division of unpaid care and domestic work, discrimination in public decision making, universal access to sexual and reproductive health, and women's equal rights to economic resources such as land and property – an important aspect of WEE.



Procuring
from gender-responsive enterprises is expected to have a systemic impact on gender equality and WEE.

~ UN Women and International Labour Organisation, 2021.

There are different ways of conceptualising WEE, and the International Centre for the Research on Women (ICRW) provides that “a woman is economically empowered when she has both the ability to succeed and advance economically and the power to make and act on economic decisions” (International Centre for Research on Women, 2011). Work by the Bill & Melinda Gates Foundation conceptualises WEE as “the transformative process that helps women and girls move from limited power, voice, and choice at home and in the economy to having the skills, resources, and opportunities needed to compete equitably in markets as well as the agency to control and benefit from economic gains.” (Bill & Melinda Gates Foundation, 2022). Women's economic empowerment must also include achievements, conceived as “well-being outcomes” (Kabeer, 2002). Gender-responsive procurement is an important means for enabling women's access to income, ensuring they benefit from economic gains, and improving their all-around economic well-being.



Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of **reducing poverty, promoting sustainable development and building good governance.**

~ Kofi Annan, former Secretary General, United Nations.

Gender-responsive procurement has a role to play

The case for economically empowering women through gender-responsive procurement stems from several factors. First, all women have a human right to realise their economic rights (UN General Assembly, art 3). Second, there is evidence suggesting

that economies thrive when women's capacities are fully utilised (Basheka, 2018) and there are significant economic growth benefits when micro, small and medium enterprises (MSMEs) and WOBs obtain public contracts (World Bank, 2012; McGann and Ali, 2021). There is also a positive relationship between gender equality and domestic economic competitiveness (Lopez-Claros et al., 2020), and the growth of WOBs may increase cross-border trade in Africa (African Union, 2022). For many women in African countries where formal employment opportunities are limited (Kabatwairwe, 2022), entrepreneurship offers the only path to economic empowerment and it is necessary for countries to do everything possible to support and stimulate this activity (Chin, 2017; World Bank, 2019). The inclusion and prioritization of women in public procurement is a way of including women into a sphere of economic activity that they are often locked out of (Open Contracting Partnership, 2021), ensuring they can participate meaningfully in the economy.

Third, because women are half of the human capital of the world, it is a matter of fairness that they are allowed to access the economic benefits available through public procurement systems. Fourth, gender-responsive procurement is an important channel towards sustainable development, as there can be no sustainable development without WEE and gender equality. WEE supports several of the SDGs including ending poverty, ending hunger, decent work, improved health, and education outcomes. Women tend to be community oriented and often reinvest their profits in their families and communities (OECD/DAC, 2010), benefiting the broader community, with an implication for poverty alleviation, meaning that WEE must be a linchpin of poverty eradication measures and programs. Women also often partner with other women, increasing the gendered impact of support to WOBs (Williams-Elegbe, 2021).

It must be noted that there has been an international focus on gender equality, WEE and public procurement at least since the 1995 Beijing Declaration, which recognised the inequities in women and men's access to economic structures and recommended that small businesses owned by women are not discriminated against



by government regulations (Beijing Declaration, 1985, arts. F.2. 176d & 166h). However, not enough has been done at the national level to implement these recommendations; almost 30 years later and neither the Beijing +20 nor the Beijing +25 statements advanced or restated the gender equality and public procurement discourse (Nyeck, 2017).

Other international and regional instruments have recognised the importance of public procurement to WEE and gender equality. In 2017, the second report of the UN High Level Panel on WEE indicated that public sector procurement practices are a main driver of WEE and recommended that governments promote women-owned enterprises' participation in procurement and encourage suppliers to do the same (UN Secretary-General, 2017). Similarly, the OECD Recommendation on Public Procurement urged governments to employ selection criteria that promote gender equality and social inclusion (OECD, 2015). In Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commits state parties to ensuring equal access to business and economic opportunities for women (African Union, 2003, art 13); and the African Union Strategy on Gender Equality and WEE requires states to "eliminate the major constraints hindering gender equality and women's empowerment" (African Union, 2019).

Despite the case for gender-responsive procurement, it has not been implemented to its full potential and many country mechanisms have not had much success in including WOBs in public procurement or otherwise integrating them in public sector supply chains. It is often stated that WOBs obtain only one percent of global procurement contracts (International Trade Centre, 2020), despite accounting for over 49.6% of the global population (World Bank, 2020). The percentage/value of public tenders awarded to WOBs does not reflect the population of women, and more importantly, does not reflect the percentage of businesses owned by women in any country in the world – this inequity ought to be a source of concern (International Trade Centre, 2020). To put this into context, in sub-Saharan Africa, the number of businesses with women ownership stands at 41.1% (World Bank Enterprise Surveys 2021). In East Africa, Kenya has the highest percentage of WOBs at 60.7%; Ethiopia follows with 52.7%, whilst Rwanda has 40.4% of businesses with women ownership. Uganda's rate is 36.8%, whilst Tanzania has the lowest rate of WOBs at 34.6% (World Bank Enterprise Surveys 2021).

Defining women-owned businesses

An important aspect of gender-responsive procurement is determining how to define "women-owned businesses" in a fair and inclusive way, as this determines which businesses qualify



Women-owned businesses obtain **only 1%** of global procurement contracts.

~ International Trade Centre, 2020 & World Bank, 2020.

for gender-based prioritization. Different definitions have been issued at the domestic and international level, defining women-owned businesses either through a test of ownership (for WOBs); a test of control and management (for women-led businesses (WLBs)); and a test that combines elements of both ownership and control/management. For instance, in Kenya and Tanzania, as is discussed further below, businesses are required to have 70% women ownership and be women led to qualify for procurement set-asides. Other countries, such as the US use a 51% ownership requirement for businesses to qualify as women owned. The International Trade Centre has identified problems with the at least 51%- ownership/management/control definition, including cultural or tax reasons for spouses splitting business ownership 50/50; family-owned businesses managed by women who may not have a controlling share; and a 51% ceiling limiting women from attracting funding from male angel venture capital investors (International Trade Centre, 2020). Despite these problems, many organisations and countries still rely on a 51% ownership requirement. Whilst a reasonable ownership requirement is important to reduce the risks of tokenism and fronting (International Trade Centre, 2014), countries must adopt definitions that are culturally and contextually relevant to ensure that deserving WOBs are not locked out by restrictive definitions.¹ Definitions of WOBs must be flexible enough to account for the diversity in WOBs; in African countries often manifesting as disparities between urban and rural women, educated and non-educated and financially served and underserved. For instance, Egypt uses a definition that allows for a lower threshold for women's ownership if a company is also women-led.²

Certification schemes are often used to ensure that WOBs meet the definitional thresholds, but such schemes can be problematic where verification is inadequate. For instance, in the US, a review of a self-certification scheme found that 40% of businesses should not have attested that they were WOBs (Orser & Riding & Week, 2019). However, the challenges with verifying business ownership can be ameliorated if countries move to integrating

1 See the International Standards Organization (ISO), International Workshop Agreement (IWA 34: 2021) on the definition of women's entrepreneurship. IWA 34:2021

2 Central Bank of Egypt. 2018. Circular dated 16 August 2018 regarding Women Owned Business Definition. <https://www.cbe.org.eg/en/Pages/HighlightsPages/Circular-dated-16-August-2018-regarding-Women-Owned-Business-Definition.aspx>

beneficial ownership registries with procurement databases. Beneficial ownership data provides information on the natural persons who own, benefit from, and control a company (Open Ownership, 2021), and could be used to verify the eligibility of WOBs depending on the definition used for gender-responsive procurement.



Countries must adopt definitions that are **culturally and contextually relevant**

to ensure that deserving WOBs are not locked out by restrictive definitions.

~ *International Standards Organization, 2021.*

An expanded definition of gender-responsive procurement

Recent research argues for a broader approach to gender-responsive procurement that is not limited to a focus on the award of public contracts to women, but also prioritises the award of public contracts to “gender-responsive enterprises” irrespective of the gender of firm ownership/management (UN Women and International Labour Organisation, 2021; World Bank, 2022). A gender-responsive enterprise is one that meets the criteria for integrating gender equality and women's empowerment principles in its policies and practices in alignment with international norms and standards (UN Women and International Labour Organisation, 2021). The case being made is that countries should be able to “leverage gender-responsive procurement for expanded benefits to all women in value chains as a means to address gender inequality.” The argument is that a sole reliance on purchasing from women-owned businesses may be problematic because paper ownership does not always equate to control of the business or its revenues; does not mean that workplace gender inequalities are addressed or women employees are economically empowered; and that gender-responsive procurement in its current form is a form of positive discrimination, which is at odds with the principles of merit and fair competition and may not always be legally possible (UN Women and International Labour Organisation, 2021). Procuring from gender-responsive enterprises is expected

to have a systemic impact on gender equality and WEE as these enterprises will be required to meet rigorous criteria for integrating gender equality and women's empowerment principles in policies and practices in the workplace and marketplace (UN Women and International Labour Organisation, 2021). Further, gender-responsive enterprises will have an impact on the structure of private sector supply chains and hopefully impact the gendered norms in corporate organisations that are detrimental to women. The World Bank also recently advocated for “embracing a holistic approach to procurement that allows understanding of the many different ways in which procurement affects women's lives.” (World Bank, 2022). It is thus clear that international actors are starting to adopt an expanded approach to gender-responsive procurement, transforming the norms established in the last decade.

