



Gender Mainstreaming

Gender-responsive Public Procurement: Step-by-step toolkit



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European Institute for Gender Equality

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Contents

1. Who is this toolkit for?	7
1.1. Outline of the toolkit	8
1.2. Tools	9
1.3. Guiding you through the toolkit	9
1.3.1. Coloured boxes	9
2. What is gender-responsive public procurement?	11
2.1. How is gender-responsive public procurement linked to gender equality?	11
2.2. How is gender-responsive public procurement linked to gender budgeting?	12
3. Why is gender-responsive public procurement important?	14
3.1. Five reasons why gender-responsive public procurement is crucial in the EU context	14
3.2. Why was this toolkit for gender-responsive public procurement produced?	16
4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks	17
Tool 1: Self-assessment questionnaire about the legal, regulatory and policy frameworks	25
Tool 2: Overview of the legislative, regulatory and policy frameworks relevant for GRPP in the 27 EU Member States ()	28
5. How to include gender aspects in tendering procedures	33
5.1. Pre-procurement stage	33
5.1.1. Needs assessment	34
Tool 3: Decision tree to assess the gender relevance of public contracts	37
5.1.2. Preliminary market consultation	38
Tool 4: Guiding questions for needs assessment / preliminary market consultations	40
5.1.3. Defining the subject matter of the contract	40
5.1.4. Choosing the procedure	42
Tool 5: Decision tree for the choice of procedure for GRPP	44
5.1.5. Dividing the contract into lots	45
Tool 6: Guiding questions for dividing contracts into lots for GRPP	46
5.1.6. Light regime for social, health and other specific services	46
Tool 7: Guiding questions for applying GRPP under the light regime – designing healthcare and social care service contracts with a gender perspective	49

Tool 8: Guiding questions for applying GRPP under the light regime – improving working conditions in healthcare and social care services by means of public procurement	51
5.1.7. Reserved contracts	52
5.1.8. Preparing tender documents	53
5.2. Procurement stage	54
5.2.1. Exclusion grounds	55
5.2.2. Selection criteria	57
5.2.3. Technical specifications	58
Tool 9: Decision tree for setting GRPP selection criteria, technical specifications and/or award criteria	60
5.2.4. Award criteria	60
Tool 10: Formulating GRPP award criteria	63
Tool 11: Bidders’ concepts to ensure the integration of gender aspects in supply chains	65
5.2.5. Use of labels/certifications	66
5.3. Post-procurement stage	68
5.3.1. Contract performance conditions	68
Tool 12: Checklist for including GRPP contract performance conditions	71
5.3.2. Subcontracting	71
5.3.3. Monitoring	73
5.3.4. Reporting	75
Tool 13: Template for a GRPP monitoring and reporting plan	76
6. Glossary	78
7. References	82
8. Additional resources	84
8.1. Legislation	84
8.2. European institutions and agencies	84
8.3. National organisations	85
8.4. Websites and online resources	85

List of figures

Figure 1.	Six preconditions that promote the best application of GRPP	18
Figure 2.	GRPP at the pre-procurement stage	33
Figure 3.	GRPP at the procurement stage	54
Figure 4.	GRPP at the post-procurement stage	68

1. Who is this toolkit for?

This practical toolkit for implementing gender-responsive public procurement (GRPP) in the EU context is designed for contracting authorities at all levels (national, regional and local), including EU institutions, bodies and agencies. It is also designed to be useful to policymakers and practitioners working towards gender equality and gender mainstreaming, at both the EU and the national levels.

The toolkit can also be an important point of reference for other stakeholders such as non-governmental organisations (NGOs) and gender equality experts to support advocacy activities such as awareness raising about GRPP.

Although not specifically targeted at potential bidders, the toolkit can provide them with inspiration and guidance on how to address gender considerations while preparing a technical offer.

The toolkit is structured in such a way that each target group is guided towards the places in the procurement cycle where they could apply GRPP. For each step of the procurement process, users can access a variety of tools, with real-life examples given on how GRPP is applied and how the tools can be used.

