



PUBLIC PROCUREMENT PROCEDURES MANUAL (GENDER EQUALITY AND SOCIAL INCLUSION IN AGRICULTURE)

Researched and Written by

Eze Onyekpere Esq.

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By

Centre for Social Justice (CSJ)

Plot 836 Emmanuel Aguna Crescent,
Off Idris Ibrahim Crescent, Jabi
P.O. Box 11418, Garki, Abuja

Tel: 08055070909, 08127235995

Website: www.csj-ng.org; Email: censoj@gmail.com;

Blog: csj-blog.org

Facebook: Centre for Social Justice Nigeria;

X: [@csj_nigeria](https://twitter.com/csj_nigeria)

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ABBREVIATION

BEME	Bill of Engineering Measurement
BOQ	Bill of Quantities
BPP	Bureau of Public Procurement
CAC	Corporate Affairs Commission
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEO	Chief Executive Officer
COO	Chief Operating Officer
CIF	Cost, Insurance and Freight
COVID19	Coronal Virus 2019
CSO	Civil Society Organisation
EOI	Expression of Interest
FGN	Federal Government of Nigeria
GESI	Gender Equality and Social Inclusion
GPN	General Procurement Notice
GRP	Gender Responsive Public Procurement
GRPP	Gender Responsive Public Procurement
ICB	International Competitive Bidding
IFB	Invitation for Bid
IFC	Information for Consultants
IT	Information Technology
ISO	International Organisation for Standardisation
IWA	International Workshop Agreement
KADPPA	Kaduna State Public Procurement Authority
LGA	Local Government Area
LOI	Letter of Invitation
MDAs	Ministries, Departments and Agencies of Government

M&E	Monitoring and Evaluation
NATIP	National Agriculture Technology and Innovation Policy
NCB	National Competitive Bidding
NGOs	Non Governmental Organisation
OCB	Open Competitive Bidding
OCDS	Open Contracting Data Standards
PE	Procuring Entity
PPA	Public Procurement Act
PPL	Public Procurement Law
PRS	Planning, Research and Statistics
PWDS	Persons with Disabilities
REoI	Request for Expression of Interest
RFP	Request for Proposals
S.	Section
SBDs	Standard Bidding Documents
SDGs	Sustainable Development Goals
SMEs	Small and Medium Enterprises
SPN	Specific Procurement Notice
TEC	Technical Evaluation Committee
TOR	Terms of Reference
UNGM	United Nations Global Marketplace
UN	United Nations
UNDIS	United Nations Disability Inclusion Strategy
VAT	Value Added Tax
WOBs	Women Owned Business
WLB	Women Led Business
WLCs	Women Led Cooperatives

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EXECUTIVE SUMMARY

The United Nations Global Marketplace (UNGM) defines Gender Responsive Public Procurement (GRPP) as:

“The sustainable selection of services, goods or works that takes into account the impact on gender equality and women’s empowerment, and actively seeks to reduce barriers to entry for women’s businesses to benefit from business opportunities”¹

“GRPP is 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 on all of 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. GRPP may target inequalities in the workforce through the delivery of a contract (whether local or remote), in the way a contract is performed and/or via the impact it has on users or recipients of the goods, services or works purchased. It does not necessarily imply higher costs, but it does require knowledge and capacity”.²

GRPP includes procuring from women owned businesses or gender responsive enterprises. These are businesses whose majority shareholding or ownership is attributable to women. Women led businesses are enterprises led by women or where they hold leadership positions, such as founder, chief executive, or majority owner, with significant influence in decision-making and strategy.

Beyond gender is the bigger challenge of overall inclusivity. According to the United Nations Disability Inclusion Strategy (UNDIS) Indicator 8, there are four critical dimensions for inclusion of Persons with Disabilities (PWDs) in the procurement process: (1) Procurement policies consider accessibility and do not create new barriers for persons living with disabilities. (2) The procurement process is accessible to everyone, including persons with disabilities. (3) Accessibility targets for procurement are set and met. (4) The entity’s procurement policy promotes purchasing from disability-inclusive suppliers, and guidelines have been developed.

¹ UNGM definition of GRP in *Guidance Note, Building Gender - Responsive Procurement: Lessons From Research and Practice*; May 2022

² https://eige.europa.eu/gender-mainstreaming/toolkits/grpp/what-gender-responsive-public-procurement?language_content_entity=en. European Institute for Gender Equality

Inclusivity in procurement is about the lived realities of women and men in all their diversity.

While the term ‘lived realities’ is meant to recognise differences between women and men, the addition of ‘in all their diversity’ recognises how other characteristics such as age, socioeconomic situation, disability, race, ethnicity, religion and rural or urban location also affect women and men in their lived realities”³

The lived reality of a young poor woman living in a rural area of South East Nigeria may be very different from that of an older middle-class woman living in a major urban area in Lagos, Port Harcourt or Kano.⁴

Inclusive procurement is founded on national and international legal and policy standards. It is imperative considering that government is the largest spender in the economy and inclusive procurement facilitates economic growth; it provides opportunities for the state to respect, protect and fulfil its obligations under a plethora of international standards ratified and applicable in the state; fairer allocation of economic resources and improving the living standards of women and PWD - addressing challenges and barriers to participation; sustainability of spending operations; disciplining public spending by subjecting it to higher legal and societal norms, etc. The hallmarks of GRPP include economy, efficiency, effectiveness, fairness, transparency, professionalism, accountability and ethical standards.

The challenges to inclusivity include legal and institutional frameworks; social, cultural and legal norms; patriarchal partnerships and networks; capacity deficits; corruption unavailability of gender disaggregated data and statistics; limited access to finance and capital, time poverty and limited access to procurement information by women. The impediments to inclusivity in public procurement include inadequate legislation and policies, misfit tender designs, excessive requirements demanded from bidders, poor practices by governments, etc.

The basic principles of gender mainstreaming are applicable to public procurement. They are the use of gender sensitive language; gender specific data collection and analysis; equal access and utilisation of services; equal involvement of women and men in decision making and equal treatment is integrated into the steering process. The strategies for introducing and implementing GRPP include; provision for inclusivity in procurement law; advocacy for changes in law and practice; capacity building for the demand and supply side; dedicated funds that provide access to capital for marginalised groups;

³ *Gender-Responsive Public Procurement: Step-by-Step Toolkit* at page 11, produced by the European Institute for Gender Equality.

⁴ Ibid.

mainstreaming gender disaggregated data gathering, analysis and use in procurement; enforcing anti-discrimination laws and policies including affirmative action provisions; providing procurement information to women's and PWD networks. Others are promoting financial inclusion and reducing financial entry barriers; reservations and quotas for women and PWDs; institutional arrangements; monitoring and evaluation; margins of preference for women and PWDs; establishment of help desks; strategic subcontracting rules; and communications. In technical procurement terms, fitting tender designs and proportionate requirements are key to inclusivity.

Planning of public procurement is the foundation and a critical aspect of procurement proceedings. The Procurement Plan⁵ *lists out the goods, works and services to be procured, the timeliness and procedure for such contracting and its contents and subject to the rules, include results of needs analysis, market surveys and cost implication analysis and where applicable indicate evidence of aggregation of needs or such other items as MDAs may consider necessary.*

Procurement planning is a step towards value for money which from a gender perspective interrogates inequalities and its effect on financial behaviors, access to resources, and the distribution of benefits from programmes and policies between men and women. The whole context of value for money brings up an interrogation of the concept of values and raises inter alia the following posers: Which values? Whose values? What values?

Values are not just blindly price-centric or economic; there are social values, local content, issues of access to rights (livelihoods, water, land, energy, health, education, etc.), services and inclusivity – these are norms, values, ends and legitimate targets for public expenditure. These values should inform needs analysis and market surveys because when a need is properly defined from an inclusivity perspective, the market survey will be looking for the goods, services and works that will meet the needs of all men and women, in all their diversity and all segments of the human family at the local, state or federal government level.

In GRPP, procurement planning will include careful consideration of the following:⁶

- Are there gender and disability perspectives on the procurement?
- Who are the beneficiaries for the goods, works and services to be delivered under the contract?

⁵ See Bauchi and Ebonyi States Public Procurement Procedures Manual.

⁶ The first three bullets are adapted from Gender Responsive Public Procurement; Step-by-Step Toolkit.

- Differences in the extant situation of women, men, boys, girls and persons with disabilities in terms of specific needs in relation to the goods, works and services.
- What does the gender and disability disaggregated data on the subject matter indicate?
- Where are the gaps in terms of persons left behind? Impact and reach of previous similar interventions. Persons in greater need of the goods and services, etc.
- Risk analysis - where lies the risks for gender and disability discrimination along the implementation and supply chain of the procurement?
- Do we need to get inclusivity mainstreaming experts to facilitate a fit and proper design, solicitation and contract execution?

Situating the above issues in agriculture, procurement planning should take note of the fact that women make up about 70% of the agriculture labour force and 91.72% of crop production is done in the informal sector. There should be a deliberate attempt to ensure that the composition of the procurement planning committee, tender boards and approving authorities are gender sensitive.

The solicitation documents usually contain the name of the Procuring Entity; the name or nature of the contract; items to be procured; contact information for obtaining bidding documents; cost of the bidding documents; place and deadline for bid delivery; required bid security amount and form; the place, date and time of bid opening; and the minimum qualifications that bidders must meet. An invitation for prequalification includes similar information including the place and deadline for submission of the application to pre-qualify.

The language of the solicitation must be gender sensitive and expressly indicate the gender considerations relevant to the procurement process, especially indicating that WOB and WLBs are encouraged to apply. Where there is a quota and it is strictly restricted to affirmative action principles, this must be clearly stated in the solicitation documents. The solicitation documents must be available to all through formal and informal sources.

Essentially, according to Guidelines on the Implementation of Indicator 8 of the UN Disability Strategy, the following will facilitate accessibility: Mandatory check for

accessibility of solicitation documents incorporated in procurement framework (e.g. Procurement Manual); information on how to make procurement documents accessible provided to procurement staff (e.g. information on training resources); solicitation documents are published in an accessible format; other procurement-related documents are accessible (e.g. Procurement Manual); and inventory of procurement systems compiled. Others are the norm for accessibility for new systems established (in collaboration with IT); accessibility audit - scope defined; audit carried out; key recommendations from accessibility audit implemented and accessibility of supplier-facing procurement systems maintained over time. Issues around vision, hearing and mobility should be strategically taken care of in the documentation.

All the essential selection criteria should be captured in the solicitation documents. Almost every procurement activity or sub activity has a GRPP requirement and this should be meticulously followed in procurement proceedings that deploys GRPP principles. Furthermore, budgetary provisions can be finetuned to pave the way for GRPP at the implementation stage.

For the evaluation and comparison of bids that have been adjudged valid for the purposes of evaluation, no other method or criteria shall be used except those stipulated in the solicitation documents. This general principle also applies in GRPP. Therefore, the continuum of procurement planning, preparation of bid solicitation documents, tenders, bid examination and evaluation shows that once gender and inclusivity are mainstreamed from the beginning, they must be followed through to the end in deciding who eventually gets the contract to provide the goods, services or works or what kind of goods, services and works are eventually delivered. For PWDs, “reasonable accommodation” and “universal design”, if introduced at the beginning of the process in procurement planning, must be followed through.

In evaluation, the technical evaluation may include issues like whether the goods, works, services or works are:

- Technically accessible, in that it is possible for all users to access all information and functionality;
- Equally usable, in that it is not prohibitively difficult or time consuming for users with disabilities to carry out normal tasks;
- Capable of being adapted or configured by individual users to meet their specific needs and preferences;
- Capable of interfacing with appropriate, widely available assistive technologies employed by users.

Contract management may request feedback from users on whether the goods, services and works meet the set criteria of being fit for purpose, user friendly and serves everyone equitably without creating barriers for any of the marginalised groups.

PART ONE

PUBLIC PROCUREMENT AND GENDER RESPONSIVE PUBLIC PROCUREMENT (GRPP)

1.1 Scope of Public Procurement Laws (PPL or the Law)

Public procurement refers to the process through which a government contracts with contractors, suppliers, consultants, etc., to obtain goods, services and works required to fulfill its objectives in the timeliest and cost-effective manner. It is about the acquisition of public needs with public resources.

It imports the supply chain management concept as a process whereby the government meets its needs for goods, works and services in a way that achieves value for money, on a whole life cycle basis in terms of generating benefits not only to the government department involved but also to the society and economy as a whole whilst minimizing damage to the environment. Wikipedia, the free encyclopedia defines procurement as the acquisition of goods, services or works at the best possible total cost of ownership, in the right quality and quantity, at the right time, in the right place and from the right source for the direct benefit or use of corporations, individuals, or even governments, generally via a contract.

At the federal level, the Public Procurement Act (PPA) is made as an Act to establish the National Council on Public Procurement and the Bureau of Public Procurement as the regulatory authorities responsible for the monitoring and oversight of public procurement, harmonising the existing government policies and practices by regulating, setting standards and developing the legal framework and professional capacity for public procurement in Nigeria; and for related matters.

Public procurement within the context of the PPLs refer to the policy, regulatory agencies and scope of application of the law; fundamental principles of public procurement; organisation of procurement; procurement methods for goods, services and works; special and restricted methods of procurement; procurement of consultancy services; direct labour procurement; disposal proceedings; code of conduct for public procurement; and offences, etc. Procurement broadly involves (a) Enactment of Legal and Regulatory Frameworks (b) Registration of contractors (c) Procurement Planning (d) Preparation of Solicitation Documents and Tendering, Publishing/Notification/Stakeholders Access (e) Examination and Evaluation of Bids (f) Awards of Contracts; and (g) Contracts Management.

1.2 Gender (and Inclusivity) Responsive Public Procurement (GRPP)

The United Nations Global Marketplace (UNGM) defines Gender Responsive Procurement as:

“The sustainable selection of services, goods or works that takes into account the impact on gender equality and women’s empowerment, and actively seeks to reduce barriers to entry for women’s businesses to benefit from business opportunities”⁷

“GRPP is 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 on all of 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. GRPP may target inequalities in the workforce through the delivery of a contract (whether local or remote), in the way a contract is performed and/or via the impact it has on users or recipients of the goods, services or works purchased. It does not necessarily imply higher costs, but it does require knowledge and capacity”.⁸

GRPP includes procuring from women owned businesses or gender responsive enterprises. These are businesses whose majority shareholding or ownership is attributable to women. Women led businesses are enterprises led by women or where they hold leadership positions, such as founder, chief executive, or majority owner, with significant influence in decision-making and strategy. There are varied definitions of WOBs and these are shown in Table 1.

Table 1: Definition of Women Owned Business⁹

Source	Definition
United Nations Global Marketplace	In short: a legal entity in any field that is more than 51% owned, managed and controlled by one or more women. A women-owned business or vendor should at a minimum include: (i) at least 51% independent ownership by one or more women; and

⁷ UNGM definition of GRP in *Guidance Note, Building Gender - Responsive Procurement: Lessons From Research and Practice*; May 2022

⁸ https://eige.europa.eu/gender-mainstreaming/toolkits/grpp/what-gender-responsive-public-procurement?language_content_entity=en. European Institute for Gender Equality

⁹ *Making Public Procurement Work for Women* at page 13. International Trade Centre, SheTrades and UKAid, 2020.