Gender-responsive procurement in this report

This report focuses on gender-responsive procurement with regard to increasing the economic value of public contracts awarded to WOBs. This is done while remaining cognisant that gender-responsive procurement as a concept is more comprehensive than the award of public contracts to WOBs. However, the East African countries under review are, at present, limited to increasing the value of contracts awarded to WOBs and do not have regulations to implement a broader approach to gender-responsive procurement. It is believed that improving the current limited approaches will ultimately assist in a future move towards gender equality through broader gender-responsive procurement.

It must be noted that gender-responsive procurement cannot be addressed in isolation from the challenges facing women entrepreneurs, such as the barriers limiting their business profitability, and it is estimated that WOBs earn on average 34% less in profits than their male counterparts (World Bank, 2019). This is as a result of various factors including the lack of skills, the penchant for WOBs to operate in low-value sectors, and the lack of capital investment (World Bank, 2019; Williams-Elegbe, 2021). Other barriers to women's economic advancement discussed later in the report include time poverty, since women spend more time doing unpaid work and household tasks; disparities in access to tertiary education; and limited access to financial services (Idris, 2018; Zambelli et al, 2017; Fox, 2016). Cultural norms, like traditional reproductive roles and power relations at the household level and in the broader environment, can also impede women's capacity to act fully upon their potential. While cultural and religious values may restrict women from socialising, thus limiting their networks which could be useful for business activities (Mori, 2014).



Advancing gender equality

is smart economics, sound business practice, and essential development policy.

~ World Bank, *Profiting from Parity*, 2019.

The disproportionate impacts of Covid-19 on women

The COVID-19 pandemic exacerbated existing gender inequalities and women and WOBs were disproportionately affected by the pandemic (United Nations, 2020; AU, 2020). Many fear that the COVID-19 crisis may have increased the time needed to close the gender gap (WEF, 2021), erasing important gains made in gender equality in recent years (OECD/ILO, 2020). This means that countries must use gender-responsive strategies in recovery efforts (OECD, 2021; AU, 2020; World Bank, 2022) to accelerate WEE and gender equality. Procurement policies and practices need to consider WEE, because only then will countries integrate women into public supply chains, improve women's access to public contracts, diversify supply chains, and increase the participation of MSMEs in the procurement system, with the concomitant benefits of job creation, economic growth, and poverty reduction (Vyas-Doorgapersad and Kinoti, 2015).

The purpose and structure of this report

This report aims to provide contextual information on the current state of gender-responsive procurement in the Growth and Economic Opportunities for Women program (GrOW) in the East African countries of Ethiopia, Kenya, Rwanda, Tanzania, and Uganda. It provides an analysis of legal and policy frameworks for gender-responsive procurement, and an examination of the barriers to the participation of WOBs in public procurement in East Africa. It considers the importance of women's participation in procurement to women's economic empowerment, and highlights interventions that may boost this participation. It is hoped that this report help policy makers in East Africa and beyond, as well as civil society organisations that are working towards more responsive public procurement systems.

This report is structured as follows: first the report summarises the methods used for the report. The report then contains a review of country approaches to gender-responsive procurement in the five East African countries under review as well as in an additional three countries, to provide information on how other countries have integrated gender-responsive measures into their procurement systems, and ultimately, to draw recommendations from these examples. Next, the report considers the structural, legal, cultural, and economic barriers to WEE and participation in public procurement. The report ends with key recommendations for increasing WEE and WOBs participation in public procurement in East Africa.



2. Methods

This report presents a review of the existing research on gender-responsive public (government) procurement and WEE. It will provide information on how public procurement is being used to improve WEE, the barriers to women's participation in procurement systems, and key recommendations that may support increased participation of women in public procurement. The report adopts an intersectional approach, considering women's different social, geographical, and economic dimensions (urban/rural; educated/non-educated; financially served/underserved and digitally included/excluded), and the cultural factors and norms that affect WEE and participation in public procurement. The report examines available and relevant academic and non-academic literature, studies, evidence, policy, legislation (where appropriate) and practices, with an emphasis on the East African countries of Ethiopia, Kenya, Rwanda, Tanzania, and Uganda. It also includes information from interviews with a limited number of stakeholders from the relevant countries.

The report relies on a qualitative and a desk-based (secondary) approach. The qualitative information was obtained from semi-structured interviews and consultations with six experts from Kenya, Tanzania, Ethiopia, and Uganda. These interviews and consultations were designed to understand the often-unwritten practices relevant to women's participation in public procurement. In particular, the interviews focused on understanding the cultural, social, and institutional barriers that influence or bar women's participation in public procurement. Another source of data used in the report is secondary gender-disaggregated data on public procurement. Unfortunately, only one of the procurement systems in the East African countries collates gender-disaggregated data on procurement contracts; however, a number of academics and civil society organisations have conducted investigations which produced some data on women's participation in procurement in the East African countries. These data provided information about

women's participation in procurement in the relevant countries, highlighting the extent to which women-owned businesses are able to obtain public contracts.

The desk-based research comprised contextual analysis of the laws, regulations, literature, studies, policies, and programs on gender-responsive procurement and WEE. The secondary research provided information on the state of gender inclusion in procurement, programs, policies and practice in East Africa, the main barriers to women's participation in procurement, successful approaches, and interventions for gender-inclusion in procurement, and policy recommendations to make public procurement an effective instrument to enhance WEE especially in relation to Covid-19 recovery.



3. Gender-responsive procurement: country approaches, practices, and impact

Public procurement has been used as a tool to achieve differing government policies at least since the nineteenth century (McCrudden, 2007). There is an extensive body of literature that details the methods, pitfalls and benefits of incorporating what are referred to as “secondary” or “horizontal” goals into a public procurement framework (Martin-Ortega and Methven O’Brien, 2019; Arrowsmith & Kunzlik, 2009; McCrudden, 2007), and it is universally accepted that because public procurement represents a significant proportion of GDP (OECD, 2021), public finances ought to be used through the procurement framework to achieve strategic public policy goals beyond the purchase of required goods and services. Historically, the kinds of secondary goals linked to the public procurement framework were motivated by global trends, the international organisations pursuing the issue and domestic political considerations (Williams-Elegbe, 2022). We have thus seen procurement contracts being tied to issues such as human rights, anti-discrimination, poverty alleviation, the promotion of small businesses, economic development, gender equality, and climate action.

This section provides a review of the approaches to gender-responsive procurement policies, practices, and programs in East Africa. Additionally, other non-African countries have been reviewed for their geographical significance and their approaches to gender equality in procurement, in order to provide information on how other countries have integrated gender-responsive measures into their procurement systems and, ultimately, to draw recommendations from these examples.



3.1. Gender-responsive procurement approaches in East Africa

3.1.1. Kenya

Kenya was one of the first African countries to make a concerted push towards gender equality in public procurement. Drawing on the language of the South African Constitution, the 2010 Kenyan Constitution requires that public procurement law provides for categories of preference in the allocation of contracts and the protection or advancement of persons, categories of persons, or groups previously disadvantaged by unfair competition or discrimination (Constitution of Kenya, art 227). Further, the Kenyan Public Procurement and Asset Disposal Law of 2015 (PPADA), in implementing the provisions of the Constitution, provides that “every procuring entity shall ensure that at least thirty percent of its procurement value in every financial year is allocated to the youth, women and persons with disability,” (PPADA 2015, section 157 (10)). It also requires that the amounts paid out under such contracts are paid into accounts where the target person is a mandatory signatory to the account.

In 2013, the government of Kenya launched the Access to Government Procurement Opportunities Program (AGPO). The aim of the program is to ensure that the target groups (women, youth, and persons with disabilities) can participate in government procurement opportunities. To participate in procurement opportunities, an enterprise must be incorporated and registered with the AGPO program.

The benefits of registering with AGPO include the ability to participate in the 30% set-asides; qualification for Local Purchase/Service Orders financing from the Kenyan Youth/Women Enterprise Development Fund; exclusion from bid bonds; and invoice discounting with financial institutions (African Freedom of Information Centre, 2019). AGPO streamlined and simplified the documentation usually required for company incorporation and bidding, and aggregates contract opportunities on its website.

Kenya uses a higher threshold for defining a woman-owned business than suggested by the International Standards Organization; for the purpose of the procurement set-asides, it defines a woman as “a person of the female gender, who has attained the age of 18 and includes a company, association or body of persons, corporate or unincorporated in which at least 70% of the shareholders, members or persons and a majority of its directors are of the female gender.” Thus, the test for qualification is 70% ownership by women and being led/controlled by a “majority” of women. This is a higher threshold than is used in many other countries, such as in Tanzania and the US, as discussed below.



Kenya uses a higher threshold

(70% ownership by women)

for defining a woman-owned business than is used in many other countries, such as in Tanzania and the US.



