

Gender-responsive public procurement: the key to fair and efficient public spending in the EU

Public institutions in the EU are major investors, spending some €2 trillion per year on the purchase of goods, services and works ⁽¹⁾. Their procurement practices can directly promote gender equality, support sustainable procure-

ment and improve efficiency in public spending. This is what gender-responsive public procurement (GRPP) is. Yet policymakers are unfamiliar with this promising approach, and authorities in the EU rarely implement it.

What is gender-responsive public procurement?

GRPP is procurement that promotes gender equality through the goods, services or works being purchased. This means that buyers and suppliers examine the impact of all

contracted activities on women's and men's needs, interests and concerns, and design and deliver contracts in a way that reduces gender inequalities ⁽²⁾.

GRPP can help to:

<p>Increase the number of women in the workforce.</p> 	<p>Balance the number of women and men in the workforce, especially in sectors with under-representation of one of the sexes.</p> 	<p>Improve working conditions, e.g. in relation to health and safety, for jobs or sectors where health hazards may be different for women and men, or in relation to wages, for traditionally low-paid jobs or sectors where women are the main workforce.</p>	<p>Address gender pay inequalities.</p> 
<p>Improve work-life balance and the sharing of care responsibilities between women and men.</p> 	<p>Achieve a gender-balanced and diverse composition of the service providers' teams.</p> 	<p>Prevent sexual harassment at work.</p> 	<p>Address the different needs that women and men beneficiaries or end users might have in relation to the goods, services or works to be purchased, e.g. depending on their age, family situation, disability or socioeconomic status.</p>

⁽¹⁾ European Commission, 2022, 'Internal market, industry, entrepreneurship and SMEs' (https://ec.europa.eu/growth/single-market/public-procurement_en).

⁽²⁾ EIGE, 2021, *Gender-responsive Public Procurement*, Publications Office of the European Union, Luxembourg (<https://eige.europa.eu/publications/gender-responsive-public-procurement>).

In the EU, GRPP can be carried out under three EU procurement directives ⁽³⁾, and under the financial regulation which regulates procurement by EU institutions ⁽⁴⁾. The three procurement directives aim to facilitate greater inclusion of societal goals in public procurement. However, they do not recognise gender equality as a specific EU public procurement objective.

Why is GRPP important?

The EU, its citizens and its economy can benefit from GRPP.

Fair public procurement

GRPP is a key opportunity to leverage public spending to pursue a fairer allocation of economic resources and improve living standards for both women and men, in all their diversity ⁽⁵⁾. It can also broaden and diversify the pool of bidders. By promoting fair working conditions along the whole supply chain, GRPP can also improve the lives of women and men in developing countries that may lack legislation and enforcement on gender equality.

Strategic and green public procurement

GRPP can be pursued as part of a policy on strategic procurement, encompassing environmental and other social objectives. In many cases, there are synergies between environmental goals and gender equality. Environmental issues such as climate change and biodiversity, while affecting us all, often have a gendered impact. In sectors such as cleaning services, textile production, and food and catering, ap-

plying green procurement criteria will have benefits for the health and safety of workers, many of whom are low-paid women. On the other hand, by applying GRPP in the same tenders that include environmental measures, public bodies can help to ensure a 'just transition' to a greener economy, which avoids replicating or exacerbating gender inequalities ⁽⁶⁾.

Sustainable growth

Public institutions, from the EU level to local authorities, spend around 14 % of EU's gross domestic product (GDP) on public procurement every year ⁽⁷⁾. GRPP aligns with the UN 2030 agenda on gender equality and empowerment of women and girls (Goal 5), and with sustainable practices in public procurement (Goal 12, Target 12.7). If more women join the labour force, they can make a larger contribution to the economy, while boosting their earnings and reducing the gender pay gap. Increasing women's participation in the workforce and closing the pay gap between women and men will have a positive impact on economic growth in the EU. It could mean up to six million more jobs by 2050 and a GDP increase of 5.5 % or €1 490 billion by 2050 ⁽⁸⁾.

⁽³⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243; and Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1.

⁽⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012. PE/13/2018/REV/1, OJ L 193, 30.7.2018, p. 1.

⁽⁵⁾ It is important to recognise how characteristics such as age, socioeconomic situation, disability, race, ethnicity, sexual orientation, religion and rural or urban location affect women and men (e.g. the lived reality of a young woman living in a rural area of Sweden will be very different from that of an older woman living in an urban area of Spain). EIGE, 2020, *Gender Budgeting: Step-by-step toolkit – Guidance for mainstreaming gender into the EU funds*, Publications Office of the European Union, Luxembourg (<https://eige.europa.eu/publications/gender-budgeting-step-step-toolkit>).