	(ii) unconditional control by one or more women over both long-term decision-making and day-to-day management and administration of the business operations; and (iii) independence from non-women-owned businesses. ¹⁰
Women's Business Enterprise National Council, United States of America	A women's business enterprise is an independent business concern that is: (i) at least 51 % owned and controlled by one or more women who are United States (US) citizens or legal resident aliens; (ii) whose business formation and principal place of business are in the US or its territories; and whose management and daily operation is controlled by a woman with industry expertise; (iii) Note a women's business enterprise is the business, not the individual. ¹¹
International Finance Corporation	An enterprise qualifies as a women-owned enterprise if it meets the following criteria: (i) it is at least 51% owned by a woman or women; or (ii) it is at least ≥20% owned by a woman or women; and (iii) has at least 1 woman as chief executive officer, chief operating officer, president or vice-president; and (iv) where a board exists, at least 30% of the board of directors are women. ¹²
Others reports and projects	Other definitions include: (i) Firms with either more than 51% women's ownership, or with 26–50% women's ownership in a business that has a woman chief executive officer or chief operating officer; ¹³ (ii) At least 30% women ownership ¹⁴ (iii) Firms that have at least one-woman owner or a female sole proprietor. ¹⁵

¹⁰ United Nations Global Marketplace (2020). UN Women Gender Responsive Procurement. [https:// www. ungm.org/Shared/KnowledgeCenter/Pages/PT_GRP](https://www.ungm.org/Shared/KnowledgeCenter/Pages/PT_GRP)

¹¹ Women's Business Enterprise National Council (2020). Certification. <https://www.wbenc.org/certification>

¹² International Finance Corporation (2020). IFC's definitions of targeted sectors. https://www.ifc.org/wps/wcm/connect/industry_ext_content/lfc_external_corporate_site/financial+institutions/priorities/ifcs+definitions+of+targeted+sectors

¹³ International Finance Corporation (2014). Women-owned SMEs: A business opportunity for financial institutions. <https://www.ifc.org/wps/wcm/connect/44b004b2-ed46-48fc-8ade-aa0f485069a1/WomenOwnedSMes+Report-Final.pdf?MOD=AJPERES&CVID=kiiZZDZ>

¹⁴ International Trade Centre (2018). SheTrades Commonwealth project. [https:// www.shetrades.com /en/projects/ shetrades-commonwealth](https://www.shetrades.com/en/projects/shetrades-commonwealth).

¹⁵ Hallward-Driemeier, M. (2013). *Enterprising Women: Expanding Economic Opportunities in Africa*. International Bank of Reconstruction and Development and World Bank. <http://documents.worldbank.org/curated/en/509981468193131963/pdf/Enterprising-women-expanding-economic-opportunities-in-Africa.pdf>.

	(iv) Businesses that are solely female-owned, majority female-owned and female–male co-owned ¹⁶
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Source: Making Public Procurement Work for Women

According to the United Nations Disability Inclusion Strategy (UNDIS) Indicator 8, there are four critical dimensions for inclusion of Persons with Disabilities (PWDs) in the procurement process: (1) Procurement policies consider accessibility and do not create new barriers for persons living with disabilities. (2) The procurement process is accessible to everyone, including persons with disabilities. (3) Accessibility targets for procurement are set and met. (4) The entity’s procurement policy promotes purchasing from disability-inclusive suppliers, and guidelines have been developed.

Inclusivity in procurement is about the lived realities of women and men in all their diversity.

While the term ‘lived realities’ is meant to recognise differences between women and men, the addition of ‘in all their diversity’ recognises how other characteristics such as age, socioeconomic situation, disability, race, ethnicity, religion and rural or urban location also affect women and men in their lived realities”¹⁷

The lived reality of a young poor woman living in a rural area of South East Nigeria may be very different from that of an older middle class woman living in a major urban area in Lagos, Port Harcourt or Kano.¹⁸

Gender and inclusivity responsive public procurement raises and articulates responses to a plethora of questions including:

- Is there a real level playing field for the diversity of all suppliers and service providers?
- What are the special and specific needs of men and women, boys and girls in the goods, works and services to be purchased at the tax payers expense?
- What are the different implications of the procurement for women and men in all their diversity?
- How will the procurement promote equality and the inherent and inalienable rights of all members of the Nigerian human family?

¹⁶ Everson, M., Mazur, M., Petska, T., McCubbin, J., & Kliss, B. (2005). Statistics of income. SOI Bulletin, 24(4)

¹⁷ *Gender-Responsive Public Procurement: Step-by-Step Toolkit* at page 11, produced by the European Institute for Gender Equality.

¹⁸ Ibid.

- Will procuring from X and or Y violate the non-discrimination clause of the Constitution and other national and international standards?

1.3 Why is GRPP and Inclusive Public Procurement Important?

Acquisition of goods, works and services is inherent in public governance and it ought to be done in a way and manner that provides equal opportunities for all eligible bidders and the goods, works and services supplied responds to the needs of all members of society. It should respond to the challenge of gender equality and promote the human rights of all. This is particularly important within the following context.

- Government is the largest spender in the economy. Nigerian Public procurement is estimated at between 10 - 25% of the gross domestic product (GDP). GRPP will contribute to the enhancement of the economy's productive capacity as well as economic growth considering that the state will be *firing on all cylinders* without the blocked option approach where a section of the populace (nearly half of the population) is excluded from government commerce. It introduces diversity in competition.
- Nigeria is a signatory to a plethora of regional and international standards on the human rights of women and gender equality and prohibition of discrimination on the grounds of disability (Convention on the Elimination of all forms of Discrimination against Women,¹⁹ Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa,²⁰ Convention on the Rights of Persons with Disabilities,²¹ Sustainable Development Goals, etc.). GRPP facilitates the realisation of the goals and objectives of these regional and international standards by creating opportunities for diversity of participation in government commerce.
- Governmental spending through procurements can be used for a fairer allocation of economic resources and improvement of living standards for women and men in all their diversity. GRPP can be deployed for empowerment, inclusivity, promotion of sustainable/green public buying, etc. Government patronage will build skills, competencies and capacities in otherwise marginalised segments of society.

¹⁹ Adopted on 18 December 1979 by United Nations General Assembly resolution 34/180; ratified by Nigeria.

²⁰ Adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, Mozambique 11th July 2003. Entry into Force 25th November 2005.

²¹ Adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007.

- GRPP addresses the challenges and barriers for women’s participation in the economy and in public life. These challenges have become institutionalised and systemic. They include social, cultural and legal norms, limited access to finance and capital, capacity deficits, information asymmetry, patriarchal assumptions and norms, etc. All over the world, governments use public procurement policy and implementation mechanisms to address a number of issues including budget implementation, service delivery, social, economic, environmental, human rights and developmental concerns.

- It can be stated as a basic aphorism that the level of economic growth and development in any society is directly related and proportional to the maturity of its procurement policy and how the policy responds to the challenges facing the society. A mature public procurement system should respond to the challenges of gender inequality, discrimination based on sex and disability and other prohibited grounds. GRPP is about gender mainstreaming. Public procurement can be used as a *strategy for making women’s and men’s concerns and experience an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes so that women and men can benefit equally and inequality is not perpetuated.*²²

- Sustainability of spending operations within a structure which ensures that public spending achieves quality, timeliness, suitability and fitness for purpose for all - women, men, girls and boys in all their diversity, while reducing risks and guaranteeing stability of the expenditure framework. It cuts the fixation of gender neutrality which affirms inequality. GRPP facilitates innovative solutions to societal challenges and drives innovativeness.

- Empirical and evidence led system with checks and balances that disciplines public spending through the implementation of rules that promote fair competition and best value for money – values are properly and broadly defined to serve all of society. It creates a whole of society approach to public procurement. Thus, it promotes competition and opens up procurement space for the treasury to select the best goods, services and works available in the market including the otherwise invisible goods, services and works produced by majority of women and girls.

²² Definition of gender mainstreaming in *Legal Framework for Gender Responsive Procurement* at page 4; UN Women 2024.

- Gender responsive and inclusive operational efficiency which improves predictability of government commerce and policy for strategic planning, management and operational performance at sectoral and overall governmental level.
- Introduces enhanced accountability, transparency and popular participation in public expenditure management which enhances the support of all citizens (not a section of the population) for the success of government policies.

1.4 Hallmarks of GRPP System

GRPP is to be based on a credible framework that seeks to achieve the following principles, objectives and goals:²³

- **Economy:** *With the ordinarily “visible” and “invisible” suppliers and bidders in view, economy will be achieved from the purchasing activity and gives the purchaser best value for money. Moreover, lowest initial price may not equate to lowest cost over the operating life of the item procured. But the basic point is the same: the ultimate purpose of sound procurement is to obtain maximum value for money.*
- **Efficiency:** *GRPP is about practicality, especially in terms of compatibility with the administrative resources and professional capabilities of the purchasing entity and its procurement personnel. The second is a procurement system that is programmed to achieve enhanced results with the same level of input through systems reforms. Government gets the goods, works and services paid for while enhancing gender equality, reducing poverty and building an egalitarian society.*
- **Effectiveness:** *GRPP ensures optimal value for all procurement spending and that such spending will achieve policy priorities.*
- **Fairness:** *GRPP is impartial, consistent, and therefore predictable and reliable. It offers all interested contractors, suppliers and consultants a level playing field on which to compete and thereby directly expands the purchaser’s options and opportunities. Fairness is also about recourse and redress mechanisms and sanctions for violations of the Law and regulations made thereunder.*
- **Transparency:** *Good procurement establishes and then maintains rules and procedures that are accessible and unambiguous. It is not only fair, but it is seen to be fair. Bidders know what is required and how offers will be evaluated and are*

²³ Adapted from the *Federal Procurement Procedures Manual*.

therefore better prepared to address the buyer's needs. Transparency also extends to ensuring that the public have timely access to procurement information necessary for public discourse for the improvement of the procurement function.

- **Professionalism:** *A good GRPP system is run by professionals and persons knowledgeable and skilled in the procurement process. Competent personnel are important for ensuring that the GRPP rules are followed.*
- **Accountability and Ethical Standards:** *GRPP holds its practitioners responsible for enforcing and obeying the rules. It makes them subject to challenge and to sanction, if appropriate, for neglecting or bending those rules. Accountability is at once a key inducement to individual and institutional probity, a key deterrent to collusion and corruption, and a key prerequisite for procurement credibility. Essentially, there is the need to maintain the integrity of the procurement system.*

1.5 Legal and Policy Basis for GRPP

Laws, policies and other standards guide every facet of human endeavour and interaction including public procurement. The relevant laws, policies and other standards include the following.

1.5.1 International Standards: Although national and international human rights law provides for equality before the law and non-discrimination which demands that everyone be treated equally, preferential treatment as a special measure or temporary special measures are permitted. These temporary special measures or affirmative action are described thus:

They are the full span of legislative, executive, administrative, budgetary and regulatory instruments at every level in the State apparatus, as well as plans, policies, programmes and preferential regimes in areas such as employment, housing, education, culture and participation in public life of disfavoured groups, devised and implemented on the basis of such instruments.²⁴

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) prohibits discrimination against women and enjoins state parties to take steps to eliminate discrimination in law and in fact. Its affirmative action principles specifically in article 4 provides:

²⁴ General Recommendation No.32 (2009) of the Committee on the Elimination of Racial Discrimination.

Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol) states as follows:²⁵

States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:

c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;

d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;

These mandates of CEDAW and Maputo Protocol can serve as the basis of affirmative action provisions for quotas in the procurement of certain agriculture goods and services by Ministries, Departments and Agencies of government (MDAs). This will enhance participation by women in public procurement. The Kaduna State Gender Responsive Public Procurement Policy²⁶ provides an example of quotas.

Procuring entities shall reserve at least 5% of their procuring activities under Works for solicitation from women-owned and women-led businesses only. This does not exclude women-owned and women-led businesses from participating in any other procurement processes.

Procuring entities shall reserve at least 20% of their lots under Goods for solicitation from women-owned and women-led businesses only.

Procuring entities shall reserve at least 10% of their lots under Services for solicitation from women-owned and women-led businesses only.

²⁵ Date of Adoption: July 01, 2003. Date of last signature: September 17, 2019 and Date entry into force: November 25, 2005.

²⁶ Kaduna State Government, March 2024.

Women-owned businesses with a 100% ownership are permitted to create consortiums and partnerships (joint venture) with other businesses to participate in public procurement provided that a partnership agreement is submitted with the bid that reflects the Women-owned businesses as subcontractors or partners.

It may be imperative to set procurement quotas in line with the 35% principle in the Beijing Platform for Action.

For all ratified international standards, the doctrine of *pacta sunt servanda* applies. Articles 26 and 27 of the 1969 Vienna Convention on the Law of Treaties is instructive:

“Every treaty in force is binding upon the parties to it and must be performed by them in good faith”

and

“A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”.

The Convention on the Rights of Persons with Disabilities introduces two relevant concepts for the participation of PWDs in public procurement. They are “reasonable accommodation” and “universal design”:

Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 5 of the Convention provides extensively on Equality and non-discrimination:

- 1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.*
- 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.*

3. *In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.*

4. *Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.*

The Sustainable Development Goals (SDGs) contain goals for promoting gender equality as well as gender mainstreaming:

- *Goal 1: End poverty in all its forms everywhere*
Target: Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions.
- *Goal 5: Achieve gender equality and empower all women and girls*
Target: Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.
- *Target 8.3 of the Sustainable Development Goals (SDGs): “Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services.*
- *Goal 10: Reduce inequality within and among countries*
Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.
- *Goal 12: Ensure sustainable consumption and production patterns*
Promote public procurement practices that are sustainable, in accordance with national policies and priorities.

GRPP is a sound public policy that is pro poor and gender sensitive; it works for gender equality and the empowerment of all women and girls, reducing inequalities of outcome and ensuring sustainable consumption and production patterns. Furthermore, international human rights law including CEDAW imposes an obligation on state parties to treaties to respect, protect and fulfil the rights contained in the respective treaties. The

most relevant duty related to procurement is the duty to fulfil which is about legislative, administrative, budgetary and policy steps for the fulfilment of *de jure and de facto* equality between men and women.

1.5.2 National Standards: Public procurement laws at federal and state levels created Procurement Councils and Bureaus with extensive powers and functions for the regulation and governance of public procurement. Procurement Councils are usually clothed with powers to: *consider and approve policies on public procurement and disposal as may be formulated by the Bureau including monetary thresholds; to approve the framework and regulation for monitoring of public procurement and disposal for all procurement entities.* Essentially, the Council is the policy arm for procurement regulation working in close collaboration with the Bureau which is the technical arm of the regulation mechanism.

The very wide and extensive powers of the Bureaus of Public Procurement and Public Procurement Councils of relevance to GRPP (when these are not explicitly provided in the law) include determining the structure and composition of Tenders Boards and Procurement Planning Committees, the structure and contents of Annual Procurement Plans, standard and content of all tender solicitation documents; standard and content of all procurement contracts. Others are structure and standard contents of all other documentation in the procurement process; use of any procurement method; fees chargeable by any procuring entity for matters relating to public procurements or access to procurement documents, provided that such fees will not be prohibitive; and the prevention and detection of the commission of any offence or act amounting to an infringement of the law and its regulations.

Therefore, the Bureaus and the Councils are in a position to formulate regulations for the introduction of GRPP at the federal and state levels. The Bureau's capacity building mandate is very important for GRPP in the sense that they can organise training and capacity building to ensure that MDAs understand and comply with GRPP demands.

The National Agriculture Technology and Innovation Policy (NATIP) in its cross-cutting issues provides as follows for women and youth:²⁷

Attention would be given to women and youths mainstreaming across the value-chains within the framework of the current Gender and Youth Policies of the relevant ministries. Targeted interventions would include capacity building, acquisition of 21st-century skill-sets, gender and youth-friendly innovations and

²⁷ National Agriculture Technology and Innovation Policy (2022-2027) at page 8.

enterprises, promotion of modern agriculture, and linkages to finance. Through active engagement of women and youth, 1 million new jobs are targeted along selected value chain.

Accomplishing the objectives of these proposed interventions in NATIP would require effective gender and youth mainstreaming in public procurement across the relevant MDAs.

The Discrimination against Persons with Disabilities (Prohibition) Act and State level equivalent laws propose interventions in infrastructure, education, health, employment, participation in public life, etc. Sections 1 and 28 of the Act are clear and unequivocal:

(1) A person with disability shall not be discriminated against on the ground of his disability by any person or institution in any manner or circumstance.²⁸

28.—(1) A person with disability has the right to work on an equal basis with others and this includes the right to opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open.

Therefore, discriminatory practices in access to opportunities in public procurement as a bidder, supplier, service provider, etc., is prohibited. Furthermore, in implementing procurement, designs of buildings, services, works and goods which inhibits access, use or participation of persons with disabilities are prohibited under the Act.

The National Gender Policy 2021- 2026 and state level equivalents are premised on the goal of building a just society devoid of discrimination, where the needs and concerns of women, men, girls, boys, and other vulnerable groups are mainstreamed equitably into all sectors of national development. The concept is that no one is left behind. Under its Gender and Employment (Labour Participation), it proposes promotion of women's access to trade, procurement, and opportunities in the extractive industries especially oil and gas. The policy is built on a framework of Gender Equality, Empowerment of Women, and Social Inclusion. Public procurement provides an entry point for the realisation of this conceptual framework.