Impact of the Kenyan scheme

The AGPO scheme has been a mixed success. Some research suggests that it has not had the impact hoped for, as many government departments simply do not implement the thirty per cent set-aside rule (Hivos, 2019). A sample of tenders examined by Hivos worth KSh 5 million (US\$ 43,000) and above, issued between 2013–2016, shows that only 7.71% of tenders were awarded under AGPO in that period (four per cent of contracts by value) compared to the thirty per cent legislated mandate (Hivos, 2019). However, it is possible and likely that a greater number of lower-value tenders were awarded to AGPO-registered businesses, although there are no recent data on this. Research by Hivos indicates that 41.1% of the businesses registered with AGPO are WOBs, and of these, fifty-two per cent were able to obtain a government contract in the period under review (Hivos, 2019). However, contract awards to the target groups are on the increase and recent data indicate that the total value of public procurement reserved for youth, women, and persons with disabilities is expected to increase by twenty-five per cent from KSh 65.3 billion in 2020/21 to KSh 81.6 billion in 2021/22 (Kenya National Bureau of Statistics, 2022). Similarly, the number of tenders awarded to women is expected to increase by 20.9% and the value of awards to women is expected to increase by 27.5% to KSh 24.4 billion in the same period. The number of tenders awarded to women is further expected to account for over half of all AGPO tenders in 2021/22 (Kenya National Bureau of Statistics, 2022). AGPO has contributed to a significant increase in the number of enterprises owned by youth, women, and people with

disabilities, with thirty-six per cent of a random sample of AGPO registered firms reported to have won a tender, which resulted in an increase in annual revenue for seventy-one per cent of the firms. The income from these initiatives accounted for thirty-five per cent of sales and thirty-eight per cent of overall profit (Hivos, 2019).

There are still some challenges and Hivos reports that the WOBs that obtain public contracts under AGPO are led by urban, well-educated, and privileged women, with the implication of excluding truly disadvantaged (and often rural) women from procurement opportunities (Nganga, 2017; Hivos, 2019). There are also structural gaps between the kinds of firms registered with AGPO and the contract opportunities that are advertised. Hivos noted that most tenders awarded under AGPO were for construction-related businesses, while most AGPO registered firms are in the services and retail sectors. Thus 6% of AGPO firms can undertake construction contracts, but 35% of tender opportunities were for construction business (Hivos, 2019).

One way of addressing this gap is to address the barriers to women's entrepreneurship in specific sectors. In the US, as is discussed below, the gender-responsive procurement framework permits contracting entities to limit the call for bids to WOBs in sectors where women are under-represented, where there is a reasonable expectation that two or more WOBs will submit a bid and the contract can be awarded at a fair market price. In Kenya, the research has shown that WOBs also do not bid for high-value contracts because of the sums needed to fulfill those contracts and the delays in payment which they are unable to absorb (Obiri, 2016).



WOBs that obtain public contracts under AGPO are **led by urban, well-educated, and privileged women**, with the implication of **excluding truly disadvantaged (and often rural) women** from procurement opportunities.

~ Nganga, 2017 & Hivos, 2019.

3.1.2. Tanzania

Tanzania has included provisions for gender preferences in the 2016 amendments to its Procurement Act. Like Kenya, government departments are required to set aside thirty per cent of their annual procurement contracts for "special groups", which is defined to include women, youth, the elderly, and persons with disabilities (Public Procurement Act 2011, section 64(2)(c) as amended). A special group is eligible for the set-asides if it is recognised and registered by an entity that supports such groups and is registered with the Procurement Authority. The procurement regulations define a member of the special group as one that "has at least 70% membership of the members forming such special group and headed one hundred per cent by the relevant special group" (Public Procurement (Amendment) Regulations, reg 30A, 2016). This mirrors the Kenyan procurement regulations, which also have an ownership requirement above fifty per cent. This means that to qualify for the set-asides in Tanzania, a WOB must be owned by seventy per cent women and must be one hundred per cent women-led. , These requirements are difficult to meet, and represent an even higher ownership threshold than is mandated by Kenyan or US regulations, or by the International Standards Organisation's IWA 34: 2021.

Under Tanzania's Guidelines for Participation of Special Groups in Public Procurement, procuring entities are required to set-aside ten per cent of annual procurement spend for people with disabilities; ten per cent for youth, five per cent for women, and five per cent for elders. Thus, reserving five per cent of the contract spend for women, as is the case in the US and the Dominican Republic,

discussed below. In the Guidelines, a woman is defined as any "female citizen of Tanzania, ages 18 and above" (Republic of Tanzania, 2020).

The Guidelines provide direction on the process for registering WOB, which must include business development training. Interestingly, the Guidelines permit procuring entities to unbundle larger contracts subject to approval. This is done to enable Small and Medium Enterprises (SMEs) to bid for contracts of a more manageable size, as contract bundling has been shown to be a barrier for SMEs in public procurement (Oluka et al, 2020). Tender securities are also not required from members of the special groups, and contract payments to businesses owned by special groups shall be made in a timely manner to ensure firm sustainability. Additionally, government departments may grant advance payments to facilitate contract execution. Procuring entities must report on whether or not they meet the requirements of the scheme, and the Public Procurement Regulatory Authority is required to maintain and update a database of registered special groups (Republic of Tanzania, 2020).



Only 5%
of annual procurement spend in Tanzania
is reserved for women.

~ Republic of Tanzania, 2020.



Impact of the Tanzanian scheme

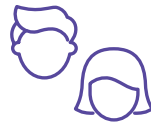
The set-aside scheme in Tanzania is relatively recent as the Guidelines took effect in May 2020; it therefore may be too early to judge its impact. Nevertheless, Tanzania has tried to avoid some of the challenges faced by gender-responsive schemes in other countries, addressing the barriers to SMEs accessing public procurement, including the size of bundled contracts, and the issue of bid securities and long payment schedules. It has also integrated business development training into the process of certification for WOBs; which is crucial, since contractor development has been highlighted as an important aspect of ensuring contractors can meet public sector needs (Changalima, Ismail, & Mchopa, 2021).

3.1.3. Uganda

Uganda's procurement framework was amended in July 2021 to provide for reservations to "promote the participation of registered associations of women, youth and persons with disabilities", (Public Procurement and Disposal Act, 2003, section 59B). This approach mirrors the approach to gender-responsive procurement in Kenya and Tanzania, where WOBs are prioritised alongside other target groups. The procurement framework also permits the use of preferences and reservations for local content and for sustainable procurement, described in the Act as "environmental protection, social inclusion and stimulating innovation" (Public Procurement and Disposal Act, 2003, section 61B). This means that it is also possible for WOBs to participate in Ugandan procurement under the gender reservations, and under the provisions on local content and social inclusion.

Impact of the Ugandan scheme

It must be noted that the regulations implementing the legal framework on gender-responsive procurement have not yet been adopted and there is not yet any institutional architecture to implement the set-asides. Prior to the 2021 amendments, research on women's participation in procurement indicated that only 22% of WOB in Uganda regularly participated in procurement processes and of those, just 30% obtained a public contract on more than one occasion (Basheka, 2018). This means that prior to the legal amendments, an extremely limited number of WOBs in Uganda obtained public contracts. Only, 22% of WOBs regularly participate in public procurement training, suggesting there is likely a correlation between capacity to tender and tendering success. This was the position before the adoption of formal legislation on gender-responsive procurement, and it is not yet clear what impact the new legislation will have as there are currently no statistics and the underlying regulations and infrastructure is yet to be developed.



Only 22%
of WOBs regularly participate in public procurement training, suggesting there is likely a correlation between capacity to tender and tendering success.

~ Basheka, 2018.

3.1.4. Rwanda

Rwanda is a bit of paradox when it comes to gender-responsive procurement. It is regarded as one of the most gender-equal countries in the world, ranking seventh on a list of 156 countries in the World Economic Forum's Global Gender Gap Report (WEF, 2021). Whilst the procurement regulator requires that 30% of its directors are women, (Republic of Rwanda, 2010), the Rwandan procurement law does not contain information on gender-responsive procurement, although it provides for exceptions for new and small businesses and price preferences for domestic contractors. Thus, under the procurement regulations, experience requirements are dispensed for new and small businesses in contracts under certain financial thresholds; (Ministerial Order, art 29, 2002); prioritization is to be given to goods produced in Rwanda and bidders registered in Rwanda under certain thresholds (Ministerial Order, art 41, 2020); there are also price preferences of 10% for construction and non-consultancy services and 15% price preference for goods and consultancy services given to local bidders (Ministerial Order, art 42, 2020). Whilst WOBs benefit from these, they do not amount to a prioritization of WOBs, which must compete with other local bidders for the preferences.

Research on the inclusion of WOBs in procurement indicated that WOBs obtained 13% of procurement contracts, representing only 5% of the value of public contracts between 2016 and 2019 (UN Women & New Faces, New Voices, 2019). Rwanda's most recent gender policy issued by the Ministry of Gender and Family Promotion has highlighted the gender gap in public procurement and the absence of any mechanism to ensure gender equality in public procurement and noted its effect on WEE (Ministry of Gender and Family Promotion, 2021). According to the gender policy, the procurement disparity ratio in Rwanda is very high, given that women own over 40% of businesses, but only receive 5% of procurement spending (Ministry of Gender and Family Promotion, 2021).

The Rwandan government's gender policy recommends the introduction of incentives in the form of affirmative action in the procurement framework to ensure that women actively participate in public procurement and are empowered to bid for high-value contracts. It also recommends designing capacity building interventions for women entrepreneurs to enhance their proficiency in areas such as navigating the procurement process, use of e-procurement and other ICT, and understanding tax laws and processes. The gender policy further recommends the creation of e-procurement, which is equally friendly toward men and women, to overcome different barriers, including the language barrier (Ministry of Gender and Family Promotion, 2021).



Women in Rwanda own
over 40%
of businesses,
but **only receive 5%**
of procurement spending.

~ Ministry of Gender and Family Promotion, 2021.

Impact of the Rwandan scheme

As stated above, there are no legal mandates for gender inclusion in procurement in Rwanda and there is at present a very low level of public contract awards to WOBs. As we await information on

whether the recommendations in the Gender Equality report are implemented, it is important for policy makers and civil society to take advantage of the policy window to advocate for responsive and equal public procurement in Rwanda.