⁽⁶⁾ EIGE, 2022a, *Gender-responsive Public Procurement: Step-by-step toolkit*, Publications Office of the European Union, Luxembourg (<https://eige.europa.eu/publications/gender-responsive-public-procurement-step-step-toolkit>).

⁽⁷⁾ European Commission, 2022, 'Internal market, industry, entrepreneurship and SMEs' (https://ec.europa.eu/growth/single-market/public-procurement_en).

⁽⁸⁾ EIGE, 2015, 'Economic benefits of gender equality in the European Union' (<https://eige.europa.eu/gender-mainstreaming/policy-areas/economic-and-financial-affairs/economic-benefits-gender-equality>).

Better-functioning institutions

When public contracting authorities integrate a gender perspective into their operations, they can successfully make institutional change in their strategies, objectives and activities. These changes depend on good collaboration between public procurers and gender equality bodies. By working

together, procurement officers can learn how to integrate the gender perspective into tenders, while gender equality experts can learn about the fundamentals of public procurement. Collaboration can also improve internal policies (e.g. hiring and promotion of personnel), improve working conditions (e.g. by considering work-life balance for parents and carers) and lead to better-tailored and high-quality services.

How to advance gender equality through public procurement?

Using a gender-responsive public procurement approach, public buyers and suppliers can design and deliver contracts in a way that can advance gender equality.

Here are several examples:

Pre-procurement	Procurement	Post-procurement
Conduct needs assessment and market consultation to identify gender impacts of the contract	Apply exclusion criteria to reject bidders who have a poor record on gender equality issues	Apply contract performance conditions that require actions related to gender equality
Include gender equality in the subject matter of the contract	Apply selection criteria to choose bidders who can implement GRPP	Set up monitoring and reporting on GRPP clauses
Choose an appropriate procedure which best allows for GRPP	Devise technical specifications which reflect gender aspects of the contract	Require GRPP clauses to be applied by subcontractors
Consider using a light regime / reservations / lots to promote greater participation of women-owned businesses	Apply award criteria to target specific gender equality issues in the delivery of the contract	Enforce compliance with GRPP clauses through the application of contractual remedies
Use gender-sensitive language in tender documents	Request third-party labels or certifications which certify gender equality compliance	Collect statistics on GRPP

Consult [EIGE's GRPP toolkit](#) for further step-by-step guidance for all phases of the public procurement cycle.

Key findings on GRPP ⁽⁹⁾



Public procurement and gender equality are treated as two distinct issues, with no relationship to each other



Laws, policies and support structures: little mention of GRPP

Legal frameworks

Neither the 'Procurement' Directive 2014/24/EU nor the Financial Regulation 2018/1046 mention gender equality as a specific objective of public procurement in the EU. This has contributed to many public bodies being unaware of the possibility of addressing gender inequalities through procurement.

At national level, only five Member States have public procurement laws that refer to gender equality as a specific objective. Only three Member States have specific gender equality laws mentioning GRPP.

Policy frameworks

Recent positive developments in the EU level policy framework:

- the EU's 2020-2025 gender equality strategy ⁽¹⁰⁾ includes one reference to gender equality and public procurement;
- the European Commission's 'Buying Social' guide ⁽¹¹⁾ portrays gender equality as a specific objective of socially responsible public procurement (SRPP) and gives guidance in a number of areas.

In Member States, public procurement strategies typically do not refer to gender equality and most national gender equality action plans do not refer to public procurement as a tool to promote gender equality.

Support structures, capacity building programmes and guidelines

Support structures and guidelines on public procurement seldom promote GRPP and those covering SRPP tend not to cover gender aspects.

Awareness of GRPP: low

EIGE's study found that there is still considerable lack of awareness and knowledge about how gender equality can be linked to public procurement at both EU and national levels. This is compounded by a general lack of data, guidance and training of officials on gender mainstreaming, GRPP and public procurement.

In Member States, there is considerable awareness about SRPP and green procurement; yet awareness about the strategic use of GRPP to advance gender equality remains extremely low, even in countries that score highly in EIGE's Gender Equality Index.

GRPP is more widespread at the local and municipal levels. Regions, municipalities and cities are generally more aware

⁽⁹⁾ The findings described in this factsheet reflect 2021 data. For a full description of findings and recommendations, see EIGE, 2022b, 'Gender-responsive public procurement in the EU' (<https://eige.europa.eu/publications/gender-responsive-public-procurement-eu>).

⁽¹⁰⁾ European Commission, 2020, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A union of equality: gender equality strategy 2020–2025, COM(2020) 152 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>).