The National Gender Policy in Agriculture seeks to mainstream gender in the agriculture

²⁸ Underlining supplied for emphasis. Procurement is included in the articulation of manner or circumstance.

sector comprising crop production, livestock, fishing and forestry. The key resources of the sector are in land, labour, capital and technology. Objective Four of the Policy is about institutionalising gender-based budgeting including planning, programming, implementation through public procurement and, monitoring, evaluation and audit. The foregoing will be informed by gender sensitive and disaggregated data.

The National Development Plan 2021-2025 in its Chapter on “Women and Gender Equity” seeks inter alia to facilitate the mainstreaming of gender issues in existing policies by providing technical support to MDAs and stakeholders; support the economic empowerment of women by facilitating access to financial literacy, financing, providing skill building training and supporting MSMEs business viability; effectively track gender related data by strengthening data collection capacity and management systems. It also seeks to use technology [including E-procurement] to expand the reach and impact of gender programming and social mobilisation campaigns.

1.6 The Accounting Officer

Implementing GRPP is impossible without the leadership and active collaboration of the Accounting Officer. The Accounting Officer is pre-eminent in public procurement proceedings. Generally, the Accounting Officer of a procuring entity has the responsibility to ensure that the provisions of the Law and the regulations laid down by the Bureau are complied with, and concurrent approval by any Tenders Board shall not absolve the Accounting Officer from accountability for anything done in contravention of the Law or the laid down regulations. The Accounting Officer of a procuring entity and any officer to whom responsibility is delegated are responsible and accountable for any actions taken or omitted to be taken either in compliance with or in contravention of the Law.

The Accounting Officer is deemed to be in full control of the human, material and financial resources of the ministry or extra ministerial department. His duties in general public finance management include: (a) ensuring that proper budgetary and accounting systems are established and maintained to enhance internal control, accountability and transparency; (b) ensuring that the essential management control tools are put in place to minimise waste and fraud; and (c) rendering monthly and other financial accounting returns and transcripts to the Accountant General of the State as required by the Financial Regulations. Other responsibilities are: (d) ensuring the safety and proper maintenance of all government assets under his care; (f) ensuring accurate collection and accounting for all public moneys received and expended and (g) ensuring prudence in the expenditure of public funds.²⁹

²⁹ See Federal Financial Regulations.

The PPA and PPLs identifies the respective Accounting Officers:

- For each of the state ministries, its permanent secretary;
- For the judiciary, the Chief Registrars respectively of the High Court, and Sharia Courts of Appeal;
- For the State House of Assembly, the Clerk of the House;
- For each of the state's extra - ministerial departments, bureaus, offices, agencies, and government-owned and/or controlled corporations, its Chief Executive Officers;
- For state universities, polytechnics, colleges and other higher institutions of learning, the Vice Chancellors, Rectors and Provosts or its equivalent;
- For each local government in the state, the Head of Administration.

The Accounting Officer is the supervisor of the entire procurement proceedings as follows:

- He has overall responsibility for the planning and organisation of tenders, evaluation of tenders and execution of all procurements and in particular shall be responsible for;
- Ensuring compliance with the provisions of the Law by his entity to prevent the breach or contravention of the Law or any regulation made thereunder;
- Overseeing the Procurement Committee and its decisions;
- Ensuring that appropriation is provided for the procurement in the State budget;
- Integrating his entity's procurement expenditure into its yearly budget;
- Ensuring that no reduction of values or splitting of procurements is carried out such as to evade the use of the appropriate procurement method;
- Constituting the Evaluation Committee;
- Liaising with the Bureau to ensure the implementation of its regulations.

1.7 Staffing

The quality, capacity and sufficiency of procurement staff is critical to good procurement administration, especially in GRPP. The Bureau leads in the development and implementation of GRPP. The Bureau in the exercise of its powers to train personnel and build MDA-wide institutional capacity for a sustainable and efficient public procurement system and to organise training and development programmes for procurement professionals shall ensure that each Procuring Entity has sufficient qualified staff available to carry out the normal procurement tasks assigned to them. The Bureau is also obliged to conduct regular assessment to determine the extent of assistance required in the form of training additional staff or retraining and refresher courses for procurement staff to the end that the use of consultants shall be minimised and capacity built in the civil service.

PART TWO

CHALLENGES TO INCLUSIVITY IN PUBLIC PROCUREMENT

2.1 Challenges to Inclusivity

It may be imperative to start the process of inclusivity in public procurement with a discourse that identifies challenges and threats to the participation of excluded groups. This will facilitate the understanding of not just the technical challenges but the entire political economy of exclusion. It has been stated that:

Strategic entry points and challenges for GRP depend on four factors: legal and institutional frameworks (institutions); partnerships among different stakeholders (partnerships); data (evidence); and the capabilities of buyers and suppliers (capacity) in a country.³⁰

Some of the challenges identified are reviewed in this section.

2.1.1 Legal and Institutional Frameworks: Public procurement laws in Nigeria have been enacted without direct mention and reference to inclusion or GRPP. The underlying assumption and claim is one of neutrality - in law, policy and practice - and there are general non-discrimination provisions which are poorly understood without the deeper knowledge of affirmative action to right the wrongs of many years of marginalisation and exclusion. Procurement regulatory bodies (Councils and Bureaus) are set up without reference to gender and inclusivity and their assignments are made to appear neutral.

The big elephant in the room is the absence of clear legal provisions mandating inclusive procurement as the laws are “inclusivity neutral”. The laws pretend that everyone has the same capacity to compete and as such make no provisions to empower marginalized groups and facilitate their participation. Neutrality in the face of obvious inequality is discrimination and flies in the face of reason and common sense.

Majority of WOBs and WLBs are in the informal sector meaning that they are not registered with the Corporate Affairs Commission, do not pay formal taxes and social contributions and keep little or no documentation. The procurement laws at federal and

³⁰ Guidance Note, Building Gender - Responsive Procurement: Lessons from Research and Practice at page 4; May 2022.

state levels require businesses to be registered and present evidence of payment of tax and social contributions as a basic qualification for bidders.³¹

2.1.2 Partnerships and Networks: These are built along existing patriarchal order and structures, along social stratification lines and often “old boys’ networks”. These existing networks do not favour GRPP.

2.1.3 Data and Statistics: Not enough evidence is gathered by procurement and central statistics agencies on the inclusivity disaggregation of procurement variables like bidders, suppliers, contractors, nature of goods, services and works procured and how they differently impact on different segments of society - women, men, girls, boys and persons with disabilities.

2.1.4 Social, Cultural and Legal Norms: Long standing traditions, cultural norms and patriarchal perceptions restrict women’s mobility, limit social networks, discriminate based on gender or marital status, impose restrictions based on reproductive and domestic responsibilities and hamper decision-making powers and time availability, hence strictly limiting the economic activity and growth of WOBs. These factors force WOBs to operate in the informal, lower value-added service sectors and home-based enterprises producing specifically for intermediaries³².

2.1.5 Capacity Deficits: These deficits exist at two levels. The first is the capacity deficit of business owned by women, PWDs and small businesses to engage the public procurement system with its intricate web of technical details and specifications. Procurement documentation requires skills and knowledge to meet requirements. Capacity deficits will also include being able to show evidence of audited accounts, previous contracts won and executed and a functional bank account as well as compliance with all tax and regulatory issues. The second level is the knowledge deficit by public sector officials of the meaning and operational details of inclusive procurement. Since it is not required by law, they have not undergone training or have any experience on the subject matter.

2.1.6 Corruption: A Nigerian Study in the Guidance Notes states”

“Corruption in procurement, where present, has gendered implications specifically detrimental to women suppliers. For example, in Nigeria, public procurement is

³¹ Women own 41% of micro businesses in Nigeria and there are 23 million female entrepreneurs – A Gender Responsive Assessment, Review and Audit of Procurement Laws, Policies, Regulations and Institutions in Kaduna State, Nigeria.

³² Ibid, *Guidance Note, Building Gender - Responsive Procurement: Lessons from Research and Practice*; May 2022. UNW Pakistan n.d.-a, p. 13.

closely linked to “political partisanship and informal patriarchal rules”. Party financiers, chieftains and their proxies commonly dominate public procurement based on the political party in power. Consequently, even when WOBs meet the qualification for public tenders, “informal rules and partisan interests still tend to reinforce their exclusion and limited participation because very few women have ‘heavyweight’ status within party structures”³³

When corruption is combined with institutionalized discrimination, inclusivity suffers the biggest blow.

2.1.7 Limited Access to Finance and Capital: Participation in public commerce requires access to capital and credit facilities which is hardly available for majority of business run by marginalized groups. Poverty is feminised and PWD have also become the face of poverty. To get the not less than 1% bid security for a big-ticket transaction requires being a good customer of a bank and having funds to back up the bid. Development Banks that fund small business also require formal documentation and collaterals which are not easy to meet by businesses run by marginalised groups.

2.1.8 Limited Access to Procurement Information: Procurement information is not found on the streets and needs a bidder being part of the system and or regularly checking for opportunities to get the needed information. Most WOBs do not have access to procurement information.

2.1.9 Time Poverty: This is caused by household and family care work. Time is a great resource which enables individuals to think proactively and strategically and to have ample opportunity to work on intricate details and challenges embedded in competition in government commerce. Many women in unpaid household work hardly have access to sufficient time to engage in the intricate details of procurement.

2.1.10 Further Impediments: The Kaduna State Gender Responsive Public Procurement Policy identifies further impediments as follows:

- *Misfit in tender design, which, for example, includes barriers due to unnecessary complexity of tender procedures or competition based on price rather than quality.*
- *Use of excessive requirements, for example on financial resources or track*

³³ At page 8. *Guidance Note, Building Gender - Responsive Procurement: Lessons from Research and Practice*; May 2022.

record, putting women-owned businesses and women-led cooperatives at a disproportionate disadvantage.

- *Challenging process behaviour, such as late payments and non-preferential treatment towards women-owned businesses and women-led enterprises;*
- *Lack of information shared with women-owned businesses and women-led cooperatives, especially with regard to tender opportunities; and*
- *Insufficient capability of women-owned businesses and women-led cooperatives, such as a lack of tendering skills and no or few connections to ask for help*
- *Socio-cultural barriers, especially such that impedes women from stepping forward for economic opportunities.*³⁴

These barriers and impediments are summarised in Figure 1.

Figure1: Barriers to Gender Responsive Procurement³⁵

Country level	Procuring Entity Level			Women Owned Business level	
1. Inadequate Legislation and Policies <ul style="list-style-type: none"> • No or improper definition of women-owned businesses • No or incomplete registration of women-owned businesses • No possibility to lawfully facilitate women-owned businesses 	2. Misfit Tender Design <ul style="list-style-type: none"> • Complex tenders and large contracts • Competition based on price • Insufficient time to prepare bids • Markets closed for competition due to long-term agreements 	3. Excessive Requirements <ul style="list-style-type: none"> • Disproportionate financial requirements • Disproportionate quality requirements • Overemphasis on costly industry standards and certifications • Track record Needed 	4. Poor Practices by Government <ul style="list-style-type: none"> • Late payments or risk of non-payment • Information request overload • Lack of feedback • Biased position towards women-owned businesses 	5. Lack of Information <ul style="list-style-type: none"> • Insufficient access to tender opportunities • Little dialogue with procurer • No invitations to bid • Limited access to internet 	6. Limited Capability <ul style="list-style-type: none"> • Lack of tendering skills • Limited financial resources • Little experience to fall back on • Insufficient network or connections to reach out to for help

³⁴ At paragraph 1.5

³⁵ *Making Public Procurement Work for Women* at page 3: International Trade Centre, SheTrades and UKAid, 2020.

• No or insufficient preferential policies for women-owned businesses					
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Source: Making Public Procurement Work for Women

PART THREE

GRPP STRATEGIES: MITIGATING THE CHALLENGES

3.1 Overview of Strategies

The basic principles of gender mainstreaming are applicable to public procurement. They are as follows:³⁶

a) Gender-Sensitive Language: The language is inclusive and gives everyone a sense of belonging. It makes visible men and women, boys and girls and PWDs in internal and external communications as well as choice of images.

b) Gender-Specific Data Collection and Analysis: This provides an empirical background for decision making, showing the gaps, challenges, inequalities that inform decisions to close the gaps and reduce the inequalities. Data is the oxygen for decision making. Data should be collected, analysed and presented by gender. Age, ethnicity, income levels, etc., may also be factored into the disaggregation. Posers may arise such as: Who are the farmers - men or women? What type of crops or animals do the men and women cultivate? What are the yields per hectare of the same crops in farms cultivated by men and women?

c) Equal Access to and Utilisation of Services: The services that will arise from public procurement should be equally accessible and utilisable by all men and women in their diversity.

Services and products must be assessed as to their different effects on women and men. It is important to identify: Who uses the services or goods (women or men or both)? [agro chemicals, fertilisers, seeds and seedlings]. Who are the clients (women or men or both)? [for instance - extension services]. Who are the target groups? Do women and men have different needs? Are the different circumstances of women and men taken into account when planning and designing services? Have all target groups access to the same sources of information? Who benefits most? Which group would suffer most if they could not use the services offered? Are the offices providing the service structurally

³⁶ <https://www.wien.gv.at/english/administration/gendermainstreaming/principles/five-principles.html>. Also, Agricultural Development through Gender Mainstreaming; https://www.researchgate.net/publication/387069275_Agricultural_Development_through_Gender_Mainstreaming/citation/download.

gendered and barrier free, (i.e. the waiting areas, lighting, access without steps, signage)?³⁷

d) Women and Men are Equally Involved in Decision Making: Decision making about needs identification, addressing the needs, strategies, etc., are made by the diversity of men and women.

There are binding targets for a balanced gender ratio at all levels of decision making. Measures and strategies geared towards a balanced gender ratio must be taken at all levels of decision making. This is also important when appointing working groups, project teams, commissions and advisory boards, as well as when organising events, e.g. when selecting speakers. Workplaces must be structurally gendered and barrier free where possible.³⁸

e) Equal Treatment is Integrated into Steering Processes: Equality in law and in fact is embedded into the steering process.

Steering instruments include quality management and gender budgeting, amongst others. It is important to note that: Paying attention to the different circumstances of women and men enhances the success rate, effectiveness and maximum utilisation of staff and funds. All targets related to people are defined in terms of full equality and the targets attained are therefore presented by gender. Controlling routine as a matter of course includes gender-specific evaluation of results and a systematic steering of the gender ratio, in other words, the development and implementation of (new and adapted) targets, strategies and measures.³⁹

The detailed strategies for implementation which mitigates the challenges of GRPP discussed in Part Two are discussed below.

3.1.1 Provide for Inclusive Procurement in Law: Federal and state level laws should be amended to specifically provide for inclusive procurement. Model gender responsive public procurement laws should be prepared and used as a basis for reforms. In the interim, the various Bureaus of Public Procurement can by regulation start the process of mainstreaming inclusivity in government commerce.

3.1.2 Advocacy: CSOs, especially public finance management groups, women rights groups and PWD groups should lead the advocacy for procurement reforms that are responsive to the needs of all. This will include policy, legislative and administrative advocacy interventions, use of a multi-media approach in building consensus and

³⁷ <https://www.wien.gv.at/english/administration/gendermainstreaming/principles/five-principles.html>

³⁸ <https://www.wien.gv.at/english/administration/gendermainstreaming/principles/five-principles.html>

³⁹ <https://www.wien.gv.at/english/administration/gendermainstreaming/principles/five-principles.html>

mobilizing citizens support, etc. In the field of works, to change the conception that works, especially construction is a male domain and to eradicate gender inequality, the Association of Professional Women Engineers of Nigeria should collaborate with relevant professional bodies such as Council for the Regulation of Engineering in Nigeria, Nigerian Institute of Architects, Nigerian Institute of Quantity Surveyors, etc., in advocacy to strengthen the participation of WOBs and WLBs in works.

3.1.3 Capacity Building: Capacity building for the demand and supply side for a proper understanding of critical issues, roles and responsibilities for effective and inclusive regime of government commerce. For the demand side, strengthen the business capacity of small holder groups, cooperatives, WLB and WOBs. This could be done by procurement Bureaus, CSO and think tanks. Matured WOBs and WLB networks can provide hand holding and mentorship to smaller groups with capacity deficits.