Note on GRPP under the financial regulation ⁽¹⁾

This toolkit reflects the legal framework for GRPP under the 2014 EU procurement directives and applicable principles set out in the Treaty on the Functioning of the European Union (TFEU) ⁽²⁾. For the most part, the same opportunities and restrictions apply under Title VII and Annex I of the financial regulation, which regulate procurement by EU institutions, and under the general budget of the EU. For example, Article 166 of the financial regulation allows for preliminary market consultation and requires compliance with applicable environmental, social and labour law obligations in the same way as Article 18(2) of Directive 2014/24/EU ⁽³⁾. Article 21 of Annex I of the financial regulation allows social aspects to be addressed in award criteria, as does Article 67 of Directive 2014/24/EU. However, there are several differences in the provisions that are relevant for GRPP.

- The financial regulation does not include the possibility to reserve contracts for sheltered workshops, employment programmes or social enterprises.
- The qualifications and experience of staff cannot be an award criterion under the financial regulation; they can only be a selection criterion.
- The financial regulation provides for the use of model contracts, which may limit the ability to introduce contract performance clauses linked to GRPP.

In other respects, the opportunities for GRPP under the procurement directives presented in this toolkit should be considered equally relevant under the financial regulation.

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

⁽²⁾ Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, p. 47, (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>).

⁽³⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

Note on the legal and policy framework for gender equality in the EU

Gender equality is a fundamental value of the EU and is enshrined, in particular, in the following legal and policy documents.

Articles 2 and 3(3) of the founding Treaty on European Union (TEU) ⁽⁴⁾, Articles 21 and 23 of the Charter of Fundamental Rights ⁽⁵⁾, and Articles 8, 10, 19 and 157 of the TFEU call for equality between women and men. Article 8 of the TFEU explicitly requires the Union to ‘eliminate inequalities and promote equality between women and men through all its activities’ (gender mainstreaming).

The EU gender equality strategy for 2020–2025 sets objectives for ending gender-based violence, challenging gender stereotypes, closing gender gaps in the labour market, achieving equal participation across different sectors of the economy, addressing the gender pay and pension gaps, closing the gender care gap and achieving gender balance in decision-making and in politics. The strategy pursues a dual approach of gender mainstreaming combined with targeted actions, and intersectionality is a horizontal principle for its implementation. While the strategy focuses on actions within the EU, it is aligned with the EU’s external policy on gender equality and women’s empowerment.

As one of the first deliverables of the strategy, the Commission proposed binding measures on pay transparency under the proposal for a directive on pay transparency, which included an article on equal pay matters in public contracts and concessions.

The strategy also commits that the Commission’s guidance on socially responsible public procurement will fight discrimination and promote gender equality in public tenders. This can be seen in the second edition of the *Buying Social* guide ⁽⁶⁾.

1.1. Outline of the toolkit

This GRPP toolkit takes account of previous and current activities related to GRPP at the European, national and local government levels and the importance of GRPP for promoting gender equality. It features good practice examples and practical tools to put GRPP into practice.

The toolkit supports public sector buyers in advancing gender equality through the use of GRPP. The public procurement cycle follows three stages – pre-procurement, procurement and post-procurement – and too often omits a clear reference to gender equality. The toolkit serves as a practical guide on how to incorporate

gender equality across the different stages of the procurement cycle.

The toolkit addresses the different roles and responsibilities of its readers and is structured as follows.

Sections 1–3. These sections provide an introduction to GRPP – what is it and why is it important?

Sections 4 and 5. These sections feature 13 practical tools to apply GRPP. These tools are divided into two overarching sections: the legal, regulatory and policy frameworks and the public procurement cycle.

⁽⁴⁾ Consolidated version of the Treaty on European Union, OJ C 326, 26.10.2012, p. 13 , (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>).

⁽⁵⁾ Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391 , (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>).

⁽⁶⁾ European Commission, 2021a.

Sections 6–8. These sections provide a glossary, additional resources and a bibliography.

1.2. Tools

You will find in the toolkit 13 practical tools that will help you to implement the recommendations put forward to improve the legal, regulatory and policy frameworks, as well as help you to include gender aspects at each stage of the procurement cycle.