3.1.5. Ethiopia

Ethiopia does not have a legal framework for gender-responsive procurement. However, under Ethiopian law, a margin of preference of 3% is granted to SMEs when they bid for public contracts. This preference will benefit WOBs since many of them operate as SMEs (Hagos, 2012). Under the Ethiopian procurement law, SMEs are exempted from furnishing a bid security, a performance security or an advanced payment guarantee for public contracts and instead, a letter of guarantee written by a competent body organizing and overseeing SMEs shall be accepted (Ethiopia Federal Public Procurement Directive, 2010: section 16.20.5). SMEs are also entitled to obtain bidding documents free of charge. In Ethiopia, interviews with procurement officials revealed that when SMEs owned by different groups compete, there is a system for ranking them in order of priority. Public agencies consider first bids submitted by businesses owned by male unemployed youth, followed by bids submitted by businesses with women owners or participation, and finally, bids submitted by businesses owned by persons with disabilities (Interview with Ethiopian procurement expert, 2022). This ranking is a political decision intended to address (and placate) the high level of youth unemployment in Ethiopia.

It may be noted that there are differences between procurement at the federal and the state levels in Ethiopia, and interviews with stakeholders suggested that the states are much more involved in



advancing SMEs, relying on the use of set-asides, and monetary thresholds where contracts are exclusively reserved to SMEs. For instance, in some Ethiopian states, only SMEs are permitted to bid in contracts below ETB 500,000 (US 9,830). Interviews with stakeholders revealed that these set- asides apply to industries with a high proportion of SMEs, such as construction, textile, laundry, car wash, bus station construction and management, purchasing scrap metal, and the construction of low-cost apartments. This means that where WOBs specialise in these sectors, they can of course bid for such contracts, but they will be competing with men-owned businesses, which do not face the same constraints. Apart from participating as SMEs, there are no preferences or incentives for WOBs as a special category (Singh and Belwal, 2008). However, there are localised actions in some states designed to support WOBs, and interviewees reported that from 2007, some state governments required universities to purchase the local bread, known as *injera*, exclusively from women-owned SMEs. This measure was intended to ensure that women, who are the primary producers of injera, could at least benefit from university procurement spend in this area.

According to interviewees, and the literature in Ethiopia, there has not been much intervention to assist WOBs to grow beyond SME stage (Singh and Belwal, 2008). There are also intrinsic challenges in Ethiopia, highlighted by interviewees in the form of the requirements in the newly formed Public Procurement and Asset Disposal Service, which is mandated to aggregate demand across federal procuring entities and purchase items in bulk through framework contracts. This means that public procurement by entities like universities has been outsourced to this aggregation service, which locks SMEs out of procurements for common use

items. These framework contracts can last up to three years and have been shown to hinder SMEs' ability to obtain public contracts (Interview with Ethiopian procurement expert, 2022).



Apart from participating as SMEs, there are **no preferences or incentives** for WOBs as a special category.

~ Singh and Belwal, 2008.

Impact of the Ethiopian scheme

Ethiopia has no legal requirements for the participation of WOBs in public procurement, and the inclusion of gender requirements is executed on an ad-hoc basis by states or by contracting authorities. Since these measures are not tracked or uniformly applied, it is difficult to understand their impact. Some procurement measures have also had unintended consequences for SMEs, which often include WOBs. Thus, according to interviewees, the effect of recent demand aggregation measures has been devastating for SME participation in procurement in Ethiopia. Interviewees noted that male domination in business and especially in high-value sectors like engineering and construction affects the participation of WOBs in those sectors to an inordinate degree.



3.2. Gender-responsive procurement approaches in other countries

3.2.1. The United States of America

The US's approach to gender-responsive procurement is important as the US is widely believed to be the first country to pass formal regulations requiring set-asides for WOBs. Formal steps to promote WOBs in public procurement can be traced to the creation of the Women-Owned Small Business Federal Contracting Program in 2000, under the auspices of the Small Business Administration (SBA). The US government limits competition for certain contracts to businesses that participate in the Women-Owned Small Business (WOSB) Federal Contracting program (Dept of Small Business Administration, 2022). Joining the WOSB program makes a business eligible to compete for federal contracts set aside for the program. These contracts are for specific industries where WOSBs are underrepresented. Some contracts are restricted further to economically disadvantaged women-owned small businesses (EDWOSBs) (Dept of Small Business Administration, 2022). The SBA works with US federal agencies to increase contracting opportunities and achieve the US government's five percent contracting goal for WOSBs (Equity in Contracting for Women Act, 2000; Dept of Small Business Administration, 2022).

The approach to gender-responsive procurement in the US has different prongs. First, there is a requirement that five percent of prime contracting spend be set aside for WOSB. Secondly, contracting officers can limit competition for contracts in industries where women are substantially underrepresented to only WOSB, where there is a reasonable expectation that two or more WOSB will submit a bid and the contract can be awarded at a fair market price. Third, the US government through the SBA, provides training and certification for businesses to qualify as WOSB as well as business training and support. The US defines a WOSB as a small business according to SBA size standards (which provides size classification by industry); is at least 51% owned and controlled by women who are US citizens; has women managing day-to-day operations who also make long-term decisions (Dept of Small Business Administration, 2022). The US's ownership requirement threshold for WOBs is thus lower than those in East African countries, which presumably makes it easier for WOBs to qualify for the set-asides.

The impact of the US WOSB program

The SBA collects data on whether it is meeting its WOSB program goals. For 2020, the US government fell slightly short of its target to award 5% of federal contracts to WOSBs, awarding them 4.85% (with total contract values of \$27.1 bn), which meant dropping from its 2019 achievement of 5.19% of contract awards to WOSB (SBA, 2020). Whilst the Covid-19 pandemic had an impact on procurement outcomes and may have had an adverse impact on WOSB contracting, the SBA scorecards do not generally show an increase in the number of contract awards to WOSBs over the last few years.

3.2.2. The Dominican Republic

The Dominican Republic serves as a notable model of gender-responsive procurement. In 2012, a woman was hired as the Director of Public Procurement of Contrataciones Públicas, the country's procurement regulator. She decided to address the inequity in contract awards and commenced a multi-pronged approach to increase the number of women bidding for and obtaining government contracts. The first step was to collate procurement data, including gender disaggregated data on women's participation in public procurement, which hitherto did not exist. A dedicated supplier database for WOBs was also created, helping to target WOBs with specific measures. (In the Dominican Republic, a WOB is a business owned by women or with a majority of women participating in the business) (Digital Buying Guide, 2020).

Contrataciones Públicas also identified the process, procedural, and cultural barriers that prevented women's participation in public procurement, addressing these through an anonymous draw method to select previously qualified suppliers, which meant more women were drawn and awarded public contracts (Digital Buying Guide, 2020). Another component of the program was that public officials visited women-owned businesses in various regions to understand their needs and there was the provision of training to assist in bidding through the procurement portal. Like the US and Tanzania, the Dominican Republic passed legislation requiring 20% of public spending to be contracted to micro, small and medium enterprises (MSMEs) and further mandated that 5% of contracts to MSMEs be awarded to women-owned businesses (Decree No. 543-12). A procurement portal was also created to aggregate contract opportunities and ease the process of bidding for public contracts. In Kenya, contract opportunities are also aggregated on the AGPO website, although these opportunities are not exclusive to WOBs, as previously mentioned.

The impact of the Dominican Republic scheme

The approach to gender-responsive procurement by the Dominican Republic has been lauded as one of the most impactful in the region and is currently being emulated by other countries in Latin America and the Caribbean (Digital Buying Guide, 2020). The contract quotas for WOBs were quickly surpassed; when the initiative started, there were 2,000 WOBs registered as government suppliers, a number that grew to 15,000 by 2019. WOBs were represented in all sectors, including traditionally male-dominated sectors like mining, engineering, and tech. By 2020, 29% of government contracts went to WOBs, up from 10% in 2012 (Colman, 2020), which amounted to 17% of total contract values (Open Contracting Partnership, 2020).

The approach taken by the Dominican Republic highlights that a successful gender-responsive system in public procurement depends on addressing multiple issues in parallel. The country addressed the legal mandates, data issues, certification requirements, bias against WOBs, and the need for training and capacity building. The comprehensive approach of the Dominican Republic thus provides a model for other countries implementing gender-responsive procurement, especially in relation to the elimination of barriers to the award of contracts to WOBs.



By 2020,

29% of government contracts

in the Dominican Republic went to WOBs, **up from 10%** in 2012.

~ Colman, 2020.

3.2.3. Sweden

Sweden has adopted a broad approach to gender-responsive procurement; rather than targeting contract awards, it focuses instead on gender mainstreaming as the means of achieving gender equality (European Institute for Gender Equality, 2022). In 2018, the Swedish Association of Local Authorities and Regions (SALAR) published a guide on gender procurement, which contains directives on including gender requirements in public procurement. SALAR takes an expanded approach to gender-

responsive procurement and aims to ensure that all citizens are offered equal legal services regardless of gender, while also aiming to increase the overall efficiency and quality of services. The guide promotes gender equality in public procurement but also considers the potential effects procured goods and services will have on women (Interministerial Working Group for Gender Mainstreaming/Budgeting, 2022). Gender equality is highlighted in Sweden's National Procurement Strategy, which calls for the collection of gender-disaggregated statistics as well as using employment requirements to counteract a gender-segregated labour market. The guide on gender procurement focuses on procurement planning, mapping, market and needs analysis, and also requires government agencies to consider their employee skills for a gender equality analysis. It contains an extensive checklist that can help steer gender mainstreaming in public procurement.