The Kaduna State Gender Responsive Public Procurement Policy prescribes a response to insufficient capability of WOBs and WLCs. It states that to move from lack of capability to sufficient capability of WOBs and WLCs, procuring entities and the regulatory authority – Kaduna State Public Procurement Authority (KADPPA) should adopt the following measures:

Table 2: Addressing Capacity Deficits through GRPP

Barriers	Compulsory Measures	Measures to Consider per Tender
Lack of tendering skills	<ul style="list-style-type: none"> ▪ Set up a tender helpdesk and/or: ▪ Appoint a contact person that is reachable 	<ul style="list-style-type: none"> ▪ Organize tender training for WOBs and WLCs
Little experience to fall back on	-	<ul style="list-style-type: none"> ▪ Network with branch organizations as intermediaries to reach WOBs and WLCs
Insufficient network, connections to reach out to for help	-	<ul style="list-style-type: none"> ▪ Help WOBs and WLCs to get connected within useful networks and/or experienced bidders

Source: Kaduna State Gender Responsive Public Procurement Policy

3.1.4 Dedicated Funds that Provide Access to Capital: Transparently managed dedicated funds to provide access to capital for marginalised groups can be created by

government through the Development Banks or the Central Bank's management of monetary policy.

3.1.5 Providing Procurement Information through Women's/PWD Groups and Networks: Information is critical to participation in government commerce and beyond the traditional information sources, networks and groups of women and PWDs can be options for the dissemination of procurement information such as tenders, etc.

3.1.6 Enforce Anti-Discrimination Laws and Policies: Norms in legal provisions in the Constitution, Anti-Discrimination Law, National Gender Policy should be enforced to the letter for equal opportunities and equity for all in public procurement.

3.1.7 Fight Corruption: Federal and state governments have made commitments in law and policy to fight corruption. The Constitution established bodies like the Auditor General for the Federation and the States, Code of Conduct Bureau and Code of Conduct Tribunal. Other agencies established by statutes include the Independent Corrupt Practices and other Related Offences Commission, Economic and Financial Crimes Commission. These bodies and agencies should be nudged, encouraged and held accountable to fight corruption.

3.1.8 Mainstream Data Gathering: To drive GRPP requires gender disaggregated data across the various stages and facets of the public procurement process. The data collection and analysis will cut across MDAs and the central statistics agency.

3.2. The Kaduna State Gender Responsive Public Procurement Policy

The Kaduna State Gender Responsive Public Procurement Policy makes provisions on promoting financial inclusion, reservations, establishment of a Gender Desk, institutional arrangements and monitoring and evaluation. The provisions are reproduced below in italics.

3.2.1 Definition of Women-owned Businesses and Women-led Cooperatives: This sets the qualification threshold for enterprises to benefit from this Policy framework.

Nigeria has adopted formal definitions of terms related to women's entrepreneurship to allow for the official qualification of entrepreneurs within the scope of this policy. This qualification is required for effective policy implementation and avoidance of fraudulent practices, such as fronting and pass-through companies. The terms will identify the target groups for measures and targeted assistance strategies included in this policy.

Nigeria has endorsed the definitions laid down in the International Organization of Standardization (ISO) International Workshop Agreement (IWA) on

"Women's Entrepreneurship-Key Terms and General Criteria", referenced furthermore as IWA34. IWA 34 is the result of a joint initiative by the Swedish Institute for Standards, ITC, and ISO. IWA 34 provides a set of definitions and guidelines for terms pertaining to women's entrepreneurship, including women-owned businesses, women-led businesses, and women-led cooperatives.

Aligned with the definitions included in IWA 34, this policy targets women-owned businesses and women-led cooperatives:

- *A women-owned business is a business that is more than 50% owned by one or more women, whose management and control lie with one or more women, where a woman is a signatory of the business's legal documents and financial accounts, and which is operated independently from businesses that are not owned by women'*
- *The business must be Women-Owned/Women-Led Firm or 51% owned by a woman/women; or 20% owned by a woman/women; and have one woman as CEO/COO (President/Vice President); and have 30% of the board of directors comprised of women, where a board exists.*
- *A women-led cooperative is a cooperative in which more than 50% of the total number of votes are held by women, where the majority of the board of directors are women, and where the majority of leadership positions, if applicable, are held by women.*

For the purpose of the policy, businesses and cooperatives that are entitled to benefit from measures and targeted assistance strategies are referred to as WOBs (referring to women-owned businesses) and WLCs (referring to women-led cooperatives).

3.2.2 Promoting Financial Inclusion: This responds to the challenge of lack of finances. The Kaduna State Gender Responsive Public Procurement Policy states:

The strategy of financial inclusion is based on giving a complete waiver or percentage waiver in registration or documentation of WOBs/WLCs across relevant State's agencies. This strategy is to be applied in tenders where:

- *Women owned enterprises with a 100% women ownership to be exempted from payment of registration fees to the Public Procurement Authority*
- *WOBs/WLCs are to be entitled to a 50% reduction in registration*

fees with other relevant agencies in the State.

- *Women owned enterprises with a 100% ownership to be entitled to a 50% reduction in Tenders Fee*

This would reduce the financial entry barrier for WOBs and WLBs.

3.2.3 Reservations: Reservations are part of the implementation of the affirmative action principle of temporary special measures aimed at accelerating de facto equality between men and women.

The strategy of reservations allows for access to a tender procedure for WOBs and WLCs only.

- *Procuring entities shall reserve at least 5% of their procuring activities under Works for solicitation from women-owned and women-led businesses only. This does not exclude women-owned and women-led businesses from participating in any other procurement processes.*
- *Procuring entities shall reserve at least 20% of their lots under Goods for solicitation from women-owned and women-led businesses only.*
- *Procuring entities shall reserve at least 10% of their lots under Services for solicitation from women-owned and women-led businesses only.*
- *Women-owned businesses with a 100% ownership are permitted to create consortiums and partnerships (joint venture) with other businesses to participate in public procurement provided that a partnership agreement is submitted with the bid that reflects the Women-owned businesses as subcontractors or partners.*
- *Where there is bid failure for the reserved procurement activity, the entity shall seek approval of the Authority (KADPPA) for the adoption of non-affirmative procurement.*
- *The strategy can be used in closed tenders as well as open tenders.*

3.2.4 Establishment of a Gender Desk: The Gender Desk responds to the challenges of capacity and information dissemination.

The strategy ensures the establishment of a gender desk to monitor compliance and support WOBs and WLCs.

- *This desk will keep records of women-owned and women led businesses registered with the Authority.*
- *The desk will be responsible for ensuring that procuring entities have in compliance with the Public Procurement manual sent solicitation of bids to this register.*
- *The desk will also be in charge of supporting women in understanding procurement requirements and issuing procurement guidelines to WOBs and WLCs.*

3.2.5 Institutional Arrangements: This sets out the roles and responsibilities of various agencies in the implementation of the Policy.

Roles and Responsibilities

- *This policy is owned by the Office of the Governor and implemented by the Kaduna State Public Procurement under the Ease of Doing Business.*
- *The formal responsibility for the implementation of the policy is assigned to the Kaduna State Public Procurement Authority (KADPPA). The actual implementation of the policy is the shared responsibility of all Ministries, Departments and Agencies (MDAs) and Local Government Authorities.*
- *The responsibility for verifying whether businesses qualify as WOBs or WLCs is assigned to the Authority (KADPPA) and UN Women. A list of these Women Enterprises is to be published and updated regularly by the KADPPA.*

3.2.6 Monitoring and Evaluation: Monitoring and Evaluation is important to keep track of progress or retrogression in policy implementation.

All procuring entities share operational progress data quarterly with the Authority (KADPPA) and State Bureau of Statistics. The responsibility for reporting operational progress on the realization of

the target of this policy is assigned to the Authority (KADPPA).

The responsibility for follow-up on monitoring and evaluation of the implementation of this policy lies with the gender responsive desk (KADPPA).

3.2.7 Communication: Communication is a key component of policy implementation.

The responsibility for the strategy concerning all communication related to this policy lies with the owner of the policy, the Office of the Governor by the Authority. Various forms of communication such as radio, TV, social media platforms and community outreach are used to share information about the policy

3.3 Other Mitigating Strategies

Available literature indicates several other strategies, methods and procedures for gender mainstreaming in public procurement. These strategies seek to provide a response to challenges of inclusion in public procurement. These include:

3.3.1 Margin of Preference (Price Preference): This can follow the margin of preference model already existing in the PPA and PPLs.

(1) A procuring entity may grant a margin of preference in the evaluation of tenders when comparing tenders from WOBs bidders with those from non WOBs bidders or when comparing tenders from suppliers offering goods manufactured by WOBs with those offering goods manufactured by non WOBs;

(2) Where a procuring entity intends, to allow GRPP preferences, the bidding documents shall clearly indicate any preference to be granted to WOBs bidders and the criteria for eligibility of a bid for such preference;

(3) The Bureau shall by regulation from time to time set the limits and the formulae for the computation of margins of preference.⁴⁰

When applying preferences, the following guidance should be used:

⁴⁰ Adapted from S.34 of the PPA and equivalent provisions in State level PPLs.

Goods:

- The application of the applicable preference should be used only if it was disclosed in the bidding documents;
- The threshold for WOB is clearly defined and verifiable in law, policy and implementation guidelines;
- The goods qualified for preference are identical or comparable to requirements given in the bidding documents with respect to quality, capacity and performance;
- Satisfying the minimum GRPP values as specified in the bidding documents;
- The margin of price is added to the bid price of non WOB products rather than subtracting from the WOB product.

Works:

- The application of the applicable preference should be used only if it was disclosed in the bidding documents;
- Satisfying the minimum WOB values as specified in the bidding documents;
- The margin of price is added to the bid price of non-WOB works bid rather than subtracting from the WOB.

The alternative method of determining the margin is by discounting eligible bids: An eligible business from a WOB will have their bid price reduced by a certain percentage, making it more competitive against non WOB bids.

3.3.2 Outright Reservations: This strategy reserves the tenders in a certain category or sector to only WOB. It ensures that heads and tails, WOBs will win. This can be done in sectors dominated by WOB or where their skills predominate.

3.3.3 Subcontracting: The solicitation documents may require a main contractor to show that subcontracting assignments will be done by a qualified WOB. This may be the case in large projects where WOBs may not have sufficient capacity to take up the whole assignment as the lead contractor.

Generally, the public procurement rule is that a procuring entity shall not request or stipulate that a bidder should engage a particular sub-contractor as a requirement for

participating in any procurement proceedings. The responsibility for abiding by the Law and the terms of engagement remains that of the successful bidder. Therefore, the Law requires that the bidder is given a free hand to choose person(s) to work with in the execution of the project. But this general principle will be subject to the exception of being trumped by more fundamental and higher norms that has virtually attained the status of *jus cogens* being principles of international human rights law accepted by all civilized nations and peoples.⁴¹

3.3.4 Summary of Strategies: Key aspect of the foregoing strategies are summarised in Figure 2.

Figure 2: Measures Towards Gender Responsive Public Procurement⁴²

Country Level	Procuring Entity Level				Women Owned Business Level	
<p>1. Allow for procuring entities to favour women-owned businesses</p> <ul style="list-style-type: none"> • Provide opportunity in law for procuring entities to favour women-owned businesses • Formulate and implement preferential procurement policies for 	<p>2. Fitting tender design</p> <ul style="list-style-type: none"> • Standardize procedures and documents; make them as simple as possible • Harmonize procedures and documents across procuring entities • Break down tenders into lots • Restrict bidders from competing 	<p>3. Proportionate requirements</p> <ul style="list-style-type: none"> • Request only those standards and certificates that are really necessary • Put limitations on financial qualification levels • Consider not requesting audited financial accounts • Do not use, or reduce the number and 	<p>4. Women-owned business-friendly government behaviour</p> <ul style="list-style-type: none"> • Implement payment deadlines and sanctions for late payments • Allow advance and interim payments • Protect interests of subcontractors in contracts (direct payments 	<p>5. Adequate information</p> <ul style="list-style-type: none"> • Provide free access to contract notices and tender documentation • Invite women-owned businesses proactively to bid • Organise information sessions (site visits or the like) before tender deadline • Distribute tender 	<p>6. Sufficient capability</p> <ul style="list-style-type: none"> • Organize tender training for women-owned businesses • Set up a tender helpdesk and appoint a reachable contact person • Network with branch organizations as intermediaries to reach women-owned businesses 	

⁴¹ *Jus cogens* refers to peremptory norms of (customary) international law from which no derogation is permitted, meaning they are universally accepted, binding on all states, and cannot be overridden or modified by any treaty or contrary customary law. Also known as peremptory norms, these fundamental principles protect the core values of the international community, and any treaty that conflicts with them is void.

⁴² *Making Public Procurement Work for Women* at page 4: International Trade Centre, SheTrades and UKAid, 2020.

<p>women-owned businesses</p>	<p>for all lots</p> <ul style="list-style-type: none"> • Limit the duration and renewal of (framework) agreements • Allow sufficient time to submit tenders • Publish early information notices • Use the most economically advantageous tender criterion • Specify based on performance or functional requirements 	<p>amount of, financial guarantees and bid bonds</p> <ul style="list-style-type: none"> • Allow for joint bids with the option to rely on other parties' track record • Relate performance requirements to the character and size of the assignment • Check that requirements are proportionate to the risks involved 	<p>to women-owned businesses)</p> <ul style="list-style-type: none"> • Pay attention to gender-balanced procurement department and committees • Do not request documents that are already available • Request submission of documents only once (pre-) selected • Retrieve authorized documents directly • Facilitate electronic tender submission (if internet access is not an issue) • Share submitted documents and prequalification results with other procuring entities • Provide information after contract awards on 	<p>guidelines and other support material</p> <ul style="list-style-type: none"> • Allow for a written question-and-answer session as part of the tender procedure • Use local Languages • Post award debriefing 	<ul style="list-style-type: none"> • Help women-owned businesses get connected with useful networks or with experienced bidders
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			procedure and score • Use gender-neutral language		
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Source: Making Public Procurement Work for Women

3.4 The Challenge of Fronting

Some non WOB may attempt to claim the benefits arising from designation as a WOB. This makes a case for a clear and unambiguous provisions of what constitutes a WOB or WLD. Furthermore, there should be sanctions in the law and policy for fronting - criminal sanctions, being fines and possible imprisonment of key personnel as well as administrative sanctions like debarring of the firm from participating in public procurement for a period of years.

It may be imperative set up a database of WOBs warehoused in the procurement regulatory agency or a chamber of commerce. Registration should be easy while checks should be done to ensure that claims are factual. Periodic checks should be done to ensure that businesses retain the qualifications leading to being designated a WOB.

3.5 Preliminary Considerations

These are preliminary issues to be considered and responded to before embarking on GRPP.

Table 3: Country/State Level Preliminary Considerations⁴³

Country/State-level questions	Answer	Explanation or answer to follow-up questions	Score (circle one)
1. Does the country have a (formal) definition of women-owned businesses, women-led enterprises, or similar?	<input type="checkbox"/> Yes: write it here		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: research to find the answer		0
2. Is there any mention of 'gender', 'women', 'women-owned businesses', etc. in public procurement law?	<input type="checkbox"/> Yes: write it here		1
	<input type="checkbox"/> No: if there is any remark on (other) minority groups, copy it here		0
	<input type="checkbox"/> Unknown: research to find the answer		0
3. Does the law provide for measures that favour or encourage women-	<input type="checkbox"/> Yes: note whether there are any limitations		1

⁴³ *Making Public Procurement Work for Women* at page 4: International Trade Centre, SheTrades and UKAid, 2020.

owned businesses to participate in or win public tenders?	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: consult a legal expert		0
4. Is there any preferential procurement policy at country level for particular groups of tenderers, such as MSMEs or local businesses?	<input type="checkbox"/> Yes: provide information here		1
	<input type="checkbox"/> No or not aware		0
	<input type="checkbox"/> Unknown: scan all policies for terms 'minority', 'MSME', 'youth', 'historically disadvantaged groups', 'local', etc.		0
5. Is there any preferential procurement policy specifically aimed at women-owned businesses?	<input type="checkbox"/> Yes: what does it say?		1
	<input type="checkbox"/> No or not aware		0
	<input type="checkbox"/> Unknown: scan all policies for 'women', 'woman', 'gender', etc.		0
6. Is there any other procurement commitment that specifically mentions increasing the number of women-owned businesses in the economy?	<input type="checkbox"/> Yes: what does it say?		1
	<input type="checkbox"/> No		0
	<input type="checkbox"/> Unknown		0
7. Is the government demonstrating any leadership in terms of prioritizing engagement of women-owned businesses in the economy?	<input type="checkbox"/> It has already taken action: provide information		1
	<input type="checkbox"/> It is talking about it, but no action has been taken		0
	<input type="checkbox"/> It has not talked about or taken any action on this		0
	<input type="checkbox"/> Unknown: check the news, government websites, etc.		0
8. Can businesses register as women-owned businesses in a database?	<input type="checkbox"/> Yes: access the database if possible; if not, find out how		1
	<input type="checkbox"/> No: why not? Is there anything that can be done about this? If not, skip Questions 9-11.		0
	<input type="checkbox"/> Unknown: ask chambers of commerce or branch organizations for information		0
9. Do businesses receive a formal confirmation such as a certificate when they qualify as women-owned businesses?	<input type="checkbox"/> Yes		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: ask chambers of commerce or branch organizations for information		0
10. Is the database of women-owned businesses updated at least once a year?	<input type="checkbox"/> Yes: how are businesses verified as women-owned businesses?		1
	<input type="checkbox"/> No: why not? Is it still usable?		0
	<input type="checkbox"/> Unknown: ask registration office		0
11. Does the database identify the sectors in which women-owned businesses are active?	<input type="checkbox"/> Yes		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: ask registration office		0
TOTAL SCORE AT COUNTRY/STATE LEVEL			

Source: Making Public Procurement Work for Women

Table 3 deals with the legal, policy and administrative framework in relation to WOBs and WLBs. The answers to these questions are fundamental for a determination of steps to be taken for introduction and mainstreaming of GRPP.