Tools will be indicated with the following icon:



Legal, regulatory and policy frameworks

Tool 1: self-assessment questionnaire about the legal, regulatory and policy frameworks

Tool 2: overview of the legislative, regulatory and policy frameworks relevant for GRPP in the 27 EU Member States

Pre-procurement stage

Tool 3: decision tree to assess the gender relevance of public contracts

Tool 4: guiding questions for needs assessment / preliminary market consultations

Tool 5: decision tree for the choice of procedure for GRPP

Tool 6: guiding questions for dividing contracts into lots for GRPP

Tool 7: guiding questions for applying GRPP under the light regime – designing healthcare and social care service contracts with a gender perspective

Tool 8: guiding questions for applying GRPP under the light regime – improving working conditions in healthcare and social care services by means of public procurement

Procurement stage

Tool 9: decision tree for setting GRPP selection criteria, technical specifications and/or award criteria

Tool 10: formulating GRPP award criteria

Tool 11: bidders' concepts to ensure the integration of gender aspects in supply chains

Post-procurement stage

Tool 12: checklist for including GRPP contract performance conditions

Tool 13: template for a GRPP monitoring and reporting plan

1.3. Guiding you through the toolkit



Mainly relevant to contracting authorities








Mainly relevant to gender equality and gender mainstreaming policymakers and practitioners



Relevant to contracting authorities and gender equality and gender mainstreaming policymakers and practitioners

1.3.1. Coloured boxes

Throughout the toolkit, you will find coloured boxes. These aim to clarify how GRPP can be implemented, step by step. In each section, you will find explanations about the relevant legal provisions, examples, recommendations on how to avoid common mistakes, and guidance on the steps or measures that can be implemented.

-  Examples of laws, policy frameworks, support structures, guidelines and tools
-  Examples of tendering procedures
-  'How to act' boxes – these provide policymakers and contracting authorities with concrete recommendations on the steps or measures for implementing GRPP
-  Mistakes to avoid
-  Legal framework further explained – a purple box is included when the legal framework or certain legal concepts that are not easy to grasp need to be explained in more detail



2. What is gender-responsive public procurement?

GRPP is a gender mainstreaming tool to promote gender equality through public procurement ⁽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 of 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.

Applying GRPP to promote gender equality from the beginning of the procurement cycle means asking questions such as the following.

- Do the services, supplies or works that I intend to buy have different implications for women and men in all their diversity?
- Do women and men, in all their diversity, have different needs in relation to the services, supplies or works to be purchased?
- Which social and labour laws and collective agreements that promote gender equality at work are applicable to the contract?

'Lived realities' of women and men 'in all their diversity'

It is important to consider 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 (e.g. the lived reality of a young woman living in a rural area of Sweden will be very different from that of an older woman living in an urban area of Spain) ⁽⁸⁾.

2.1. How is gender-responsive public procurement linked to gender equality?

Gender equality is a fundamental value of the EU ⁽⁹⁾. Promoting gender equality in all its

activities is one of the EU's tasks. Article 8 of the TFEU explicitly requires the EU to eliminate inequalities and promote equality between women and men through all of its activities (i.e. to ensure gender mainstreaming). The EU's gender equality policy objectives are wide-ranging and include fostering equal economic independence for

⁽⁷⁾ EIGE, 2021.

⁽⁸⁾ EIGE, 2020.

⁽⁹⁾ Articles 2 and 3(3) of the TEU, Articles 21 and 23 of the Charter of Fundamental Rights of the European Union and Article 8 of the TFEU.

women and men, closing the **gender pay gap** to advance gender balance in decision-making, ending gender-based violence and promoting gender equality beyond the EU.

To achieve gender equality, EU institutions and Member States should apply gender mainstreaming to all of their policies, laws, budgets and actions, including public procurement. **Gender mainstreaming** ⁽¹⁰⁾ is an approach to policy-making that takes into account both women's and men's interests, experiences and concerns, so that women and men benefit equally from policies, programmes and budgets and inequality is not perpetuated.

2.2. How is gender-responsive public procurement linked to gender budgeting?

Gender budgeting is a gender mainstreaming tool aimed at achieving equality between women and men by focusing on how public resources are collected and spent ⁽¹¹⁾. The gender dimension should be integrated into all phases of the budgetary cycle, from the budgetary proposals (*ex ante*) and throughout the spending itself (*ex nunc*) to the evaluation and control of the money actually spent (*ex post*).

An important element of public spending or expenditure into which the gender dimension can be integrated is public procurement contracts. In this way, GRPP can be considered a means of implementing gender budgeting.