Impact of the Swedish approach

The Swedish approach does not focus solely on the award of contracts to WOBs, but looks more broadly on gender equality in public procurement. The effort to mainstream gender equality in public policy and public finances appears to be yielding positive results as Sweden has been ranked as the most gender-equal country in the European Union since 2013, and in 2021 scoring 83.9 out of 100 (European Institute for Gender Equality, 2022). There are currently no gender-disaggregated procurement statistics on the value of contract awards to WOBs in Sweden; however the national procurement strategy calls for these, and it is hoped that such data will be available in the future.



The **Swedish approach** does not focus solely on the award of contracts to WOBs but

looks more broadly on gender equality in public procurement.

~ European Institute for Gender Equality, 2022.

4. Challenges and barriers to gender-responsive procurement

The challenges and barriers to gender-responsive procurement occur at various levels. There are structural challenges intrinsic to procurement systems, which act as a barrier to using procurement to achieve gender equality. There are legal and policy barriers in the form of inadequate legal frameworks, as well as gender-policy incoherence. In the African context, prevailing cultural and social norms serve as obstacles to WEE and women's participation in public procurement. WOBs face financial challenges, which may affect SMEs generally, but disproportionately impact WOBs because women are concentrated in SMEs (ITC, 2020b). This section highlights a variety of impediments to WOBs in the procurement context, obtained from both an analysis of existing research and from interviews conducted with stakeholders.

4.1. Structural and systemic barriers

4.1.1. Absence of gender-responsive procurement planning

Although public procurement includes a planning phase, this phase does not always obtain adequate legislative, policy, or public attention. As discussed earlier, procurement planning involves a needs analysis, market research, budgeting, and

drafting bid specifications. Research shows that East African countries' procurement planning does not contain a gender dimension, which is unfortunate given that procurement planning can be utilized to increase gender-responsive procurement even in the absence of legal and policy mandates. Gender considerations can be included in planning phases, as was seen in Sweden, where gender considerations are mainstreamed throughout the procurement system.



4.1.2. Lack of information and gender disaggregated data

Public procurement is fraught with information asymmetry, and this is worse for WOBs, especially those that are situated in rural areas. In general, WOBs have complained about their lack of awareness about procurement opportunities and the services available to assist them in accessing those opportunities, especially where these are published on the internet or in print publications that are limited to urban areas (Williams-Elegbe, 2021; Basheka and Auriacombe, 2020; ITC 2020).

The other side of this information asymmetry is a dearth of meaningful insight and data on gender inclusion in public procurement. While there has been an increase in the publication of procurement data (World Bank 2022) based on global data standards advocated for by the Open Contracting Partnership, this data is not often disaggregated by gender, and remains “scarce, incomplete and limited” (World Bank, 2022). The scarcity of data has the effect of preventing governments and other stakeholders from understanding the true position of gender-responsive procurement, understanding gender nuances in the procurement market, and targeting interventions based on actual data rather than perceptions and assumptions (World Bank, 2022).

The absence of disaggregated data also makes it difficult to assess the impact of gender-responsive schemes. While much of the available data on gender-responsive procurement frames success in terms of the number or overall value of contracts awarded to women-owned businesses, more long term and broader metrics need to be applied to assess whether gender-responsive procurement is having a discernible impact on women's economic advancement, on women's power and agency and on the sustainability and growth of women-owned businesses.

4.1.3. Uneven distribution of WOB location, sectors, and procurement opportunities

Evidence suggests that most beneficiaries of gender-inclusive procurement are situated in urban areas, despite initiatives being national in scope. For example, an analysis of Access to Government Procurement Opportunities (AGPO) by Hivos in 2019 shows that 67% of the beneficiaries were registered in the capital of Kenya – Nairobi County. A similar situation persists in Uganda, where 70% of registered WOBs are located in urban areas (Kabatwairwe, 2022). Much more needs to be done to include women from diverse and disadvantaged backgrounds so that procurement contracts do not simply reinforce and perpetuate existing patterns of privilege.

There are also structural issues in the kinds of business sectors women often participate in, and the sectors in which procurement opportunities exist. In Kenya, for instance, there is a mismatch between services offered by the firms registered with the AGPO and the kinds of tender opportunities available where WOBs predominantly operate. WOBs tend to be in the retail and service sectors, and tender opportunities are concentrated in the construction sector, as many public services include a construction component (Williams-Elegbe, 2021; Swedish Competition Authority, 2022). This disparity may further limit women's access to public contracts, and requires measures to improve women's entrepreneurship in all sectors.



In Kenya, **67%** of AGPO beneficiaries were registered in the capital – Nairobi County.

A similar situation persists in **Uganda**, where **70%** of registered WOBs are located in urban areas.

~ Kabatwairwe, 2022.

4.1.4. Technology and complexity

The procurement system is notoriously difficult to navigate. Bidding for public contracts is time and resource intensive, has high transaction costs, and can be extremely burdensome, even for large companies (Chin, 2017; Basheka, 2018). Recent research indicates that this complexity is exacerbated by the use of highly technical language and by the publication of tender opportunities in English. These factors have a dissuasive effect on WOBs seeking to access procurement markets (Williams-Elegbe, 2021). In Africa, the complexity of the procurement system is aggravated for rural women, who may have limited formal education, limited financial inclusion, and limited access to the internet, which is used to advertise contract opportunities, for contractor registration and in some countries, used for certification as a member of a group entitled to preferential procurement.

Many African countries have moved towards relying on electronic public procurement systems. For instance, Kenya utilises an

online system where contract opportunities are advertised, and suppliers are required to register to participate in the procurement process.³ The AGPO system is also implemented through this portal. Tanzania has a similar system, the Tanzanian National E-procurement system, which lists public contract opportunities, requires bidder registration, and warehouses bidder training courses and manuals. The Ugandan electronic procurement portal does these while also containing public sector procurement plans.

Whilst electronic procurement has significant benefits (OECD, 2016), it can also negatively affect groups with limited access to the internet, preventing them from participating in public procurement and digital services more generally. As of 2021, it was estimated that internet penetration in Africa stands at 39.3%, although there is a great disparity between individual countries. Kenya has a penetration of 85.2%, while Tanzania stands at 36.7%, Uganda at 39.3%, Rwanda at 45.1%, and Ethiopia at 17.7% (Internet World Statistics, 2021). Research also indicates that the low level of penetration in African countries relates to underserved rural areas (Hoffman and de Wet, 2011). This means that rural women may especially struggle to access the procurement system if they do not have access to the internet.

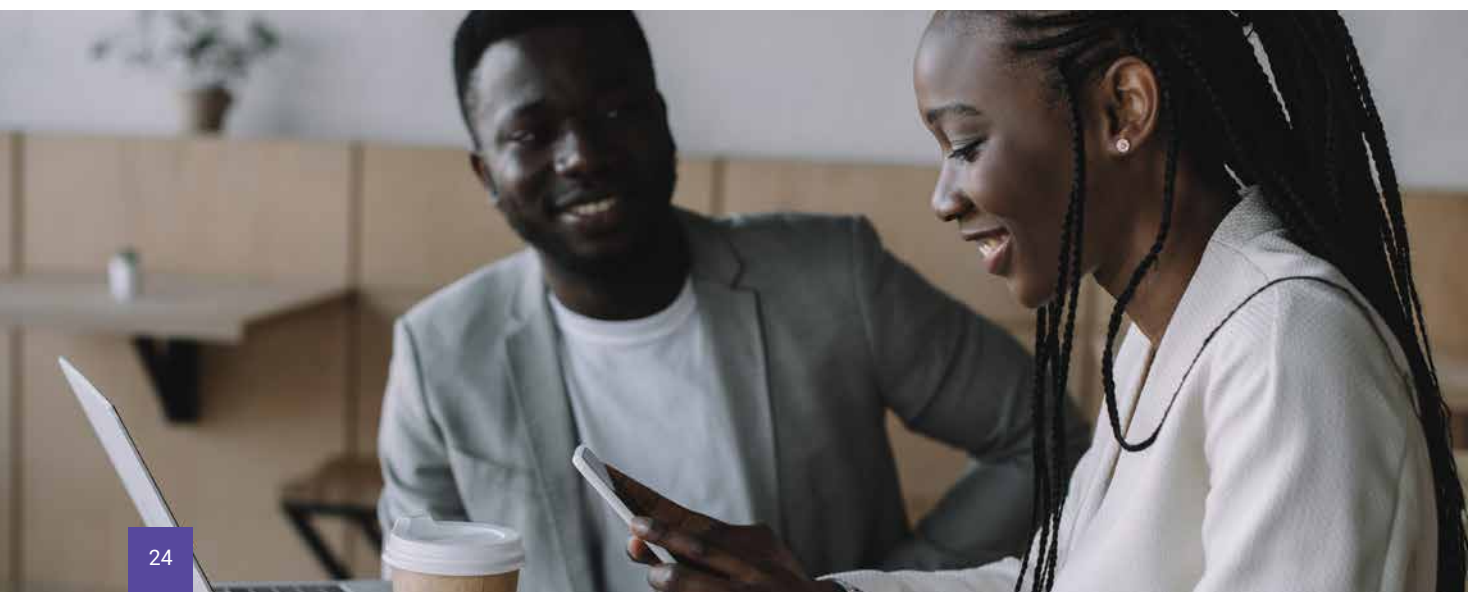
Participation in the procurement system is further accompanied by complicated financial criteria like the provision of audited financial accounts, and the requirement of being a registered business, which can be both a complex and expensive process (ITC, 2014). Research from Kenya highlighted that WOBs struggle to complete tender documents due to their complexity and are often challenged by the short timelines and unfavourable conditions like requirements for prior experience. Even in developed countries like the UK, the most commonly reported challenges faced by bidders in public procurement were prescriptive qualification criteria, poorly written tender specifications, and prohibitive resource requirements (Loader,

2015). And since WOBs are often SMEs, "they retain fewer internal resources and capabilities with which to offset high administrative entrance costs and to engage in the act of supplying to government" (Orser et al, 2019). In Ethiopia, interviews revealed that female educational attainment is still relatively low, which stems from a long history of being denied education on the basis of gender. Such factors may automatically proscribe women's participation, and their ability to navigate a complex procurement system.