Table 4: Procuring Entity Level Preliminary Considerations⁴⁴

Procuring Entity questions	Answer	Explanation or answer to follow-up questions	Score (circle one)
12. Has the organization defined what is meant by 'women-owned businesses'?	<input type="checkbox"/> Yes: is it the same definition as at the country level?		1
	<input type="checkbox"/> No: consider doing this now!		0
	<input type="checkbox"/> Unknown: find out		0
13. Have any discussions taken place about women-owned businesses (e.g. during formal internal meetings or stakeholder dialogues)?	<input type="checkbox"/> Yes: what was discussed?		1
	<input type="checkbox"/> No: start from scratch		0
	<input type="checkbox"/> Unknown: find out		0
14. To what extent is the organization aware of the existence of women-owned businesses?	<input type="checkbox"/> They are registered, and there is a full picture		1
	<input type="checkbox"/> Women-owned businesses are registered somewhere, but there is no full picture		0
	<input type="checkbox"/> There is a rough idea of which women-owned businesses exist and where they are		1
	<input type="checkbox"/> Not much information is known about women-owned businesses		0
	<input type="checkbox"/> No information		0
15. To what extent is the organization concerned about the inclusion of women-owned businesses in tenders?	<input type="checkbox"/> The organization has already taken action: provide information		1
	<input type="checkbox"/> There have been discussions, but no action has been taken		0
	<input type="checkbox"/> No discussion or action has taken place		0
	<input type="checkbox"/> Unknown: ask around or do a short survey to check		0
16. Who would take the lead on including women-owned businesses in the organization?	<input type="checkbox"/> What is their position?		1
	<input type="checkbox"/> Unknown: find out		0
17. Does the person in this position have the proper mandate to make changes within the organization regarding rules and actions about women-owned businesses?	<input type="checkbox"/> Yes		1
	<input type="checkbox"/> No: this may indicate that the responsibility has to move to a higher level		0
	<input type="checkbox"/> Unknown: talk to the person in this position and discuss some scenarios		0

⁴⁴ *Making Public Procurement Work for Women* at page 4: International Trade Centre, SheTrades and UKAid, 2020.

	to check		
18. To what extent does the organization monitor whether it deals with women-owned businesses?	<input type="checkbox"/> The women-owned businesses are well-known		1
	<input type="checkbox"/> The women-owned businesses are not well-known		0
	<input type="checkbox"/> Unknown: find out		0
19. Has the organization conducted any assessment or analysis to identify viable women-owned businesses as suppliers?	<input type="checkbox"/> Yes: note the actions taken and results		1
	<input type="checkbox"/> No		0
	<input type="checkbox"/> Unknown: find out		0
20. Has the organization made any effort to reach out to women-owned businesses (e.g. through community workshops, seminars, or trade fairs)?	<input type="checkbox"/> Yes: note the actions taken and organizations present		1
	<input type="checkbox"/> No		0
	<input type="checkbox"/> Unknown: find out		0
21. Does the website encourage women-owned businesses to respond to tender calls?	<input type="checkbox"/> Yes: have there been any changes since this started?		1
	<input type="checkbox"/> No		0
	<input type="checkbox"/> Unknown: look on organization's website		0
22. Does the tender information include gender-inclusive language?	<input type="checkbox"/> Yes: provide examples		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: look through the tenders		0
23. Do procurement criteria needlessly make it harder for women-owned businesses to qualify or win?	<input type="checkbox"/> Yes: why?		1
	<input type="checkbox"/> No		0
	<input type="checkbox"/> Unknown: check criteria of previous three tenders and consider critically whether this is the case		0
24. Are any incentives in place to encourage engagement with women-owned businesses as subcontractors or suppliers?	<input type="checkbox"/> Yes: which?		1
	<input type="checkbox"/> No: are there any?		0
	<input type="checkbox"/> Unknown: ask the person responsible		0
25. Have procurement plans and targets been reviewed to identify where women-owned businesses could be encouraged to engage?	<input type="checkbox"/> Yes: which actions were taken subsequently?		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: ask around		0
26. Has the organization explored how women-owned businesses can add value to the supplier base?	<input type="checkbox"/> Yes: which actions were taken subsequently?		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: ask around		0
27. Is engagement with women-owned businesses emphasized during orientation and training for procurement staff?	<input type="checkbox"/> Yes: what is done?		1
	<input type="checkbox"/> No: why not?		0
	<input type="checkbox"/> Unknown: is this mentioned during training or onboarding of staff?		0
28. Is there a budget available to support increased engagement of specific groups of	<input type="checkbox"/> Yes, for women-owned businesses: which?		1

businesses in public procurement?	<input type="checkbox"/> Yes, for businesses other than women-owned businesses: which?		1
	<input type="checkbox"/> No: can some of next year's budget be reserved for this?		0
	<input type="checkbox"/> Unknown: check budget lines of the organization or department over the past two years		0
29. What does a gender-diverse supplier base mean for the organization?	<input type="checkbox"/> There are clear ideas on this: state them		1
	<input type="checkbox"/> Internal discussions are ongoing		1
	<input type="checkbox"/> No information		0
TOTAL SCORE AT PROCURING ENTITY LEVEL			

Source: Making Public Procurement Work for Women

Table 4 focuses on the practice of Procuring Entities who implement laws and policies on a day to day basis. This steps the country level policy picture into practice.

Table 5: Data on Women Owned Businesses⁴⁵

Country/State-level questions	Answer	Remarks			
30. Has a business survey been conducted in the past three years that disaggregates women and men-owned businesses?					
31. How many registered businesses exist in the country?					
32. How many of these are women-owned businesses?					
33. What percentage is this?					
34. How many employees do businesses have on average?					
35. How many employees do women-owned businesses have on average?					
36. What is the average turnover of businesses?					
37. What is the average turnover of women-owned businesses?					
38. Which five sectors have the highest percentages of women-owned businesses?	1				
	2				
	3				
	4				
	5				
39. Make a separate list of market sectors and identify the following per sector:	1	2	3	4	5
	How many businesses are registered?				

⁴⁵ *Making Public Procurement Work for Women* at page 4: International Trade Centre, SheTrades and UKAid, 2020.

	How many women-owned businesses are registered?					
	What is the percentage of women-owned businesses as part of the total number of businesses?					
	What is the average number of employees for women-owned businesses?					
	What is the average turnover of women-owned businesses?					
40. Which organizations represent, support, or protect the interests of women-owned businesses?						
	What goals do these organizations have?					
	How are these goals reached?					
	Which market sectors do they target or represent?					
	Do women-owned businesses unite themselves in any other way? If yes, how?					

Source: Making Public Procurement Work for Women

Table 5 provides the baseline data on WOBs and WLBs, the sectors they operate and relevant information about their mode of operation. This critical information will facilitate advocacy for inclusion.

Table 6: Identification of Existing Barriers⁴⁶

Barrier	Considerations	Answers (Check yes/no)	
		YES	NO
Inadequate legislation and policies	Are women-owned businesses defined?		
	Are women-owned businesses registered?		
	Does the law allow for active inclusion of women-owned businesses?		
	Are there any preferential policies for women-owned businesses?		
Misfit tender design	Are tenders complex? Do they include large contracts?		
	Are offers mainly compared based on price?		
	Do tenderers get sufficient time to prepare their bids?		
	Are there many long-running agreements?		
Excessive tender	Are financial requirements linked to the size of the contract?		

⁴⁶ *Making Public Procurement Work for Women* at page 4: International Trade Centre, SheTrades and UKAid, 2020.

Requirements	Is it verified if the requested industry standards and certifications are reasonable?		
	Are quality requirements linked to the contract performance?		
	Are requested track records in line with what the supplier will be doing under the contract?		
Poor government practices	Are there any repercussions to late payments of suppliers?		
	Are registered bidders requested to re-submit information (e.g. forms)?		
	Are non-winning tender participants provided with feedback?		
	Are women-owned businesses considered less competitive suppliers than other businesses?		
Lack of Information	Do women-owned businesses have access to tenders? Is this sure?		
	Is an effort made to interact regularly with women-owned businesses about tenders?		
	Are invitations to bid sent directly to women-owned businesses?		
	Do women-owned businesses have internet access (in case online information is used)?		
Limited Capability of Women-owned Businesses	Do women-owned businesses have a similar level of tendering skills compared to other businesses?		
	Do women-owned businesses have similar changes to access financial resources as other businesses?		
	Do women-owned businesses have a similar level of experience with competing for public tenders as other businesses?		
	Are women-owned businesses embedded in enabling and supporting networks?		

Source: Making Public Procurement Work for Women

Table 6 is a checklist of existing barriers to provide an answer about the status quo which will lead to the design of strategic remedial interventions. It is more of a diagnostics tool for findings that will inform interventions.

PART FOUR

GRPP PLANNING, TENDER BOARDS AND APPROVING AUTHORITY

4.1 Introduction

Planning of public procurement is the foundation and a critical aspect of procurement proceedings. The Procurement Planning Committee prepares the annual procurement plan in line with the corresponding budget for the year. The Plan will show the estimated procurement, value, time schedule, method, packages, lots, etc. The Procurement Plan:⁴⁷

lists out the goods, works and services to be procured, the timeliness and procedure for such contracting and its contents and subject to the rules, include results of needs analysis, market surveys and cost implication analysis and where applicable indicate evidence of aggregation of needs or such other items as MDAs may consider necessary.

- *Annual Procurement Plans shall be based strictly on the appropriations approved in the yearly budgets of procuring entities;*
- *No procurement shall be carried out unless it is in accordance with the approved Annual Procurement Plan of the Procuring Entity.*
- *Procurement Planning may commence before budget approval, but can only be finalized after budget approval.*

Timeliness must ensure that seeds, stems, planting materials, fertilisers, herbicides, etc., are available at the appropriate time needed for maximum crop growth and yield, otherwise, the procurement will not deliver value for money. Procurement planning is a step towards value for money which from a gender perspective interrogates inequalities and its effect on financial behaviors, access to resources, and the distribution of benefits from programmes and policies between men and women. Even the whole context of value for money brings up an interrogation of the concept of values and raises inter alia the following posers:

- Which values?
- Whose values?

⁴⁷ See Bauchi and Ebonyi States Public Procurement Procedures Manual.

- What values?

Values are not just blindly economic; there are social values, local content, issues of access to rights (livelihoods, water, land, energy, health, education, etc.), services and inclusivity – these are norms, values, ends and legitimate targets for public expenditure. These values should inform needs analysis and market surveys because when a need is properly defined from an inclusivity perspective, the market survey will be looking for the goods, services and construction that will meet the needs of all men and women, in all their diversity and all segments of the human family at the local government, state or federal level.

Furthermore, the idea of a cost implication analysis or a cost benefit analysis allows the PE to evaluate the total costs and benefits to be derived from choosing particular goods, services or works or a procurement methodology in executing the capital budget. It raises the posers about the class of citizens who the benefit will accrue to or who bears the costs. These need to be balanced from an inclusivity perspective before the decision is made through procurement planning.

In GRPP, procurement planning will include careful consideration of the following:⁴⁸

- Are there gender and disability perspectives on the procurement?
- Who are the beneficiaries for the goods, works and services to be delivered under the contract?
- Differences in the extant situation of women, men, boys, girls and people with disabilities in terms of specific needs in relation to the goods, works and services.
- What does the gender and disability disaggregated data on the subject matter indicate?
- Where are the gaps in terms of persons left behind? Impact and reach of previous similar interventions. Persons in greater need of the goods and services, etc?
- Risk analysis - where lies the risks for gender and disability discrimination along the implementation and supply chain of the procurement?

⁴⁸ The first three bullets are adapted from Gender Responsive Public Procurement; Step-by-Step Toolkit.
GESI AGRICULTURE PUBLIC PROCUREMENT MANUAL pg. 41

- Do we need to get inclusivity mainstreaming experts to facilitate a fit and proper design, solicitation and contract execution?

Situating the above issues in agriculture, procurement planning should take note of the fact that women make up about 70% of the agriculture labour force and 91.72% of crop production is done in the informal sector. When planning for agricultural machinery and equipment, gender and inclusivity friendliness must be a key consideration because the majority of the users will be women. This will raise the poser, what kind of machineries and equipment will suit the physical and economic status of women? Who are the persons already having access to equipment and tractor hiring services and who are marginalised in the extant situation in terms of access and use? What is the reason behind the dominance of one group in accessing the public equipment provided in previous years? The answer to these questions assumes that gender disaggregated data is available to be used in procurement planning.

Inclusivity in procurement planning ought to mainstream climate change considerations in adaptation, mitigation and resilience building. This will include the shift to sustainable land use, early warning systems that gets relevant information to the grassroots, renewable energy, bio-fertilisers, use of compost, bio-pesticides and reduced GHG emissions in all facets of agriculture - crops, forestry, fisheries and animal husbandry.

The PE shall submit the procurement plan to the Bureau or upload same to the relevant electronic portal of the Bureau for review and retention. The Bureau shall be notified of any changes to the procurement plan prior to initiation of the procurement process.

Procurement planning is much more than just choosing which procurement methods to use for various goods, works and service contracts and when to schedule activities. These are important parts of planning but are closer to the end of the process than the beginning. Before reaching this stage, a number of more fundamental decisions should have been first made. The starting question is: What are the most effective procurement arrangements for achieving the PEs objectives? This involves preliminary market surveys and consultations, needs assessment, defining the subject matter, choosing the procedure and preparing tender documents. It is at this stage that gender equality is mainstreamed into the design, selection and award criteria. It is also at this stage that the reasonable accommodation and universal design principles will be integrated into the procurement for the benefit of PWD.

It will soon become evident to a procurement planner, however, that this is not a linear process but rather an iterative procedure that should explore various options. Quite

different levels of planning details will be appropriate for different situations: a specific infrastructure investment; a social sector project; etc. Whatever the situation or the effort and detail that go into the procurement planning, the results must be reviewed and updated throughout the life of a capital project. Estimates of time requirements, assumptions about institutional capacity, changing priorities and other factors will require plan adjustments. The need for changes does not invalidate the plan; it simply emphasizes that planning is a dynamic process rather than a static picture.

4.2 Composition of the Procurement Planning Committee

The Procurement Planning Committee of a PE is made up of:⁴⁹

- Accounting Officer or his representative as chair;
- Representative of Procurement Unit of MDA who shall be the secretary;
- Unit directly in requirement of procurement;
- Financial Unit of Procurement Entity;
- Technical personnel with expertise in the subject matter; or
- Planning, Research and Statistics Unit of the Procuring Entity;
- the Legal Unit of the procuring entity

The Procurement Planning Committee also serves as the Disposal Planning Committee of the PE. In consideration of the demand of GRPP, the Committee should include at least one woman within the directorate cadre from the PE.