EU legal and policy framework for gender-responsive public procurement

GRPP can be carried out under the EU procurement directives ⁽¹²⁾ and under the financial regulation ⁽¹³⁾. The EU legal framework for public procurement has evolved into a comprehensive set of rules and principles governing the award of public contracts. The three 2014 procurement directives aim to facilitate greater strategic use of procurement, including for the advancement of social objectives. Further guidance on how to incorporate social objectives in public procurement is available in the European Commission's *Buying Social Guide* ⁽¹⁴⁾.

The European Commission explicitly states in its gender equality strategy for 2020–2025 that 'the Commission's guidance on socially responsible public procurement will fight discrimination and promote gender equality in public tenders' ⁽¹⁵⁾. As one of the first deliverables of the EU gender equality strategy for 2020–2025, the Commission proposed binding measures on pay transparency under the draft directive on pay transparency, which specifically addresses equal pay and the pay gap in the context of public procurement (Article 21) ⁽¹⁶⁾.

⁽¹⁰⁾ See more on EIGE's gender mainstreaming platform (<https://eige.europa.eu/gender-mainstreaming>).

⁽¹¹⁾ EIGE, 2019a.

⁽¹²⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65; Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243; and Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1.

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

⁽¹⁴⁾ European Commission, 2021a.

⁽¹⁵⁾ European Commission, 2020a.

⁽¹⁶⁾ European Commission, 2021b.

GRPP is part of government spending and thus forms part of gender budgeting. The European Parliament and the Council of the European Union have repeatedly called on the EU institutions and Member States to develop and implement gender budgeting ⁽¹⁷⁾.

⁽¹⁷⁾ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources, OJ L 433I, 22.12.2020, p. 28. Point 16(f) of the interinstitutional agreement gives the Commission the mandate to promote equality between women and men throughout the implementation and monitoring of programmes and to examine how to develop a methodology to measure the relevant expenditure at programme level in the multiannual financial framework for 2021–2027.



3. Why is gender-responsive public procurement important?

3.1. Five reasons why gender-responsive public procurement is crucial in the EU context

1. GRPP can contribute to sustainable and inclusive growth in the EU

Public procurement accounts for a major part of the European economy. Every year, public

authorities in the EU spend around 14 % of gross domestic product (GDP) on public procurement ⁽¹⁸⁾. GRPP can, as a gender equality measure, lead to an increase in the productive capacity of the economy and better value for money. The EU would be able to produce more goods and services domestically and would also become more competitive in international markets ⁽¹⁹⁾.

Studies clearly show a link between greater gender equality and increased growth and employment

Gender equality is not only a human right: achieving gender equality also brings tremendous socioeconomic benefits. Gender equality has strong, positive impacts on GDP per capita, and these increase over time ⁽²⁰⁾. Therefore, gender equality is a highly relevant policy measure for fostering economic growth. It is estimated that improving gender equality will lead to an increase in EU GDP per capita of 6.1–9.6 % by 2050, amounting to EUR 1.95–3.15 trillion ⁽²¹⁾. GRPP could contribute a significant part of this, as it helps to tackle structural inequalities.

2. Public procurement has considerable potential to promote gender equality

GRPP offers a major opportunity to leverage public spending to pursue a fairer allocation of economic resources and improve living standards for both women and men. Achieving value for money and delivering wider benefits, such as gender equality objectives, often go hand in hand. The best outcome for society can be achieved only by taking the possible differences between the

situations of women and men, in all their diversity, into account.

When contractors carry out specific actions to promote gender equality, it also helps meet the objectives of the EU gender equality strategy for 2020–2025 and UN sustainable development goal 5 on gender equality and the empowerment of women and girls in order to fight discrimination, promote gender equality and achieve a more sustainable, inclusive and equal society ⁽²²⁾. For example, in a World Bank-financed operation

⁽¹⁸⁾ European Commission, 2017.

⁽¹⁹⁾ EIGE, 2017.

⁽²⁰⁾ EIGE, 2017.

⁽²¹⁾ EIGE, 2017.

⁽²²⁾ Institute for the Equality of Women and Men, 2018.

in Albania, standard bidding documents were amended, asking bidders to submit gender diversity action plans to increase the representation of women in the construction sector ⁽²³⁾.