4.1.5. Demand aggregation

Many procurement systems are moving towards demand aggregation or contract "bundling" to increase economies of scale and efficiency. This aggregation may assist in getting better terms from the market but reduces the size and frequency of procurement opportunities (Thomassen et al, 2014). In these countries, public agencies are encouraged to aggregate public sector requirements (demand aggregation) by combining what might otherwise have been separate tender opportunities (contract bundling). Ethiopia, Tanzania and Uganda have demand aggregation requirements for public contracts, and the unintended consequence of this aggregation is an adverse impact on SMEs and WOBs, who are locked out of procurement opportunities as they may not have the capacity to bid for (larger) aggregated contracts. As such, governments must consider the effect that such policies may have on smaller contractors and take steps to mitigate these effects. In Tanzania, the set-asides for WOBs permit procuring entities to unbundle larger contracts subject to approval, to mitigate the impact of demand aggregation on SMEs.

3 See the Government of Kenya, Public Procurement Information System <https://tenders.go.ke/>



4.2. Legal and policy barriers

4.2.1. Absence of a legal framework

Rwanda and Ethiopia do not legally provide for the prioritisation of WOBs in procurement. Studies have shown that the absence of a legal mandate to prioritise WOBs has a chilling effect on procurement systems that are heavily regulated as a means of minimizing the discretion of procurement officials and preventing corruption (Williams-Elegbe, 2021). In public procurement, this limited discretion may allow public officials to determine which outcomes or goals to pursue within the procurement process, which may or may not favour gender equality (Sarter, 2020; Nyeck, 2015).

Other evidence suggests that contracting authorities will often ignore optional social criteria (such as favouring minorities) in procurement and restrict their practices to legally mandated social criteria (Sarter, 2020). Although legal (and other) measures in Kenya and the Dominican Republic had a positive impact on gender-responsive procurement, similar legal mandates in the US have been less effective. However, without the legal mandates to do so, contracting authorities will not be required to prioritise WOBs at all and will defer to the status quo, which currently favours male-owned businesses (Williams-Elegbe, 2021). The existence of an adequate legal and policy framework is thus a crucial aspect of gender integration in public procurement and legislation has been highlighted as a factor that influences the adoption of social and sustainable public procurement practices (Brammer and Walker 2011).



Public officials determine which outcomes or goals to pursue within the procurement process, which may or may not favour gender equality.

~ Sarter, 2020; Nyeck, 2015.

4.2.2. Opacity and lack of integration of gender policies and approaches

In many countries there is a lack of integration between gender equality policies, economic development, and public procurement policies. These countries also fail to view gender-responsive procurement through the lens of gender equality, meaning there is little gender mainstreaming in the procurement context beyond set-asides for WOBs. Gender-responsive procurement often occurs without much regard for the broader environment of gender discrimination and gender inequality, meaning that the structural and cultural issues impelling gender inequality continue to limit the efficacy of gender-responsive procurement measures.



In general, gender policies are often opaque and ambiguous, and without actionable and measurable steps, thus limiting their efficacy.

~ Mergaert, 2012; Callerstig, 2014.

Earlier research on South Africa indicated that contracting authorities struggle to prioritise WOBs because of what they consider to be conflicting mandates to prioritise all local businesses, and not just WOBs (Williams-Elegbe, 2021). In Rwanda, as discussed above, the government's gender policy highlighted the disconnect between WEE and the procurement system. In Tanzania, the National Strategy for Gender Development underscores the imperative for economically empowering women, without linking this to the procurement system or to any actionable measures (Ministry of Community Development, Gender and Children, 2005). Research has highlighted that, in general, gender policies are often opaque and ambiguous, and without actionable and measurable steps, thus limiting their efficacy (Mergaert, 2012; Callerstig, 2014).

As a result of such factors, interventions addressing gender-responsive procurement are often not integrated with policy frameworks on local economic development and gender equality (Williams-Elegbe, 2021). Where there has been success in increasing the participation of WOBs in procurement, it has been a result of multi-pronged, long term and sustained interventions (Williams-Elegbe, 2021).

4.3. Cultural and social barriers

4.3.1. Gender-based discrimination against women by procurement officials

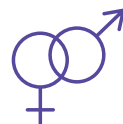
Many African cultures are patriarchal, which means that women often face a gender penalty in these nations. In the procurement context, this can manifest as a negative bias against women, or a general lack of confidence in the competence of WOBs. In some African countries, the perception of women business owners is that they are of lesser importance, value, and lack the agency of male business owners (Mudau and Obadire, 2017). The World Bank recently highlighted that structural social constraints often condition procurement officials, leading to a biased decision-making process, which can be dangerous when officials have a right to exercise discretion in public procurement (World Bank, 2022).

Apart from overt discrimination, unconscious bias has also been noted as a barrier to women's access to procurement opportunities. For instance, there is often an unconscious belief that women do not belong in male-dominated (and often more lucrative) sectors like construction and engineering (Williams-Elegbe, 2021). And this belief is self-reinforcing as women often lack the confidence to even compete for tenders in high-value sectors (engineering, construction), as was reported by procurement officials interviewed in Tanzania.

One impact of this discrimination is that WOBs are often consigned to smaller contracts in service sectors such as cleaning, hospitality, and small supplies (Esposito, 2019; Williams-Elegbe, 2021). Beyond the bias against WOBs, we have also discussed the mismatch between the sectors in which WOBs participate and the procurement opportunities available. This may further drive the belief that women belong in specific sectors, reinforcing the status-quo and preventing change. In some countries, women who participate in procurement contracts are stigmatised; in Ethiopia, for instance, interviews revealed the belief that women cannot manage businesses or supply quality goods and services, even though there is no evidence that WOBs provide lesser services (Interview with Ethiopian Stakeholder, 2022).

4.3.2. Discriminatory customary and inheritance practices

In some African countries, customary practices limit women's rights to inherit, acquire, and freely use property. These practices stand in stark opposition to formal legislation and constitutional provisions on inheritance, but nonetheless hold sway. This is highly problematic, given that many African banks still require real assets to be pledged as collateral for business loans. In Kenya, for instance, only one percent of land titles are registered in the names of women alone, while five percent of land titles are held jointly by men and women (Federation of Women Lawyers, undated). Similarly in Ethiopia, men control land and women gain access to land through their relationship with male relatives. Customary practices limit women's rights to land, underpinning the patriarchal system of traditional authority to disadvantage and subordinate women in society (Tura, 2014). This has severe implications for women entrepreneurs, who are unable to access land that is required as collateral for business loans, limiting their ability to scale and grow. Ultimately, this means that women entrepreneurs cannot access the finance needed to move out of SME status and develop the capacity to obtain larger procurement contracts.



Women are mostly **not allowed to own or inherit** property. A woman may be **forced to be remarried by the late husband's brother or close relative** to remain on the land. Her attempts to challenge these traditions **may invite violence** and other forms of aggression against her.

~ Federation of Women Lawyers, Kenya

4.3.3. Household dynamics

Household dynamics in many African countries are unfavourable to women and impact women's entrepreneurship and ability to participate fully in the economy. Many African women are still controlled by their partners, who make decisions about whether a woman is permitted to formalise her business or attend training and networking sessions to help her scale it. Research indicates that some men will prevent the formalisation of their partner's business, fearing that the growth of their partner's business may "overshadow" them or create a gap between their earnings (Mori, 2014).

When women are prevented from formalising their business, they are permanently locked out of the procurement system, which requires business registration as a pre-condition for participation. This means that attempts to address gender inequity in public procurement must be accompanied by measures to ensure women have full agency over their business decision making. In countries where access to government contracts depends on networking, women must compete with men where most deals are concluded out of hours and often in bars and hotels. Women who may have family responsibilities are thus unable to participate in these networks necessary to obtain government contracts.



Some men will prevent the formalisation of their partner's business, fearing that the growth of their partner's business may "overshadow" them or create a gap between their earnings.

~ Mori, 2014.

Furthermore, where businessmen control their partners, they may be able to abuse the policy favouring WOBs by using their wives and partners as a front for businesses controlled by them, undermining gender-responsive schemes. Certification and qualification measures for WOBs must be robust enough to address practices that misrepresent firm ownership and control as a way to fraudulently gain access to preferences, reservations, and other forms of targeted assistance (International Trade Centre, 2014). As discussed earlier, beneficial ownership registries could be used to verify true ownership, and thus eligibility of WOBs for gender-responsive procurement (Open Ownership, 2021). Where men are able to abuse the gender responsive framework, the impact may skew statistics and paint an inaccurate picture of the state of WEE, possibly leading to a misdirection of state resources.