There is also established a Procurement Planning Committee in every Local Government to be headed by the Head of Administration of each Local Government Area or his appointee who must be a civil servant of not less than rank of a director in the Local Government with the following membership:

- a. A representative each of all departments in the Local government except for the works department which shall have two representatives;

⁴⁹ S.21 of the PPA.

b. Technical staff of the Local Government with expertise in the subject matter for each procurement;

c. The Procurement Planning Committee may where necessary, subject to this law and in addition to its regular members, co-opt persons from within or outside the service or hire members of the public who it determines have requisite or special knowledge that brings value to its work, but such persons shall have no voting right;

This committee should also have at least one knowledgeable female member.

4.3 Functions of the Procurement Planning Committee

Generally, the Committee's functions should be underpinned by an inclusivity framework:⁵⁰

(i) Preparing the needs assessment and evaluation; this should show the uniform or differentiated needs and diversity involved in the procurement. Gender disaggregated data will be important in the execution of this assignment.

(ii) Identifying the goods, works or services required. By the nature of the goods, service or works, who will benefit more? Any one left out?

(iii) Carrying out appropriate market and statistical surveys and on that basis, prepare analysis of the cost implications of the proposed procurement. This should include goods and services produced that can be supplied by WOBs and WLCs.

(iv) Aggregating its requirements, whenever possible, both within the procuring entity and between procuring entities, to obtain economy of scale and reduce procurement cost. Do we need to divide into lots to provide a level playing field for small and medium scale enterprises as well as WOB to bid and compete?

(v) Integrating its procurement expenditure into its yearly budget;

(vi) Recommend a method for effecting the procurement, subject to the

⁵⁰ S.18 of the PPA and equivalent provisions in state level laws.

approval of the Tenders Board, coordinate the entity's procurement process and serve as secretariat of the Tenders Board. Will this method allow marginalized service providers to effectively compete? Will there be any affirmative action principles embedded into procurement method?

(vii) Prepare all solicitation documents in accordance with minimum standard specifications;

(viii) Maintain procurement records.

A needs identification process defines the reasons why the PE plans to buy goods, works or services. It also defines the risks associated with the purchase and the mitigation strategies. This raises the poser; how do needs arise? Procurement needs for goods, works or services may arise from various sources, including government decisions, such as to acquire a new or revised capability; a decision made by the organisation's management; market or social demands; and technology impacting how the organisation operates. Other sources include feasibility studies and advice from management or a consultant to upgrade an Information Technology system, replace equipment or refurbish a building.⁵¹

The decision on the procurement of fertilisers may be based on declining soil fertility, the need to improve crop yield and to respond to climate change. Fortunately, the Federal Ministry of Agriculture and Food Security in collaboration with research agencies has prepared a soil map for Nigeria. The information contained in this soil map will facilitate a determination of the particular type of fertiliser need at any location. Nitrogen is a very essential nutrient for the growth of crops but too much nitrogen in the soil has side effects. When nitrogen in the soil is too much, some of it will be unabsorbed by plants and will react with air and water to produce nitrous oxide which is a Green House Gas (GHG). Fertilizer application is supposed to take note of the amount of nitrogen and other nutrients already present in the soil. The idea of applying the same Nitrogen, Phosphorous and Potassium (NPK) fertilizer all over the federation or a state is not based on empirical evidence founded on a good procurement plan.

In responding to climate change, procurement planning needs to recognise that heat and extreme weather conditions have a very negative impact on crop and animal yield. Pest and diseases also greatly reduce agricultural yield. The effect of this is the reduced crop, meat, milk, etc., which will be provided despite the GHGs that have been emitted during the agricultural production process. Consequently, improved crops and animal varieties

⁵¹ Buyers Guide to Procurement; www.buyingforvictoria.go.au/Identify-needs
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should be used for agricultural production. These improved varieties can withstand extreme temperatures and other harsh environmental conditions. Consequently, their yield will be more when compared to the less resistant crops and animal varieties. This means that the associated emission of GHGs needed to produce them will be reduced. However, this is not a licence to use procurement planning for a free for all introduction of genetically modified crops and animals.

At the time of preparing the technical drawings, designs and cost estimates of buildings and works in the Ministry of Agriculture, Water Resources or related Ministry, it is imperative to note the provisions of the Anti-Discrimination Act:

3. A person with disability has the right to access the physical environment and buildings on an equal basis with others.

4. A public building shall be constructed with the necessary accessibility aids such as lifts (where necessary), ramps and any other facility that shall make them accessible to and usable by persons with disabilities.

5. Road side-walks, pedestrian crossings and all other special facilities as set out in the First Schedule made for public use shall be made accessible to and usable by persons with disabilities including those on wheelchairs and the visually impaired.

In Education, the Anti-Discrimination Act provides:

18.—(1) All public schools, whether primary, secondary or tertiary shall be run to be inclusive of and accessible to persons with disabilities, accordingly every school shall have—

(a) at least a trained personnel to cater for the educational development of persons with disabilities; and

(b) special facilities for the effective education of persons with disabilities.

(2) Braille, sign language and other skills for communicating with persons with disabilities shall form part of the curricula of primary, secondary and tertiary institutions.

20. Government shall ensure that the education of persons with disabilities, particularly children, who are blind, deaf or with multiple disabilities, is delivered in the most appropriate language, mode and means of communication for the

individual, and in environments which maximize academic and social development.

Critical questions to ask at the procurement planning stage:

- Will the product/service be used by many people (which increases the likelihood that it will also be used by persons with a disability)?
- Will persons with disability be among the users of the good/service or – if not known – is it likely that they are?
- Will the impact of the good/service NOT being accessible be severe? For example, will the impact of the good/service not being accessible mean that a person with a disability will be deprived of a basic human right? Will it impact their health, safety, access to food, etc?
- Do persons with disabilities (e.g. represented through Organizations of Persons with Disabilities) assess this product or service as relevant?

If the answers are in the affirmative, then a tight GESI lens is required to review the plan and ensure that GESI is mainstreamed. According to the Anti-Discrimination Act, special facilities of interest to PWD as stated in the its First Schedule include:

- *Wheel chairs, clear floors or ground space on wheel chairs, wheel chair passage and turning space.*
- *Crutches, guide canes etc.*
- *Hearing Aid.*
- *Curb ramps.*
- *Ramps.*
- *Handrails, grab bars.*
- *Stain-shopping stairs.*
- *Elevators or Lifts.*
- *Windows.*
- *Entrance doors.*
- *Drinking fountains and water coolers.*
- *Toilet facilities.*
- *Door protective and re-opening devices maneuvering entrances at doors.*
- *Parking spaces and passenger loading zones.*
- *Accessible routes including walk ways, halls, windows, aisles and spaces.*
- *Alarm—*

- *(a) audible alarms; (b) visual alarms; and (c) auxiliary alarms*

In defining and analysing needs, the PE should document and outline who the procurement is for and who needs the goods, works or services; how the goods, works or services to be bought will benefit the proposed beneficiaries now and in the future; when these goods, works or services are needed; geographical areas that need the goods, works or services; and the expected outcomes of the procurement.⁵²

The Procurement Planning Committee should address issues including what represents value for money, the estimated cost, budget, environment and time, organising the availability of subject matter experts and technical requirements and compatibility with current systems. Other issues to be addressed include installation, training, safety, maintenance, warranty, upgrades, performance guarantees and spare parts, etc.

Procurement planning may take either of two fundamentally different approaches, depending on whether it is for a specific investment project or one of the more programmatic types of operations. Regardless of which type of project, however, it is essential to develop a plan that clearly sets out the framework in which procurement will be done.

The conventional approach for specific investment projects is to start by compiling a list of all known goods, works and services needed to achieve the set objectives. This list then becomes the basis for deciding how these items should be combined or divided into contract packages, what method of procurement should be used for each, and the scheduling for procurement activities. Even this seemingly straight forward preparation of the list of needs already implies a strategic decision about how procurement and contracting will be done.

4.4 Procurement Scheduling

One of the considerations in choosing a contract package is the timing when goods or services are needed. After preliminary packaging plans have been formulated and by implication, the method of procurement to be used for each is tentatively determined by the nature and size of the packages, it is necessary to verify that these combinations will permit the goods or services to be delivered at the times they are needed. The best way to check this is to work backwards from the desired date of delivery to determine whether sufficient time is available to carry out the necessary procurement steps for each element.

⁵² Buyers Guide to Procurement, supra.

What is the gender and inclusivity dimension of procurement scheduling? Would bidders from marginalised groups have enough time to respond to solicitation documents and deliver if selected?

It is imperative to note that these timeframes are not cast in stone as they can be a bit shorter or lengthier. In some cases, it may be possible to modify certain contract packages and procurement methods and shorten the time needed until delivery in order to meet desired schedules, provided that the modified approach is still consistent with the procedures required and the types of approaches permitted under the Law. In other cases, it will have to be recognized that no other approach is permissible for that particular procurement need and that the time required cannot be shortened by changing packaging or procurement methods. An appropriate solution to bring forward the date of delivery or completion of a contract is by starting the procurement process earlier.

A Procurement Plan shall be developed for each PE based on its procurement requirements and will contain, to the extent possible, proposed procurement arrangements for all the main components, including the overall procurement strategy, methods of selection and timing sequence for the major contracts.

Below in Table 7 is a Model Procurement Planning Template which can be prepared in Excel format or put up on a website/electronic portal where it can be completed and sent directly to the BPP.

Table 7: Model Procurement Planning Template⁵³

Serial No	Heading	Description
1.	Name of MDA/Procuring Entity	
2.	MDA Code	
3.	Budget Year	
4.	Project Title	
5.	Project Rationale (why is the project needed)	
6.	Project Description	
7.	Package Number (Reference number of the project file)	
8.	Lot Number	
9.	Classification (whether goods, works or services)	
10.	UNSPSC Code (United Nations Standard Products and Services Code which is a global classification system of products and services). This is to be provided by the BPP to all MDAs. Alternatively, the	

⁵³ Author's extrapolations from different Procurement Planning Templates.

	BPP will provide information for the following in item 11.	
11.	Product classification into: <ul style="list-style-type: none"> ▪ Segment ▪ Family (broad description) ▪ Class (more specific description) and ▪ Commodity (most specific description) 	
12.	Quantity <ul style="list-style-type: none"> ▪ Units ▪ Envisaged overall quantity 	
13.	Budget Source (specify): <ul style="list-style-type: none"> ▪ Appropriation: ▪ Specific Funds: ▪ Development Partner: 	
14.	Budget Code:	
15.	Budget Item: (As stated in the budget)	
16.	Budget Description: (As described in the approved budget)	
17.	Budget Amount: (As described in the approved budget)	
18.	Project Estimate: (The amount estimated for the project in question)	
19.	Contract Type: Select the contact type per category of procurement. (Schedule of delivery for goods, bill of quantities or bill of engineering measurement and evaluation for Works, Lump sum or time based for Services)	
20.	Procurement Method: (Input the appropriate method of Procurement to adopt (international competitive bidding, national competitive bidding, Restricted, Direct Labour)	
21.	Selection Method: (Input the appropriate selection method for the project. (lowest evaluated responsive bid for goods and works and the appropriate method under services (quality and cost based selection, least cost, quality based selection, etc.). Margins of preference if applicable – local content, GRPP, MSMES.	
22.	Approval Authority: (The Approving Authority of the Contract).	

23.	Preparation for Solicitation (ensure that the dates are in conformity with provisions of the PPL and Procurement Manual) <ul style="list-style-type: none"> ▪ Dates for preparation of bid documents/Advert ▪ Is pre-qualification applicable? ▪ Planned tendering period ▪ Bid opening date ▪ Planned bid evaluation period ▪ Planned procuring entity evaluation approval ▪ Planned issuance of certificate of no objection or Evaluation Report 	
24.	Contract Finalisation <ul style="list-style-type: none"> ▪ Planned contract award ▪ Planned contract period ▪ Planned arrival of goods ▪ Project completion date 	
25.	Any other relevant comments/issues	

Signed: Director or Head of Procurement.....

Signed: Director or Head of the User Department.....

4.5 Tenders Board

The functions of the Tenders Board shall be to:⁵⁴ -

(a) The Tenders Board shall be responsible for the award of contract for the procurement of goods, works and services with the threshold set in the regulations

(b) In all cases where there is a need for pre-qualification, the DG of the Tenders Board shall constitute a technical evaluation sub-committee of the Tenders Board charged with the responsibility for the evaluation of bids which shall be made up

⁵⁴ See Ebonyi and Bauchi State Procurement Procedures Manuals.
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of professional staff of the procuring entity and the Secretary of the Tenders Board who shall also be the Chair of the Evaluation Subcommittee.

(a) Receive and evaluate any bids received in response to solicitation;

(b) Award contracts;

(c) Recommend the application of any sanctions in accordance with this Law;

(d) Approval of the recommendations of the Technical Committees or procurement planning committee as the case may be; and

(e) Any other functions provided for directly or by necessary implication by this law.

The membership of all Tenders Board usually consists of the Accounting Officer as the Chairman and all heads of departments as members with the head of procurement as the secretary. The membership of the Tenders Board should include at least one woman.

4.6 Approving Authority

The Approving Authorities for the conduct of public procurement should be made inclusive through the inclusion of women and PWDs.

PART FIVE

GESI, SOLICITATION DOCUMENTS AND DEMANDS

5.1 Solicitation Documents: General

The solicitation documents usually contain the name of the PE; the name or nature of the contract; items to be procured; contact information for obtaining bidding documents; cost of the bidding documents; place and deadline for bid delivery; required bid security amount and form; the place, date and time of bid opening; and the minimum qualifications that bidders must meet. An invitation for prequalification includes similar information including the place and deadline for submission of the application to pre-qualify.

Solicitation documents may include:

- Instructions to bidders
- Terms of Reference, Requirements document
- Statement of Work or Similar Documentation
- General Conditions of Contract
- Supplier Code of Conduct
- Evaluation Matrix
- Bid Submission Sheet, Pricing Table or Similar Documentation

5.2 Language of Solicitation Documents

The language of the solicitation must be gender sensitive and expressly indicate the gender considerations relevant to the procurement process, especially indicating that WOB and WLBs are encouraged to apply. Where there is a quota and it is strictly restricted to affirmative action principles, this must be clearly stated in the solicitation documents.

5.3 Accessibility of Solicitation Documents

The BPP and Procuring Entity may consider collaborations with the Ministry of Women Affairs, Networks of WOB and WLBs, Networks of Grassroots Organisations and Cooperative Movements, Women's Rights NGOs and other means to ensure that women owned businesses get information on pending solicitations.

In relation to PWDs, the poser is: Is the solicitation document issued in a format that is accessible to PWDs who cannot see, hear, etc.,?

Essentially, according to Guidelines on the Implementation of Indicator 8 of the UN Disability Strategy, the following will facilitate accessibility:

- Mandatory check for accessibility of solicitation documents incorporated in procurement framework (e.g. Procurement Manual).
- Information on how to make procurement documents accessible provided to procurement staff (e.g. information on training resources)
- Solicitation documents are published in an accessible format.
- Other procurement-related documents are accessible (e.g. Procurement Manual).
- Inventory of procurement systems compiled.
- Norm for accessibility for new systems established (in collaboration with IT).
- Accessibility audit: Scope defined; audit carried out.
- Key recommendations from accessibility audit implemented.
- Accessibility of supplier-facing procurement systems maintained over time.

Furthermore, specifications in solicitation documents can be guided by the following examples from Guidelines on the Implementation of Indicator 8 of the UN Disability Strategy.

5.3.1 Vision

- If the product includes letters or numbers relevant to the end user to read or understand to use the product, add braille or raised text, or large print.
- Tactile aids: Aids that can be felt by touch. It can be raised text and numbers, dots that lead a person with vision impairments, etc.
- Contrast colors: Use of colors to highlight text, figures, drawings or tactile aids.
- Safety and usage: Increase safety (through for instance guide-railing) or usage (through guidance strips for white canes, easier access etc.).

5.3.2 Hearing

- Visual and vibrating alarms: Replace sound with visuals such as flashing lights or vibration.
- Examples of products that can be changed from sound to lights: fire detectors, doorbells, alarm clocks.

- Pictograms: If the product is something the end user needs to learn how to use, it can be beneficial to include pictograms on the package/ guidance to aid learning and ensure the instruction are clear even after training.