3. GRPP can contribute to closing the gender pay gap and creating inclusive jobs

GRPP can include measures to address the gender pay gap in the workforce assigned to the contract. It can also help to ensure that wages paid under contracts are legal and adequate, and that bidders are not avoiding their social obligations. This is especially relevant in low-wage sectors (such as cleaning, catering, childcare and call centres), in which women represent the main workforce, and in contracts that will be performed or partly performed in developing countries, or sectors with significant gender inequalities in the workforce (e.g. financial and economic activities, which have the highest gender pay gap) ⁽²⁴⁾. GRPP also facilitates the social and professional integration of women who suffer from multiple discrimination (e.g. women with disabilities, migrant women and women who are long-term unemployed).

GRPP is an opportunity for public buyers to send a strong message to the market about acceptable working practices and to promote more inclusive recruitment, training and promotion opportunities. In this way, public bodies can aim to ensure that outsourced contracts have similar standards of employment as public sector jobs. For example, the private sector has a higher pay gap than the public sector ⁽²⁵⁾.

4. GRPP supports efforts towards sustainable and socially responsible procurement

The UN's 2030 agenda for sustainable development acknowledges that systematic mainstreaming of the gender perspective is crucial for implementing all the goals and targets of the agenda ⁽²⁶⁾. This includes target 12.7, which aims to promote sustainable practices in the area of public procurement.

Taking into account the different needs of women and men in relation to the supplies, works and services to be purchased can also lead to better results in economic and environmental terms. For example, ensuring that workwear is designed to fit both women and men comfortably will help to increase its lifespan, thus reducing the environmental and economic impact of frequent replacement. The same contract might include criteria to ensure adequate pay and safe working conditions for textile workers, addressing issues such as sexual harassment in the workplace and whistle-blowing. Applying a life-cycle costing approach will ensure that any increase in the purchase price due to these measures can be weighed against increased durability and reduced waste (e.g. where poorly designed or produced uniforms are discarded). Promoting fair and safe working conditions along the whole supply chain improves the situation of women and men living in third countries, too.

⁽²³⁾ Mc Gann and Ismail Ali, 2021.

⁽²⁴⁾ Eurostat, 2019a.

⁽²⁵⁾ Eurostat, 2019b.

⁽²⁶⁾ United Nations, 2015.

Green procurement and GRPP

Contracting authorities may pursue GRPP as part of a broader policy on strategic procurement, encompassing environmental and other social objectives. While some organisations fear that these different objectives will compete, in many cases there are synergies between environmental goals and gender equality and mainstreaming. Environmental issues such as climate change and biodiversity, while affecting us all, often have a gendered impact.

In sectors such as cleaning services, textile production and food and catering, applying green procurement criteria will have benefits for the health and safety of workers, many of whom are low-paid women. On the other hand, by applying to GRPP the approaches set out in this toolkit in the same tenders that include environmental measures, public bodies can help to ensure a 'just transition' to a greener economy, which avoids replicating or exacerbating social inequalities.

5. GRPP can contribute to strengthening the institutionalisation of gender mainstreaming

Integrating a gender perspective in the work (i.e. at the operational level) of public contracting authorities creates a significant opportunity for institutional change in the strategies, objectives and activities of the organisations (e.g. by considering **work-life balance** for parents and carers). It requires good collaboration between public procurers and **gender equality bodies**, which may extend to other areas of activity, such as **gender budgeting**.

3.2. Why was this toolkit for gender-responsive public procurement produced?

This toolkit aims to increase the capacity of contracting authorities to implement GRPP.

Currently, the promotion of gender equality as a legitimate objective has been limited within public procurement policy at both EU and national levels. This means that many public bodies are not yet aware of the possibility of addressing gender issues through procurement. Even when the most favourable legal and policy frameworks exist, capacity-building programmes and tools are necessary to promote and implement GRPP. This toolkit provides **practical support** and guidance for integrating a gender perspective into public procurement.



4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks

This section outlines the importance of the legal, regulatory and policy frameworks that inform the use of GRPP ⁽²⁷⁾.

The EU public procurement legal framework provides for the possibility of implementing GRPP, although gender equality is not mentioned as a specific objective. The same situation can be found in most Member States, although there are variations in the transposition of Directive 2014/24/EU.

Research conducted by the European Institute for Gender Equality (EIGE) ⁽²⁸⁾ also found that gender equality legislation and related policy frameworks very seldom make specific reference to public procurement as a tool to advance gender equality.

UN Women ⁽²⁹⁾ and other studies ⁽³⁰⁾ underline the fact that legislation is important but remains insufficient if not coupled with adequate policy frameworks, strategies and capacity-building programmes.