Additionally, in many African homes, the burden of unpaid household work falls on women predominantly, causing them to be more time-poor than to men. Research from Tanzania, for example, highlighted that many women entrepreneurs are required to divide their time and energy between their family and community roles and running the business (Mori, 2014). Time spent on unpaid work detracts from time that could be spent on business activities, and in Uganda, women spend between 150–200 minutes a day doing unpaid labour (Nesbitt-Ahmed and Apila, 2015). Research from Kenya suggests that women spend 300 minutes a day on unpaid work, while men spend 60 minutes a day (Oxfam, 2021). Even wealthier, urban women who are more likely to be government contractors, and who may be able to afford housekeepers or nannies to assist with domestic tasks, still bear the brunt of the mental and emotional labour associated with maintaining a family.



4.4. Financial barriers

4.4.1. Access to finance

Most studies on women's entrepreneurship and women's participation in procurement have revealed that women struggle to access business finance at the same rate as men. According to the World Bank, female entrepreneurs control fewer assets than men, affecting their capacity to invest in their business and access large enough loans (World Bank, 2019). This barrier is related to the unequal access to landed property, which is often required as collateral for loans in African countries. The International Finance Corporation estimates that worldwide, women face a USD\$ 287 billion funding gap for formal women-owned SMEs (International Finance Corporation, 2014). Research by the OECD indicates that 70% of women owned MSMEs in developing countries are unserved or underserved by financial institutions (OECD, 2020). This limited access to finance, affects women's ability to scale and tender for large contracts (World Bank, 2022).

As mentioned above, women's access to land is compromised by customary practices, affecting their suitability for business loans; but even without this barrier, women fall behind in accessing finance. Investors and banks in a patriarchal society are less willing to bet on women entrepreneurs because they doubt their ability to succeed (Chinomona and Maziriri, 2015). In addition, there are often limited financial services targeting WOBs (Mori, 2014; International Trade Centre, 2014), and where these services exist, they are not appropriate for the needs of WOBs (Alliance for Financial Inclusion, 2016).



70% of women owned MSMEs

in developing countries are unserved or underserved by financial institutions.

~ OECD, 2020.

4.4.2. Unfavourable procurement financial terms

Apart from limitations on access to business finance, public procurement presents particular financial challenges. Procurement contracts involve higher proposal and compliance costs than commercial contracts (International Trade Centre, 2014), placing WOBs at a disadvantage because they have fewer resources to draw upon than other businesses. Research on Kenya's AGPO scheme found that very few bidders from the target groups participate in the procurement process, partly because they find it hard to raise funds to service the tenders (Nganga, 2017). In addition, extra fees such as the bi-annual registration fee of KSh 50,000 for entities wishing to do business with AGPO act as a deterrent for WOBs, since they are less likely to be able to afford them and paying them is no guarantee that a submitted bid will result in a contract award. (University of Nairobi, 2021).

Another financial challenge peculiar to procurement is the government payment terms of 30–60 days, which is a barrier for women-owned and other small businesses, who may not have the liquidity to absorb delayed payments (Basheka and Auriacombe, 2020; UN Women and Open Contracting Partnership, 2021). Delayed and late payments prejudice WOBs and SMEs who have lower reserves of capital on average, and less bargaining power to negotiate interest payments on late payments.



4.5. Corruption

4.5.1. Bribery and corruption as a barrier to women's participation in procurement

Corruption is both a human rights and a gender issue. The gendered impact of corruption on women has only recently begun to receive attention from academics (Fazekas et al., 2020), policymakers, and international organisations (UN Office on Drugs and Crime, 2020). In public procurement, the impact of corruption is felt at economic, political, and social levels (Munzhedzi, 2016). Corruption affects the competitiveness of the procurement system and process, reduces trust in the system, undermines system integrity, and rewards malfeasance and unethical conduct.

Research from different parts of Africa revealed that public procurement corruption is a barrier to women's participation in public procurement (Williams-Elegbe, 2021; Basheka and Auriacombe, 2020). In Tanzania, interviews revealed that whilst there are many WOBs in male dominated sectors such as construction, they often do not participate in procurement as a result of perceived inequities in the system. In Kenya, it

is reported that illegality such as identity theft, and fraudulent collusion significantly affect WOBs' ability to participate in AGPO (AFIC, 2019). An investigation into programs to support women-led MSMEs in Uganda also warned that corruption and rent-seeking must be countered in affirmative procurement policies for women (Stanford Center for Gender Equality, 2021). In countries with high levels of procurement corruption, some women either refuse to pay the bribes, cannot afford them, or do not trust that they will be able to enforce the corrupt transaction, especially if they are not regular participants in the procurement market (Williams-Elegbe, 2021).

Further, there is evidence to suggest that sexual corruption, which can include sexual extortion or "sextortion"⁴ can be a barrier to women's participation in public procurement (Williams-Elegbe, 2021; Transparency International, 2020; AFIC, 2019). Interviews with stakeholders in Kenya and Ethiopia revealed that there is a perception in countries with high levels of corruption that women who obtain public contracts have been sexually compromised or have otherwise engaged in corruption. In such cases, women do not publicise their contract awards to avoid the stigma that such awards may bring.

4 Sextortion is defined by Transparency International as a form of corruption when those entrusted with power use it to sexually exploit those dependent on that power. It is a gendered form of corruption.



5. Key recommendations for increasing women's participation in public procurement in East Africa

This section provides recommendations that speak directly to the identified barriers above, as well as other recommendations necessary to improve the environment supporting gender-responsive procurement. As stated earlier, gender-responsive procurement cannot be addressed in isolation from the challenges facing women entrepreneurs, and, as noted by the World Bank, it is “necessary to concede that the impact of actions taken at the procurement level alone will not suffice to fully empower women unless more radical work is done to abolish those institutional, economic, and societal structural barriers...and minimize some of the risks and negative effects linked to those barriers” (World Bank, 2022).



5.1. Address structural and systemic barriers

The structural and systemic issues that affect the participation of WOBs in procurement can be addressed in different ways. First, contracting authorities must include gender considerations in procurement planning phases, as such planning can provide opportunities for gender responsiveness even in the absence of legal mandates. Planning can also serve to address the absence of disadvantaged women from participation in procurement and devise means of including them.

The complexity of the procurement system should also be simplified and made easier for small businesses to navigate. To address the issue of over-reliance on technology and the lack of information on the opportunities available to WOBs, it is recommended that procurement regulators consider using more diverse platforms to disseminate procurement information; these can include local language radio and newspapers.

The absence of gender disaggregated data, which prevents regulators from understanding the extent to which WOBs participate in procurement and the sectors in which they are underrepresented, can be addressed if procurement regulators require contracting authorities to collect gender disaggregated data on bidders and contractors, and then further collate information on WOBs prevalent in different sectors. This can

help regulators understand disparity ratios and determine where sector-targeted interventions may be required. Monitoring and tracking gender-responsive procurement through the collection of data is crucial if gender-responsive procurement is to be impactful and serve to increase WEE. This data must also be analysed to understand the impact of gender-responsive procurement on women's economic advancement, a process that can be done through the Women's Entrepreneurship Development Assessment, which is used by UN Women and the International Labour Organisation (ILO) to assess whether national frameworks and conditions are conducive to WEE.

To address demand aggregation, procurement regulators should adopt guidance that recommends that aggregated contracts contain requirements for subcontracting to WOBs, or require that under certain financial thresholds, aggregated contracts must be awarded to bidders from the preferred groups. We saw that in Tanzania, contracting authorities, with the regulator's approval, are permitted to unbundle contracts for WOBs. Another measure could be to support groups of WOBs to jointly bid for aggregated contracts. Data analysis can also help in understanding the uneven distribution of procurement contracts, while introducing community procurement methods may benefit rural business owners.

5.2. Address absence of a legal framework and policy misalignment

The first key recommendation directed at national legislatures in Ethiopia and Rwanda is to pass enabling laws and regulations requiring the prioritisation of WOBs in procurement. In addition, the operational environment must address the implementation of registration and certification programs for identifying of WOBs. This should encompass responsive definitions of WOB and the supporting infrastructure, such as up-to-date contractor databases.

There must also be guidance to procuring authorities on how to operationalise the preferences for WOBs. Addressing legal barriers

without creating the organisational infrastructure to facilitate legal requirements is often a reason why gender-responsive mechanisms are not as successful as they ought to be. For maximum impact, there must be a coordination and integration between policies on gender equality and WEE, and the inclusion of WOBs in procurement. Gender-responsive procurement must be aligned with and form an integral part of a country's gender-equality framework, with gender equality stated as a goal of the procurement framework, making equality one of the benchmarks against which the procurement system is assessed.

5.3. Change cultural and societal biases

Cultural and societal barriers to WEE and WOB participation in procurement can be addressed through legislation and education. In relation to discriminatory property practices, it is recommended that national legislatures pass legislation against discriminatory lending and property practices and strengthen enforcement where such legislation already exists. In the Dominican Republic, the gender-responsive-procurement framework integrated measures such as anonymous draws to address gender discrimination that would affect the ability of WOBs to obtain public contracts. Discriminatory social and cultural practices against women cannot be easily legislated against, and must be dismantled primarily through education, raising awareness of their impact on both women and men. Ministries in charge of education should consider including content on gender-based discrimination at the primary and secondary education levels.