5.3.3 Mobility

- Physical access: Consider parameters like: Access height (step or steps), access width, to accommodate wheelchairs – space inside for wheelchair and caregiver (for instance in emergency toilets). If transfer is needed from wheelchairs, does space allow?
- Safety and Support: Examples include railing, grapple hook, handlebars, etc.

The solicitation documents must reflect the details related to gender and disability mainstreaming as well as inclusion of businesses owned by women, PWD and other disadvantaged groups. Therefore, it is imperative to build in the universal design concept in solicitation documents. It is described as follows by experts:

The aim of universal design is to ensure that products, environments, programs and services are accessible by all people, to the greatest extent possible, without adaptation or reconfiguration. The importance of Universal Design lies in the user experience, with an emphasis on access and use of facilities, goods, information and services with such ease that accessible features are not noticeable.

5.4 Capture of Essential Selection Criteria

Essentially, the Technical Specifications and Drawings which provide details of the characteristics of the technologies and technical services required (and for goods/equipment, specify the common format in which bidders must present their materials, including a technical responsiveness cross – reference form) must respond to the demand for inclusivity.

Finally, the documentation used in public procurement at any given stage sets the tone for the response of bidders, the quality of the bidding process and the compliance of examination and evaluation of bids with the law and rules and regulations made thereunder. Therefore, it is imperative to prepare bidding and other procurement documents that capture the essential requirements of GESI, the Law and the regulations made thereunder.

A contract shall in the case of goods and works be awarded to the lowest cost responsive evaluated bidder⁵⁵

⁵⁵ Bauchi State Public Procurement Procedures Manual.

This can only be determined in accordance with the terms and conditions set out in the solicitation documents because:

*Criteria stipulated as the basis upon which suppliers, contractors or consultants would be evaluated shall not be changed in the course of any procurement proceeding, and all relevant factors, in addition to price that will be considered for the purpose of bid evaluation and the manner in which such factors will be applied shall be stipulated in the solicitation documents.*⁵⁶

Experts have canvassed that criteria for gender evaluation that may be used for requests for proposals or invitation to bid may include:⁵⁷

- Whether the vendor has adopted disability, gender policies (e.g. parental leave, sexual harassment, anti-discrimination);
- Whether the project team is gender-balanced or employs PWDs;
- What is the proportion of women/PWD employees in the company;
- If any women/PWDs-owned sub-contractors are included;
- Consultation with women or PWDs.

The first, second and third bullets seek to encourage gender responsive and inclusive policy frameworks in the private sector. The fourth is about subcontracting while the fifth will apply in procurements where consultation with women and PWDs is very important.

However, fit and good practices dictate that the award criteria in the solicitation documents must be linked to the specific goods, works and services being procured and not to the general corporate policies and practices of the bidder. Goods and service produced from the exploitation of the labor of women, children and PWDs may be excluded from consideration by the PE.

In designing solicitation documents, terms and conditions which will eventually be used to evaluate bids, the following has been proposed as mitigation to challenges and barriers by the Kaduna State Gender Responsive Public Procurement Policy. It is about misfit tender design: In order to move from misfit tender design to fitting tender design, procuring entities should adopt the following measures:

⁵⁶ Bauchi State Public Procurement Procedures Manual.

⁵⁷ Gender Responsive Public Procurement; Ste-by-Step, supra.

Table 8: Misfit Tender Design

Barriers	Compulsory Measures	Measures to Consider per Tender
Complex tenders and large contracts	Standardize procedures and documents; make them as simple as possible; Harmonize procedures and documents across procuring entities	Break tenders down into lots Restrict bidders from competing for all lots
Competition based on price	Consider the Most Economically Advantageous Tender (MEAT) criterion; Specify based on performance or functional requirements	-
Publish tender information	Allow sufficient time to submit tenders	Publish early information notices in the approved media and platforms

Source: Kaduna State Gender Responsive Public Procurement Policy

Excessive requirements: In order to move from excessive requirements to proportionate requirements, procuring entities should adopt the following measures, all of which are compulsory.

Table 9: Excessive Requirements to Proportionate Requirement

Barriers	Compulsory Measures
Disproportionate financial Requirements	<ul style="list-style-type: none"> ▪ Put limitations on financial qualification levels ▪ Consider to not request audited financial accounts depending on the threshold ▪ Do not use or reduce the number of and amount on financial guarantees and bid bonds ▪ Check that requirements are proportionate to the risks involved
Disproportionate quality requirements	<ul style="list-style-type: none"> ▪ Relate performance requirements to the character and size of the assignment
Over-emphasis on costly industry standards and certifications	<ul style="list-style-type: none"> ▪ Request only those standards and certificates that are really necessary
Track record needed	<ul style="list-style-type: none"> ▪ Allow for joint bids as JV with the option to rely on other parties' track record provided

Source: Kaduna State Gender Responsive Public Procurement Policy

Lack of information shared with WOBs and WLCs: In order to move from lack of information shared with WOBs and WLCs to adequate information, procuring entities should adopt the following measures:

Table 10: Adequacy of Information

Barriers	Compulsory Measures	Measures to Consider Per Tender
Insufficient access to open tender procedures	(i) Provide free access to contract notices and tender documentation (ii) Pro-actively invite WLB and WOB to bid (iii) Use local appropriate languages when appropriate	
Little dialogue procuring entity with Procuring Entity	(i) Allow for a written Q&A as part of the tender procedure (ii) Provide information after contract awards on evaluation procedure and scores	<ul style="list-style-type: none"> ▪ Organize information sessions (site visits or the like) prior to tender deadline ▪ Pro-actively invite WLB and WOB to bid ▪ Distribute tender guidelines and other support material ▪ Render technical support where the process is via e-procurement.
No invitations to bid in closed tender procedures	Pro-actively invite WOBs and WLCs to bid	
Limited access to internet		

Source: Kaduna State Gender Responsive Public Procurement Policy

5.5 Pre-Tender Conference

A PE if it finds it expedient so to do may convene a Pre-Tender Conference for suppliers and contractors in order to clarify all matters pertaining to the bid documents. All requests for clarifications and the responses provided during the conference shall be recorded in the minutes of the meeting without identifying the source of the requests and the minutes shall be distributed to all suppliers and contractors. This may be very relevant to GRPP proceedings.

PART SIX

RELEVANT GRPP ISSUES IN ORGANISATION AND PROCUREMENT OF GOODS AND WORKS

6.1 Procurement Implementation

Procuring entities in implementing public procurement shall advertise and solicit for bids; receive, evaluate and select winning bids; obtain approvals before award; debrief losers on request; resolve complaints and disputes if any; obtain and confirm validity of performance guarantees; announce and publicize the award; execute all contract agreements, etc.⁵⁸

Public procurement is a process and a chain of activities. Once GRPP is introduced, virtually all aspect of the procurement planning and implementation will require GRPP specific modifications to meet its demands.

6.2 Observation of Bid Opening

During bid opening, the PE is to invite at least two observers, one representing a Non-Governmental Organization and one representative of a professional body whose expertise relates to the goods, works and service being procured. In the case of Local Governments, at least two community-based organizations shall be invited to monitor the procurement process. The observers should be given adequate written notice of the procurement activity subject to rules issued by the Bureau. GRPP will require that gender based and women rights NGOs are included in the roster of NGOs to be invited for bid opening observation.

6.3 Specific Procurement Sub Activities

The procurement sub activities and their GRPP requirements include the following.

Table 11: Procurement Sub Activities and their GRPP Requirements

Activity	GRPP Requirement
Conduct pre-qualification exercise for suppliers, contractors or consultants based on requisite Expression of Interest (EOI)	GRPP requirements clearly stated in request for EOI and used in the pre-qualification proceedings
Develop technical specifications	Development of specifications to take cognizance of the diverse and special needs of men, women, boys and girls, PWDs.

⁵⁸ S.19 of the PPA.

Ensure that the advertisement and publications in solicitation for bids are in conformity with the provisions of the Law and Regulations as may be issued from time to time	Conformity with GRPP provisions in the law and relevant guidelines.
Prepare bid documents and supervise the development of all tenders	Bid documents to clearly indicate any reservations, margins of preference or requirements to demonstrate that a business is women owned or owned by PWD.
Issue bid documents. Advertising or soliciting for bids in accordance to established procedures and guidelines	Beyond the advertisements in the traditional media and electronic portals, the regulator/PE to proactively channel and seek to disseminate the bid through Women Business Networks, Networks of Women Cooperatives, etc.
Organise communications with bidders	Ensure that all bidders including WOB and businesses owned by PWD are invited or communicated with.
Conduct pre-bid conferences when necessary	Ensure that all bidders including WOB and businesses owned by PWD are invited to the conference.
Receive and evaluate any bids received in response to solicitation. Evaluate Expression of Interest by suppliers, contractors, or consultants and forward lists of qualified submissions to the relevant Board	Ensure that evaluation takes cognizance of any GRPP provisions.
Maintain procurement records	Procurement records to show inter alia all requirements, procedures and steps taken to implement a GRPP procedure.
Resolve complaints if any	Any GRPP related complaints should be expeditiously and conclusively resolved in accordance with grievance/redress mechanism procedure.
Execute all contract agreements	Contracts should contain relevant clauses for gender responsive monitoring, audit and evaluation to

	facilitate the collection of gender disaggregated data.
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Source: From the Author

6.4 Technical and Financial Evaluation Sub-Committee

Upon completion of the evaluation process, the Technical Evaluation Sub-Committee of the Procurement Committee shall prepare a bid evaluation report setting out the process by which it evaluated the bids to be submitted to the Tenders Board for action. A Standard Bid Evaluation Report covers among other things:

- Key dates and steps in the bidding process;
- Tender prices, corrections, and discounts;
- Additions, adjustments and price deviations;
- Technical evaluations if any; preferences;
- Post qualification results;
- Names of bidders rejected and reasons for rejection of tenders; and
- The proposed contract award.

6.5 All Procurement Contracts to Contain Warranties

All procurement contracts to contain appropriate warranties - durability of goods, fitness of purpose, exercise of requisite skill in service provision and use of genuine materials and inputs in execution. A warranty is defined as an assurance by one party to the agreement (in this context, the contractor or service provider being the promisor) of the existence of facts upon which the other party may rely. It is intended precisely to relieve the promisee (procuring entity) of any duty to ascertain facts for itself and amounts to a promise by the contractor to indemnify the promisee (procuring entity) for any loss if the fact warranted proves untrue.

In law, warranties can be express or implied and takes care of the challenge of the fitness of the procured goods and services for the purpose it was meant. It can also be full or

limited. In a full warranty, the warrantor must remedy the defect within a reasonable time and without charge to the procuring entity after a notice of defect or malfunction.

Where the needs of men, women, girls and boys are different in the access and enjoyment of facilities provided by goods, works or services, the warranty must specifically address and cover all the relevant grounds and all diversities to ensure that no one is left behind.

6.6 Shopping or Request for Quotation

This provides a good opportunity for WOBs to either participate and compete, or get specific quotas/reservations or even be the exclusive suppliers.⁵⁹

(1) A procuring entity may only engage in Shopping if:

a) The Procurement is strictly for the purchase of ordinary or regular office supplies and equipment for the use of the procuring entity involving an amount not exceeding a specific amount provided for in the implementing rules; or

b) When the time and cost that may be required to examine and evaluate a large number of bids is considered to be disproportionate to the value of the goods, works or services to be procured.

(2) The procuring entity shall select a minimum of Five (5) price sealed quotations from bona fide suppliers selected in a non-discriminatory manner to ensure effective competition and avoid collusion and related malpractices.

(3) The detailed procedure for Sealed Quotations shall be as provided for in the rules to be made from time to time by the Bureau.

Generally, a procuring entity may carry out procurement by requesting for quotations from suppliers or contractors where the value of the goods or works to be procured does not exceed a sum that shall be set in the procurement regulation. These are likely to be small office supplies, not large-scale procurement and a good opportunity to introduce small and medium scale WOB into public procurement. The Bureau sets the threshold for the value of goods and works that can use requests for quotations which is otherwise referred to as “shopping”. Request for quotations is generally used for small value, readily available off the shelf goods. Price and ability to meet required delivery requirements are usually the main selection consideration for shopping.

Each contractor or supplier from whom a quotation is requested shall:

- be informed whether any factors other than the charges for the goods, works

⁵⁹ Ebonyi and Bauchi Public Procurement Procedures Manual.

or services themselves, such as any applicable transportation and insurance charges, custom duties and taxes are to be included in the price; and

- give only one quotation.

The procurement shall be awarded to the qualified contractor or supplier that gives the lowest priced responsive quotation.

The PE may:⁶⁰

- *Publish a notice inviting applications for registration of suppliers; and after evaluating the past experience and other qualifications such as capacity of the applicant, by a committee consisting of not less than three members appointed by the Accounting Officer of the procuring entity, prepare a list comprising names of suppliers who are able to supply particular categories of goods and services such as stationery, electrical items, motor vehicle repairs, periodicals and publications*
- *Remove any contractor or supplier who has not responded twice to an invitation to submit a quotation or performed unsatisfactorily under any contract previously awarded.*

The selection shall be based on comparison of price quotations obtained from several invited bidders appearing on the registry.

When the appropriate authority is satisfied; in the case of supplies of goods, that sufficient number of reputed vendors are registered, quotations may be invited from that list.

Requests for quotations shall be addressed to firms borne in a register of suppliers and shall indicate:

- (i) The description and quantity of the goods;
- (ii) Time and place of delivery; and
- (iii) Warranties.

Each contractor or supplier shall give only one quotation and shall not be allowed to change or vary the quotation.

⁶⁰ Ebonyi and Bauchi Public Procurement Procedures Manual.
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No negotiations shall take place between a procuring entity and a contractor or supplier with respect to a quotation. Telephone or verbal quotations shall not be accepted, but on-line or email quotations are acceptable.

The procurement shall be awarded to the qualified contractor or supplier that gives the lowest priced responsive quotation.

In evaluating quotations submitted by bidders under shopping, price and ability to meet required delivery requirements are usually the main selection considerations for these simple purchases. However, the procuring entity may also take into account, things such as the availability and costs of maintenance services and spare-parts. The terms of the accepted offer are incorporated in the purchase order.

6.7 GRPP and Provisions of the Budget

The ideal GRPP proceedings should start from a gender responsive budgeting process where the needs, interests and specificities of all members of the Nigerian human family are taken on board in planning and budget formulation. But there are challenges with budgeting process at the federal and state levels; most of the provisions found in the agriculture budget seem to be gender neutral. A few examples of provisions and how they should have been couched and designed to facilitate GRPP is provided in Table 12 below.

Table 12: Provisions of the Budget and GRPP

Budget Provision	GRPP Facilitation Change
Provisions for infrastructure, capacity building and empowerment for “women and youths”	Make separate provisions for these two categories as this is a misjoinder of separate parties. The misjoinder encourages tokenism considering that Nigeria has a huge youthful population and women constitute of over 49% of the population. Simply giving a pittance to over 80% of the population is grossly unfair.
Projects without locations and specific beneficiaries	Projects should have locations and their distinct beneficiaries identified by gender where possible
Investments in value chains where women predominate	Budget investments in value chains like cassava where women farmers predominate could be deliberately targeted at the women farmers and processors through specific provisioning.
Investments in other value chains	Disaggregate beneficiaries to include women, men, youth and PWDs
Land allocations in National Agricultural Land Development	A critical challenge faced by small scale women farmers is access to land to increase their cultivation.

Authority (NALDA), River Basin Development Authorities, Research Institutes, etc., where FGN always allocates money for land clearing, preparation, etc.	These Agencies could reserve not less than 50% of their land allocations after preparation to small scale women farmers.
Huge sums for gender mainstreaming and inclusivity without specificity	Specific definition of what budgeted funds will be used to do and achieve is imperative if the words “gender mainstreaming, sensitivity, inclusiveness” are not to be used as engines of fraud.
Gender insensitivity in the use of words in the budget for example the use of the word “manpower”	It is exclusionary, outdated and unconscious bias. Use inclusive, better and more modern words such as “workforce,” “staff,” or “human resources”.
Humungous capacity building provisions	Disaggregate beneficiaries to include women, men and PWDs and provide special votes to encourage women in male dominated sectors such as agriculture Information Technology.
Provisions for agriculture machinery and heavy-duty equipment and machinery including tractors	Most of the equipment are not gender friendly in terms of the economic outlay required to acquire, maintain and operate them. The votes should be shared in such a way as to reserve a good proportion for smaller, fuel efficient, easy to operate and maintain gender friendly equipment. Gender friendly agriculture machineries for reduction of drudgery and increased productivity include cost effective mini-tractors, tillers, mound makers, planters, weeders, multi crop threshers, ploughs, harvesters and machines for planting.
Provision for seeds, agrochemicals and fertilizer generally	They are usually without quotas and facilitate the winner takes all approach for a supposedly neutral budgeting process. Quotas should be provided. These provisions should also take cognizance of climate change challenges and start tilting towards bio-fertilisers, organic fertilisers, bio-herbicides/pesticides.
Agrochemicals	Deploy organic agriculture findings of local research institutes.