The following six preconditions (as illustrated in Figure 1) have the potential to deliver the best application of GRPP. It is worth noting that preconditions are necessary but not sufficient. In some of the countries in which most of these preconditions are in place, we can still find only a few examples of GRPP, which shows that GRPP is far from being mainstreamed across whole countries and at all governance levels.

⁽²⁷⁾ This section is based on EIGE's research findings on GRPP (forthcoming).

⁽²⁸⁾ EIGE (forthcoming).

⁽²⁹⁾ See UN Women's web page on gender-responsive procurement (https://www.ungm.org/Shared/KnowledgeCenter/Pages/PT_GRP).

⁽³⁰⁾ For example, European Commission, 2019.

Figure 1. Six preconditions that promote the best application of GRPP



1. Legal framework cross-references gender equality and public procurement

Public procurement and the promotion of gender equality are often seen as two separate issues. General provisions on **gender mainstreaming** and/or **gender budgeting** make, at best, little or, at worst, no reference to GRPP.

Laws that specifically mention the use of GRPP as a tool to promote gender equality not only provide legal certainty on its use (usefulness), but also give GRPP visibility and make the all-important and natural link between gender equality and public procurement.

Spanish public sector law: The best example of national procurement law promoting gender equality as an objective

Spanish Law 9/2017 on public sector contracts ⁽³¹⁾ contains the following relevant provisions.

- A description of the subject matter of the contract in relation to social criteria (Article 99). The inclusion of social criteria will draw bidders' attention to the importance of social considerations and will determine the applicable criteria in their contracts.
- The mandatory and cross-cutting duty to include social criteria (not specifically gender criteria) in all public contracts (Article 1.3). The obligation to include social criteria is specified in Article 202 (it is mandatory to include at least one special performance condition of a social

⁽³¹⁾ See the full text online (<https://www.boe.es/eli/es/l/2017/11/08/9/con>).

nature) and in the fourth additional provision (i.e. relating to contracts reserved for organisations employing persons with disabilities).

- The tender budget broken down by sex (Article 100.2). Public spending can have different impacts on women and men so, by using data broken down for women and men, such inequalities can be assessed and addressed.
- Labels or certifications relating to gender equality (Article 127). To verify compliance with specifications or performance under award criteria, contracting authorities may request that bidders provide a third-party label or certification.
- The prohibition to contract companies with more than 250 workers that fail to comply with the obligation to have an equality plan (Article 71). Tenderers or candidates who have violated national law can be excluded from participation in the tendering procedure.
- Technical capacity in social matters (Article 90). Compulsory requirements to be met by the potential suppliers to be considered in the procurement procedure can include social considerations.
- Award criteria with a gender perspective (Article 145). Award criteria determine the outcome of a tender and are a key tool for addressing gender issues in the delivery of public contracts.
- Tie-breaking criteria relating to equality between women and men (Article 147). Tie-breaking criteria can contribute to GRPP by taking account of specific skills, experience and the technical capacity to implement gender aspects of the contract and by not erecting barriers to participation for 'non-traditional' contractors, which may include small and medium-sized enterprises (SMEs), women-owned businesses and social enterprises.
- Special implementation conditions relating to gender equality (Article 202). The requirements to be fulfilled by the supplier during the execution of the contract can include gender considerations.

Other examples of gender equality and public procurement legislation

Examples of gender equality legislation

In **Spain**, Organic Law 3/2007 for effective equality between women and men ⁽³²⁾ includes references to and guidelines on the inclusion of the gender perspective in public contracting in Articles 33 and 34.

In **France**, Law No 2014-873 for real equality ⁽³³⁾ of 4 August 2014 (Articles 16 and 31) obliges local authorities to take action to promote gender equality within all of their policies. Budgetary decisions require a **gender audit** and companies may be excluded from receiving benefits if they do not meet their legal obligations to promote gender equality issues in public procurement.

Examples of public procurement law

In **Austria**, since 2018, the national procurement law ⁽³⁴⁾ has included the employment of women as an example of a social consideration that can be addressed in procurement procedures (Section 20, paragraph 6, and Section 193, paragraph 6).

⁽³²⁾ See the full text online (<https://www.boe.es/buscar/act.php?id=BOE-A-2007-6115>).