Societal barriers manifest in the kinds of sectors that are regarded as "male-dominated". There must be measures to increase women's entrepreneurship in sectors such as construction and engineering, which may have limited participation by women but a predominance of public contract opportunities, in order to boost the pipeline of women-owned suppliers, since it will be futile to mandate quotas or preferences for WOBs if such businesses do not exist. The burden of unpaid work, which limits women's ability to focus on business needs, can be addressed through the provision of better public services and infrastructure, low-cost childcare, better access to labour-saving devices, shifting perceptions about care work, and the provision of decent work for women (O'Neil, Vargas and Chopra, 2017).

5.4. Address financial barriers

Financial barriers could be addressed in multiple ways. First, it is recommended that procurement regulators remove bid guarantees and provide for advance payment and prompt payment for WOBs (World Bank, 2022). Under Tanzanian gender-responsive guidelines, tender securities are not required from WOBs and other members of the special groups, and contract payments to businesses owned by special groups are required to be made in a timely manner, while government departments may also grant advance payments to facilitate contract execution. Similarly, in Ethiopia, SMEs are exempted from furnishing a bid security and a performance security for

procurement contracts. Recent research from Kenya has argued that prompt payment terms should be monitored through the submission of quarterly payment performance reports by procuring entities (University of Nairobi, 2021). In addition, procurement regulators should initiate a dialogue with the financial services sector to consider ways to better support WOBs, based on an assessment of the areas in which women are underserved. This could be done through government guarantees for credit offered to WOBs, as well as the development of financial products that address the challenges faced by women entrepreneurs.

5.5. Mitigate public procurement corruption

Many African countries have struggled to mitigate corruption in public procurement. Governments must institute ethical training in the public sector and institutionalise ethical incentives to provide procurement officials with the tools and motivation to make ethical decisions. In addition, the justice system, procurement regulators, and supreme audit institutions must provide clarity when procurement rules are ambiguous, opportunities for inquiries by the public sector, and hold procurement officials accountable when there is a breach of procurement rules. In South Africa, for instance, personal debt

orders are being utilised against government officials when the Auditor-General finds that public funds have been lost through the procurement system.⁵ Procurement officials in South Africa have also been made accountable through personal cost orders. This is when a public official is made liable for a proportion of the government's legal fees (costs) in a situation where a procurement contract is challenged in court, the contract was found to be problematic, and there is evidence that the public official exercised gross negligence, bad faith, and culpability in the award of the public contract.⁶

5 See The Public Audit Amendment Act 5 of 2018 (South Africa).

6 See *Westwood Insurance Brokers (Pty) Ltd v Ethekwini Municipality and Others* (8221/16) [2017] ZAKZDHC 15 (5 April 2017).



5.6. Creating an environment for gender-responsive procurement to succeed

5.6.1. Capacity building for the public and private sector

Improving the capacity of procurement officials to use procurement as a strategic tool is a recurring theme within the literature (World Bank, 2022). The first recommendation for procurement regulators in East Africa is to map existing public sector skills and competencies that exist in relation to gender-responsive procurement. Based on the identified competency gap, regulators should provide the relevant capacity building for procurement officials to increase women's chances of success in the procurement market.

Procurement officials require training to understand the importance and economic value of gender-responsive procurement; they also require operational training on how to maximise legal preferences and creatively include WOBs in public sector supply chains. However, procurement authorities often report a lack of funds for capacity building for both WOBs and procurement officers, which should be addressed (Nganga, 2017).



WOBs could form clubs

to provide **awareness**, and **training** to prepare their enterprises to **benefit from procurement schemes**.

~ Kiiru, 2020.

Secondly, WOBs also require training on accessing public procurement markets. Research from the East African countries indicated that women succeeded more often when they had access to capacity development that assisted them in navigating the procurement terrain. As was seen in Tanzania's case study, business development training has been integrated into the process of certification for WOBs, which is a useful way of

ensuring that they have the skills to navigate the procurement system and improve their businesses. The Dominican Republic also integrated capacity building for WOBs into its program for gender-responsive procurement. It has been suggested that WOBs could form clubs (Kiiru, 2020) to provide awareness, and training to prepare their enterprises to benefit from procurement schemes. Further, academic and vocational institutions need to address the development of entrepreneurial capacity in girls and young women, as the gap between women and men entrepreneurs needs to be closed if there is going to be an increase in WOBs in Africa.

5.6.2. Address institutional gender imbalances

It is recommended that analyses of gender parity also take place at the institutional level, within individual procuring entities and procurement regulators. In countries that have achieved great strides in gender-responsive procurement, such as the Dominican Republic and Chile, the presence of women in leadership has impacted the fervour and urgency with which gender-responsive procurement is pursued. It is important for workplace gender imbalances to be addressed at all levels of the procurement framework as these imbalances affect workplace culture and actions (World Bank, 2022).

5.6.3. Support advocacy and promote awareness

There is limited awareness both of the necessity for gender-responsive procurement and of the procurement opportunities available to WOBs in many countries. This can be addressed by ongoing public advocacy and advocacy targeting women business groups from different regions and sectors. It is thus recommended that government agencies with a focus on gender equality, civil society organisations, and procurement regulators develop a long-term advocacy program to address the lack of information on gender-responsive procurement, directed both at procurement officials and organisations of WOBs.

5.7. RECOMMENDATIONS BY ACTOR, INTERVENTIONS, AND IMPACT

ACTOR	INTERVENTIONS	POTENTIAL IMPACT
Legislature (Parliament)	<p>Create legislation and regulations on gender-responsive procurement</p> <ul style="list-style-type: none"> • Ethiopia • Rwanda <p>Create legislation against discriminatory lending, customary, and inheritance laws</p>	<ul style="list-style-type: none"> • A clearer mandate and goals • Mitigating bias against women entrepreneurs
Government agency responsible for gender equality	Integrate gender-responsive procurement into gender-equality frameworks	Increasing coordination, scale, and impact
Ministry of Justice/anti-corruption agencies/procurement regulators	<ul style="list-style-type: none"> • Enforce accountability mechanisms against unethical public officials • Pilot ethical training and ethical incentives in the public sector 	<ul style="list-style-type: none"> • Mitigating public procurement corruption
Procurement regulators	<ul style="list-style-type: none"> • Simplify the procurement process • Implement data collection • Instill monitoring and oversight • Provide guidance on procurement cycle interventions to boost women's participation 	<ul style="list-style-type: none"> • A more user-friendly process • Data for assessing impact • Understanding gaps/barriers in framework
Procuring entities	<ul style="list-style-type: none"> • Promote capacity building • Implement data collection • Instill monitoring and oversight • Address workplace gender imbalances 	<ul style="list-style-type: none"> • Increasing compliance and addressing barriers • Data for assessing impact
Civil society	<ul style="list-style-type: none"> • Do advocacy and training 	<ul style="list-style-type: none"> • Increasing awareness and compliance
Contractors	<ul style="list-style-type: none"> • Do compliance training 	<ul style="list-style-type: none"> • Increasing access and compliance
Media	<ul style="list-style-type: none"> • Do advocacy 	<ul style="list-style-type: none"> • Increasing awareness
Business associations	<ul style="list-style-type: none"> • Do advocacy and training 	<ul style="list-style-type: none"> • Increasing awareness and compliance
Financial institutions	<ul style="list-style-type: none"> • Develop financial products to support WOBs 	<ul style="list-style-type: none"> • Addressing financial barriers
Academic/vocational institutions	<ul style="list-style-type: none"> • Do training on entrepreneurship • Address cultural biases against women 	<ul style="list-style-type: none"> • Increasing the pipeline of women entrepreneurs • A change in cultural attitudes towards women

6. Conclusion

This report has described the relationship between public procurement, WEE, and gender equality, and highlighted the importance of integrating WOBs into public sector supply chains. Gender-responsive procurement is an important vehicle for sustainable development, as there can be no sustainable development without WEE and gender equality. WEE supports several SDGs including ending poverty, ending hunger, decent work, and improved health and education outcomes.

The report described how several countries within and outside East Africa have tried to prioritise WOBs in their public-procurement frameworks, and also revealed barriers women entrepreneurs face that limit their participation in the public-procurement system. Whilst they face myriad other obstacles, including systemic, legal, cultural, and financial barriers, these are not insurmountable. The report revealed that three of the five countries under consideration have implemented or are in the process of implementing gender inclusion in public procurement, and although there are existing challenges, countries are gaining experience on how best to increase women's participation in public procurement.

As African countries take measures to recover from the devastation caused by the pandemic, the time is ripe to aggressively foster women's participation in public procurement. There are three urgent priorities for East African countries in the short to medium term.

The first is for countries that do not prioritise WOBs in procurement to pass legislation making it mandatory, with clear targets. This must be done in tandem with training and guidance to both the public and the private sectors, to ensure that the legal framework is properly operationalised.

A second urgent priority is to address the funding gap affecting WOBs. There are a number of reasons why WOBs are not able to access business credit, and these must be mitigated through government guarantees, a removal of bid guarantees for WOBs, the development of financial products suitable for women, as well as legal prohibitions against discriminatory lending practices.

The third priority is to ameliorate systemic barriers for WOBs that are within the procurement system. These include issues such as the complexity of the system, the inadequate publication of bid opportunities, the absence of gender-disaggregated data on public procurement, and the requirements for demand aggregation in many procurement systems. These issues disproportionately affect SMEs and WOBs and can be mitigated with targeted adjustments to the way regulators and procuring entities operate.

The moral and economic case for increasing the participation of WOBs in public procurement in East Africa is clear. Governments must now make it a priority by committing resources to address the barriers that prevent WOBs from participating fully in the procurement systems and in the formal economy



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