Overwhelming provisions for chemical fertilisers in depleting soil fertility scenario	This presents an opportunity to combine gender sensitive organic fertilisers and green/organic farming through the agency of women farmers.
Data Statistics	Invest in GRPP statistics gathering, collation and analysis in collaboration with central statistics agency.
Data Bases	Compile database of Women Farmers, Women Cooperatives, WOB, WLBS, etc.
Measurement, monitoring, reporting and verification	Provide resources for measurement, monitoring, reporting and verification of challenges, achievements of the sector including gender perspectives and mainstreaming.
Reduction of post-harvest losses	Investments in organic preservatives, mini silos, cold hubs for fruits, vegetables and tubers. Knowledge dissemination of preservation methods and strategies.
Value addition	Processing centres for value addition - cassava processing; shelling and oil extraction for relevant crops; rice mills, fish smoking kiln, etc.
Extension Service	Specific provisions for reaching small scale women farmers. Encourage cluster farming activities and practices.
Business Advisory Services	Targeted and strategic advisory services available at local government level imparting and disseminating business opportunities across the value chain – access to markets, value addition/processing, storage, etc.
Agricultural Credit	Specific percentage for women farmers especially small-scale women farmers.
Combatting climate change	Use high yield, early maturing, disease and pest resistant and genetically modified crops and animals that have been proven to be adaptable to the environment without threats to biodiversity and the environment.
Cooperatives	Capacity strengthening in financial literacy, business management, identification of business opportunities, qualifications/ processing of loans, etc.
Irrigation facilities	Ensure access quotas for women farmers to boreholes, water pumps, reticulation facilities, etc.

Source: From the Author

This list of projects and how to mainstream gender sensitivity and inclusivity is not exhaustive but an example of what can be done between the budget and public procurement to ensure gender responsiveness and inclusivity.

PART SEVEN

BID EXAMINATION AND EVALUATION

7.1 Examination of Bids

All the bids received before the scheduled closing time should be considered for preliminary bid examination. The purpose of this examination is to eliminate any bid from further and more complicated consideration if it does not meet the minimum standards of acceptability as set out in the GRPP bidding documents and therefore not substantially responsive. However, the PE should exercise reasonable judgment in applying these tests and should avoid rejecting bids on trivial procedural grounds. For e.g., if the bidding documents stipulated that each page of the bid should be signed or initialed and a bidder failed to initial one or more pages of supporting information, this should not be a ground for bid disqualification. These can be rectified through the clarification process without giving any benefit to the bidder and without prejudice to the interest of other bidders. Such discrepancies should be noted and decisions about their acceptance or rejection should be recorded in the bid evaluation report.

The preliminary examination of bids determines whether the bids meet the general procedural requirements of the bidding documents. In particular the compliance with the following requirements should be examined using the bidding documents as the reference point:

The first is to ascertain whether the:

The bidder is eligible - Example:

- The bidder meets the WOB/WLB criteria
- The bidder is not blacklisted;
- Bid is signed properly by an authorized party, including the power of attorney if stipulated and generally if the bid is in order;
- Bid securities submitted are in acceptable format, for required amount and duration;
- Bid is containing all required critical documents including supporting evidence of bidder's eligibility and qualifications;

- Bid is complete and quote for all items in the lot or packages if stipulated in the bidding document.

7.1.1 General Examination: All bids shall be first examined to determine if they:

- Meet the minimum eligibility requirements stipulated in the bidding documents;
- Have been duly signed;
- Are substantially responsive to the bidding documents; and
- Are generally in order.

7.1.2 Bidder may be Asked to provide Clarification: A PE may ask a supplier or a contractor for clarification of its bid submission in order to assist in the examination, evaluation and comparison of bids.

7.2 Bid Evaluation

For the evaluation and comparison of bids that have been adjudged valid for the purposes of evaluation, no other method or criteria shall be used except those stipulated in the solicitation documents. This general principle also applies in GRPP.

The objective of bid evaluation is to determine and select the best evaluated responsive bid from bidders that have responded to the solicitation. A PPL states:⁶¹

The objective of bid evaluation shall be: (a) In the case of goods and works, to determine and select the 'Lowest Cost Evaluated Responsive Bid' from the bids responsive to the bid solicitation. (b) In the case of services, to determine the Lowest Cost evaluated responsive proposal or the responsive proposal with the best combined evaluation in terms of the general criteria set out in the request for proposals and the price quoted or the Highest Rated Evaluated bid' from the bids responsive to the bid solicitation depending on which of the criteria chosen and stipulated in the solicitation documents by the procuring entity.

Regardless of how well the other steps in the procurement process are conducted, if bids are not evaluated correctly and fairly, the process will fail. Unfortunately, bid evaluation is

⁶¹ Bauchi State Public Procurement Procedures Manual.
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the step that is mostly manipulated if one wants to favour a particular bidder. Therefore, it is required that Procurement Committee and Technical Evaluation Committee members are familiar with and understand how it should be done and to know how to review and what to look for in a GRPP solicitation. Departures from the bidding documents are a common feature of the bids submitted by the bidders. A bid that complies fully with the requirements of the bidding document may be an extremely rare instant. What is important is how critically the departure will affect the outcome of the procurement. Hence during the bid evaluation, substantially responsive concept is used rather than following fully responsive bids.

Therefore, the main objective of bid evaluation is to determine the bid that will result in the lowest evaluated cost to be incurred by the PE among the substantially responsive bids received from qualified bidders. All criteria to be used in the bid evaluation and the method of their application must be specified in the bidding documents. The concept of cost needs to be fully articulated in the solicitation documents as it may likely be beyond price to include durability, whole life cycle requirement including repairs, availability of spare parts, environmental considerations in terms of emissions reduction, etc. The bidding document must contain a statement on the manner in which the procuring entity proposes to evaluate the bids received.

This statement must include:

- (a) a listing of the factors other than the price which it proposes to consider; and
- (b) an explanation of the method to be used in applying the evaluation factors (both for those factors susceptible to monetary adjustment and those to which other criteria must be applied).

The lack of clarity in statements on bid evaluation, or an incomplete statement, will leave bidders in doubt about the treatment of their bids by the PE and has frequently been the cause of uncertainty and disagreement during the evaluation of bids. All the criteria specified must be applied to the extent necessary and in the manner in accordance with the bidding documents. Evaluation factors not specified in the bidding document should not be used in bid evaluation.

No information relating to bid evaluation shall be communicated, after the bid opening, to the bidders or any other person unless they are officially involved in the process until after the contract award recommendation is officially notified to the successful bidder. No information can be communicated to any bidder at any stage other than at a debriefing requested by a bidder, where only the reasons for not selecting the bidder as the successful bidder is discussed. In GRPP proceedings where bidders have capacity

challenges, debriefing can be a capacity building tool so that bidders who were not successful can learn from their “mistakes”.

Therefore, the continuum of procurement planning, preparation of bid solicitation documents, bid examination and evaluation shows that once gender and inclusivity are mainstreamed from the beginning, they must be followed through to the end in deciding who eventually gets the contract to provide the goods, services or works or what kind of goods, services and works are eventually delivered.

In evaluation, the technical evaluation may include issues like whether the goods, works, services or works are:

- Technically accessible, in that it is possible for all users to access all information and functionality;
- Equally usable, in that it is not prohibitively difficult or time consuming for users with disabilities to carry out normal tasks;
- Capable of being adapted or configured by individual users to meet their specific needs and preferences;
- Capable of interfacing with appropriate, widely available assistive technologies employed by users.

If through data available at the procurement planning stage, it is verified that majority of crop producers in agriculture are women farmers, especially small scale women farmers, and this background has been built into the solicitation documents, the issue of fitness for purpose of the users or majority of beneficiaries will arise as a critical consideration in evaluation.

The key principles of universal design will be useful in bid evaluation if it has been included in the solicitation documents - Guidelines on the Implementation of UNIDS Indicator 8:

- Equitable use: design that is useful and marketable to persons with diverse abilities.
- Flexibility in use: design that accommodates a wide range of individual preferences and abilities.
- Simple and intuitive use: design that is easy to understand, regardless of the user's experience, knowledge, language, skills or concentration level.

- Perceptible information: design that communicates necessary information effectively to the user, regardless of ambient conditions or the user's sensory abilities.
- Tolerance for error: design that minimizes hazards and the adverse consequences of accidental or unintended actions.
- Low physical effort: design that can be used efficiently and comfortably and with a minimum of fatigue.
- Size and space for approach and use: design that provides appropriate size and space – for approach, reach, manipulation, and use, regardless of the user's body size, posture or mobility.

PART EIGHT

CONTRACT MANAGEMENT

8.1 Contract Management

Effective management of contracts is essential to ensure that the objectives of the procurement process are achieved and that all contractual obligations and activities are completed efficiently by both parties to the contract. The Procurement Committee or the Technical Department concerned must ensure that routine monitoring of all current contracts is maintained so that prompt remedial or preventative action can be taken when problems arise or are foreseen. There are a number of contract and post-contract issues that need to be addressed, monitored and resolved before any contract is completed.

8.2 Award and Signing of Contract

Following the acceptance of a bid submitted by a bidder, a notification of award shall be issued forthwith to the bidder by the PE. This shall be followed by the execution of a formal contract.

Prior to contract award, the PE should ensure that budgetary provision is confirmed to meet the cost of contract. Thereafter, the Letter of Acceptance shall be issued within the validity period of the bid, and no sooner the final decision of contract award is completed. This Letter of acceptance should be free from any new conditions.

This should essentially state the sum that will be paid to the contractor by the Employer in consideration of the execution and completion of construction as prescribed in the contract. The issuance of this letter constitutes the formation of the contract. The Letter of Acceptance should be sent to the successful bidder only after evaluation of bids and after obtaining approval from the relevant authorities.

Once the PE has evaluated the bids and made a determination on the lowest evaluated responsive bid, and a decision has been made about the award, the PE should:

- Request and obtain the Bureau's "Certificate of No Objection to Contract Award" prior to awarding the contract, if applicable;
- Not negotiate the award with the successful bidder;
- Not require the selected bidder to provide performance guarantee in excess of that specified in the bidding documents;
- PE may request bid security declaration as an alternative to bid security.

- Send notification of the award, and a contract form to the successful bidder in a manner and within the time specified in the bidding documents;
- Request the bidder to return the signed contract together with the required performance security within the time specified in the bidding documents; and
- Notify unsuccessful bidders as soon as possible after receiving the signed contract and the performance security from the successful bidder.

If the successful Bidder fails to return the signed contract or provide the required performance security, the PE may:

- Require forfeiture of the Bidder's Bid security; and
- Proceed to offer the contract to the second lowest evaluated responsive Bidder, provided that he is capable of performing satisfactorily.

8.3 Monitoring and Feedback

Contract management may request feedback from users on whether the goods, services and works meet the set criteria of being fit for purpose, user friendly and serves everyone equitably without creating barriers for any of the marginalised groups. Posers for monitoring and feedback include:

- Are the goods, services or works fit for purpose?
- Is any group enjoying undue advantage over others in accessing the benefits of the procurement?
- Lessons learnt, knowledge management and course correction proceedings.
- Record of procurement proceedings ought to show efforts made to ensure equity and inclusiveness in the procurement proceedings.

The Supplier, Contractor, Service Provider or Consultant's performance against the contract must be monitored on a routine basis. The Supervising Department will:

- Notify the Supplier, Contractor, Service Provider or Consultant immediately in writing of any failings in performance and seek an agreed solution;

- Update the contract file regularly to reflect the monitoring of performance;
- Ensure that the Chief Executive or the Accounting Officer of the Procuring Entity and the Bureau are informed of any serious failings in performance.

The Procurement Committee or any group of persons designated by the Accounting Officer shall establish a system to continuously monitor all procurement and financial information related to procurement implementation. The monitoring should provide information on procurement implementation at all levels. The PE shall maintain both file and electronic records of all procurement proceedings made within each financial year and copies of all procurement records shall be transmitted to the Bureau not later than 3 months after the end of the financial year.

Procurement monitoring reports should be issued quarterly by MDAs to ensure compliance with standards and procedures laid down in the Law and by the regulations of the Bureau.

Contract supervision and administration for goods will be undertaken by the Purchasing and Stores Department or the appropriate Technical Department. Supervision and administration are straightforward in most contracts for goods. Monitoring delivery schedules, processing of documents and organising/performing the inspection of goods are essential to ensure that the correct goods are delivered on time.

Contract supervision and administration of works contracts is usually more complex than for goods due to the nature of works, the fact that they are usually implemented in the outside, in remote areas, and that the circumstances (soil, climate) may be different than what was foreseen at the time the detailed design of the works was made. The daily control and supervision of such contract is usually the responsibility of a Supervising Engineer appointed or hired by the PE. The PE must therefore ensure that it is kept informed of progress and problems which arise through routine reports. The Supervising Engineer is obligated to obtain approval from the PE for major contract management decisions (e.g., issuing variation orders above a specified value, granting extension of time, approving additional payments, issuing taking-over or defect liability certificates).

Where the Bureau has set prior review thresholds in the procurement regulations, no funds shall be disbursed from the Treasury Account/ or any bank account of any PE for any procurement falling above the set thresholds unless the cheque, warrant or other form of request for payment is accompanied by a Certificate of No Objection duly issued by the Bureau.

PART NINE

CONCLUSION: FINAL TIPS ON GRPP AND INCLUSIVITY

GRPP in agriculture is feasible and one of the best strategies for increasing agricultural yield, productivity and value added. Also, it will facilitate the reduction of post-harvest losses, agroecology to mitigate and adapt to the challenges of climate change, etc. Preliminary and baseline studies to establish the legal and factual situation should precede the introduction of GRPP. This preliminary diagnostic study will facilitate the design of remedial strategies for procurement inclusivity.

GRPP and inclusivity is best founded on a law and policy framework and made actionable through rules and regulations of the procurement policy and regulatory agencies - the Councils and Bureaus. It should be written into the scope of application of the law whilst it is reflected in the fundamental principles of public procurement. Pending the amendment of laws, GRPP can be founded on rules and regulations made by the regulatory agencies in the exercise of their mandate under various public procurement laws.

GRPP is best accompanied or preceded by gender responsive budgeting which sets the framework provisions in the budget that will be procured in an inclusive manner. There should be a clear definition of the categories of individuals and groups to benefit from inclusive procurement processes and this should include women owned businesses, women led businesses, women owned or led cooperatives. This definition should include relevant thresholds. There should be sanctions in the law and policy for fronting - criminal sanctions, being fines and possible imprisonment of key personnel as well as administrative sanctions like debarring of the firm from participating in public procurement for a period of years.

In procurement planning, and organisation of procurement, clear rules of engagement need to be provided including reasonable accommodation and universal design, gender margins of preference and how it should be calculated, quotas, reservations, publication and notification of tenders, etc. GRPP should also be factored into the preliminary stages of registration of contractors.

Fitting tender designs that standardise procedures and documents and make them as simple as possible, harmonised procedures across MDAs and proportionate tender requirements is recommended. MDAs should keep their own side of the bargain and pay contractors and service providers as and when due. Late payments under the law attract interest but this provision is hardly implemented.

The continuum of procurement planning, preparation of bid solicitation documents, tenders, bid examination and evaluation shows that once gender and inclusivity are mainstreamed from the beginning, they must be followed through to the end in deciding who eventually gets the contract to provide the goods, services or works or what kind of goods, services and works are eventually delivered. For PWDs, “reasonable accommodation” and “universal design”, if introduced at the beginning of the process in procurement planning, must be followed through.

Finally, monitoring and feedback mechanisms should be inbuilt into contract management. This will collect gender disaggregated data and provide feedback from users on whether the goods, services and works meet the set criteria of being fit for purpose, user friendly and serves everyone equitably without creating barriers for any of the marginalised groups.