⁽³³⁾ See the full text online (https://www.legifrance.gouv.fr/loda/id/JORFTEXT000029330832?init=true&page=1&query=Loi+2014-873+%C3%A9galit%C3%A9+r%C3%A9elle&searchField=ALL&tab_selection=all).

⁽³⁴⁾ See the full text online (<http://blog.imag-gendermainstreaming.at/index.php/de/2018/09/14/die-frauen-und-gleichstellungsfoerderung-im-oesterreichischen-vergaberechtsreformgesetz-2018/>).

In **Portugal**, the public procurement code ⁽³⁵⁾ has a specific clause stating that gender equality, along with social responsibility and the environment, should be considered in the performance of the contract (Article 42, point 6). This creates an opportunity for the inclusion of GRPP in public procurement contracts.

How to act

Identify relevant national (and regional) laws on public procurement and gender equality to determine which gender equality considerations are allowed and/or required.

Explicitly mention gender equality as an objective to be achieved when revising public procurement laws.

Clearly identify GRPP as a tool to promote gender equality when revising gender equality laws.

2. Public procurement strategies cover GRPP or include gender equality as an objective

GRPP is often subsumed under socially responsible public procurement (SRPP) strategies

without being specifically referred to. However, when public procurement strategies include specific gender equality objectives, preferably at all stages of the procurement cycle, GRPP implementation does increase.

Examples of public procurement strategies including gender equality as an objective

In **Spain**, Barcelona's sustainable public procurement objectives plan for 2020–2021 includes an objective to promote women's employment. This is one objective, among others, that addresses social purposes. Award criteria continue to focus on best value for money, but take account of such social criteria too.

In **Portugal**, in the national strategy for innovation and modernisation of the state and public administration for 2020–2030 ⁽³⁶⁾, strategic objective 7 ('Promote innovation in public management') includes measure 7.4: 'Incorporate the gender perspective as the central dimension of innovative management models'. This strategy does not explicitly refer to public procurement, but it is applicable to it. It requires the achievement of the following goals by 2023: the holding of two sounding board meetings with women councillors and equality councillors from government departments in 2021, all administrative data produced by the central government to be disaggregated by sex and the awarding of the 'AP conciliation' seal to entities that implement and certify work-life balance management systems based on NP 4552:2016.

In **Italy**, Sardinia's guidelines on social purchasing expressly provide for the promotion of **gender balance** among the social considerations in public procurement. The guidelines refer to gender balance both in sectors where women are under-represented and in those where men are under-represented.

⁽³⁵⁾ See the full text online (http://www.base.gov.pt/mediaRep/inci/files/ccp2018/CCP-DL_111-B.pdf).

⁽³⁶⁾ See the full text online (<https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBQAAAB%2bLCAAAAAABAAzND CyNAcAwYeeOwUAAAA%3d>).

How to act

Identify existing policy frameworks and strategies that promote GRPP and/or SRPP (SRPP frameworks usually allow gender equality goals to be pursued, although this might not be explicit).

Propose and develop new policy frameworks and strategies that clearly cover GRPP and consider setting a percentage of tender procedures that must include gender aspects every year. Setting a manageable percentage may help overcome initial resistance to applying GRPP.

3. Gender equality action plans or strategies mention public procurement / GRPP as a tool to promote gender equality

A further aspect of GRPP is the extent to which national gender equality action plans refer to

public procurement as a tool to promote gender equality. This can take many forms, but GRPP needs to be specifically mentioned when such strategies refer to **gender mainstreaming** and/or **gender budgeting**, for example.

Example of gender equality action plans: The fourth action plan for equality between women and men of Brussels

In **Belgium**, the city of Brussels has further developed the objective of GRPP in its fourth action plan for equality between women and men ⁽³⁷⁾, notably by providing training on gender issues for procurement officers and producing a more accessible vade mecum for the central purchasing office of the city of Brussels.

How to act

Check if your national/regional gender equality action plans or strategies identify public procurement or GRPP as a tool to promote gender equality.

Mention public procurement or GRPP as an instrument to pursue gender equality goals when revising gender equality actions plans or strategies.