⁽¹¹⁾ European Commission, 2021, Notices from European Union institutions, bodies, offices and agencies – Buying social – a guide to taking account of social considerations in public procurement – second edition, 2021/C 237/01, OJ C 237/1, 18.6.2021, p. 1 (<https://op.europa.eu/en/publication-detail/-/publication/47c-69b3a-cfcf-11eb-ac72-01aa75ed71a1/language-en/format-PDF/source-search>).

of GRPP than other levels of the administrations. Cities often place gender equality and mainstreaming at the core of municipal strategies and action plans, working in partnership to mainstream gender and encouraging the use of GRPP.

Implementation of GRPP: Member States more advanced than the EU

GRPP is very rarely applied in the EU. Some Member States are more advanced in promoting and implementing GRPP than the EU level is.

In the Member States where GRPP is more used, gender equality bodies and experts have played a crucial role in ensuring that gender equality goals are integrated into public procurement, and in shaping public procurement processes that promote gender equality. Gender equality bodies may also play a role in monitoring and reporting on GRPP.

These findings suggest six preconditions that will support the application of GRPP.

1. Legal framework cross-references gender equality and public procurement.
2. Public procurement strategies cover GRPP or include gender equality as an objective.
3. Gender equality action plans or strategies mention public procurement / GRPP as a tool to promote gender equality.
4. Capacity-building programmes, support structures and guidelines promote GRPP.
5. Regular collaboration between gender equality bodies or departments and public procurement offices.
6. Effective monitoring and reporting systems on the use of GRPP.

Key recommendations for boosting GRPP ⁽¹²⁾

Recommendations for policymakers at EU, national and sub-national levels

- Identify gender equality as an essential objective of procurement in procurement policies and strategies.
- Recognise public procurement as a relevant tool for implementing gender equality policies and strategies, including gender mainstreaming and gender budgeting.
- Establish dialogue and interdepartmental work between the departments or agencies responsible for procurement and gender equality bodies, such as inter-service GRPP working groups that meet for coordination, information exchange and mutual support.
- Set up support structures to provide advice, disseminate good practices and build the capacity of contracting authorities, procurement staff and suppliers.
- Provide guidance and set targets for the implementation of GRPP, including in the EU Resilience and Recovery Facility (RRF) and Cohesion Policy Funds, with appropriate reporting and collection of data.

Recommendations for contracting authorities ⁽¹³⁾

- Carry out risk assessments for public contracts prior to tendering to include an analysis of gender issues in the workforce, such as equal pay, gender discrimination throughout the supply chain, sectoral and occupational segregation, or violence and harassment at work.
- Introduce contractual requirements for the contractor to monitor/report on the implementation of GRPP conditions and set consequences for failure to meet the targets.
- Include breaches of the obligations of Article 18(2) (mandatory social clause) as grounds for the termination of contracts.

⁽¹²⁾ For a full description of recommendations, see EIGE, 2022b, 'Gender-responsive public procurement in the EU' (<https://eige.europa.eu/publications/gender-responsive-public-procurement-eu>).

⁽¹³⁾ For detailed guidance on how to implement GRPP in the public procurement cycle see EIGE, 2022a, *Gender-responsive Public procurement: Step-by-step toolkit*, Publications Office of the European Union, Luxembourg (<https://eige.europa.eu/publications/gender-responsive-public-procurement-step-step-toolkit>).

Additional recommendations for policymakers at EU level

- When amending the EU procurement directives:
 - include explicit reference to Article 8 of the Treaty on the Functioning of the European Union (TFEU), specifying that gender equality is an essential objective of public procurement;
 - explicitly refer to gender equality as one of the matters which may be addressed in award criteria and contract performance clauses;
 - include compliance with obligations relating to gender equality, such as equal pay and employment legislation, in the article related to the mandatory social clause (currently, Article 18(2) of Directive 2014/24/EU)⁽¹⁴⁾;
- if adopted, include references to the (currently proposed) pay transparency directive and any future EU legislation on due diligence in the amended procurement directives, to ensure that contracting authorities are aware of the gender equality obligations that apply in the context of contract award and performance.
- Include explicit reference to Article 8 of the TFEU in the financial regulation governing procurement carried out by EU institutions, and under the general budget of the EU, specifying that gender equality is an essential objective of procurement.
- Identify gender equality as an essential principle of procurement in the financial regulation, which economic operators must comply with in the performance of public contracts.



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⁽¹⁴⁾ Article 18(2) requires enforcement of all applicable national and EU social and labour law in the performance of public contracts, so where an international instrument has been implemented in national law (regardless of whether this forms part of procurement law) it should be enforced. In terms of international law, only the eight core ILO conventions are referred to as being directly enforceable under Article 18(2).

European Institute for Gender Equality

The European Institute for Gender Equality (EIGE) is the EU knowledge centre on gender equality. EIGE supports policymakers and all relevant institutions in their efforts to make equality between women and men a reality for all Europeans by providing them with specific expertise and comparable and reliable data on gender equality in Europe.
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