4. Capacity-building programmes, support structures and guidelines promote GRPP

Legislation and strategies on GRPP are important tools to promote such public procurement and thus help to advance gender equality, but GRPP without adequate support structures remains a largely theoretical undertaking. Relevant support structures include capacity building, training and information materials that explain GRPP, its uses

and its impact on gender equality, as well as mentoring/cooperation between public and third sector bodies (e.g. institutes, universities and NGOs/charities with expertise on gender issues). Capacity building, most often in the form of training, is best directed at people and institutions directly involved in public procurement procedures, as well as national gender equality bodies, to support their efforts in advancing gender equality. Manuals, toolkits and other guidance documents

⁽³⁷⁾ See the full text online (http://www.bruxelles.be/sites/default/files/bxl/Plan_daction_egalite_des_femmes_et_des_hommes_2020-2022.pdf).

serve as helpful reference material. Structures such as 'interservice' groups composed of representatives of public procurement bodies and **gender equality bodies** are key in terms of

creating the necessary interinstitutional exchange of information and capacity-building programmes regarding GRPP and its use in successfully addressing gender inequalities.

Example of guidelines: Swedish Association of Local Authorities and Regions

In **Sweden**, the Swedish Association of Local Authorities and Regions (SALAR) produced supporting materials for use in regional and local public procurement. These materials specifically mention gender equality as a 'quality factor' that provides added value to the tender. The section of the supporting materials entitled 'Procurement for gender equality' contains examples of gender equality in procurement and a concrete checklist. Moreover, SALAR and the Swedish Procurement Agency have recently started to work together on GRPP.

How to act

Organise training seminars, develop guidelines, disseminate good practice, set up help desks and support structures and launch capacity-building projects to provide advice and information, including with EU funding support.

Create national networks of experts and practitioners in GRPP, encourage interdepartmental cooperation between public procurement and gender equality experts, and set up pilot working groups to develop capacity-building measures.

Facilitate the dissemination of good practice at local, national and international levels.

5. Regular collaboration between gender equality bodies/departments and public procurement offices is in place

The use of GRPP to address gender equality successfully also depends on the extent of regular and informed collaboration between **gender equality bodies** and contracting authorities. Such collaboration can take the form of consultation, whereby the **contracting authority** (automatically) involves gender equality bodies when initiating the public procurement cycle. Likewise,

gender equality bodies reach out to the public authorities with their knowledge and advice about gender mainstreaming and how to apply GRPP at specific stages of the procurement cycle.

Within contracting authorities, interdepartmental cooperation is often needed to make GRPP a success. For example, the procurement office may need to work with the team/department identifying the need for products or services, as well as those responsible for gender equality and citizen engagement, to plan and execute GRPP tenders.

Example of coordination between gender equality bodies and public procurement policies and processes: Spain

In **Spain**, socially responsible public procurement goes hand in hand with a gender perspective. In most cases, when a public administration applies social criteria in its public contracts, it includes the gender perspective. The Institute of Women, an autonomous body responsible for gender equality, has given guidance on GRPP and does so systematically. Other bodies in charge of gender equality (e.g. in the Basque government, Catalan government, Zaragoza City

Council, Barcelona City Council, Gipuzkoa Provincial Council and Vitoria City Council) have led and achieved the systematic integration of the gender perspective in public procurement. The role of the gender equality body has proved to be important for the promotion of GRPP, including coordination, awareness raising, training, drafting of guides, preparation of materials, and collaboration on the drafting of the relevant instruments with various public administrations.

How to act

Create interservice GRPP working groups that meet to ensure information exchange and mutual support.

Organise regular training on GRPP with participants from relevant ministries / public authorities and gender equality bodies.

Create a media platform that facilitates collaboration among public procurement and gender equality practitioners and policymakers.

Mistakes to avoid

Avoid developing a policy to promote GRPP (e.g. public procurement strategies or gender equality action plans) without identifying the institution(s), body (or bodies) and/or department(s) responsible for implementation.

Avoid planning and implementing policies by adopting a silo approach (gender equality / public procurement / social and employment policies) without developing synergies.

Refrain from developing GRPP policies or strategies that are not coupled with capacity-building programmes and help desks / support structures.

6. Effective monitoring and reporting systems on the use of GRPP are in place

Clear measures for monitoring and impact assessment are key to the successful development of the use of GRPP. This is important for identifying obstacles to and opportunities for GRPP, and to progressively increase levels of ambition. Effective monitoring and reporting require clear and simple indicators, such as the number of staff receiving training in gender

issues relevant to the contract; targets for recruitment and promotion to achieve **gender balance** in the team performing the contract; and targets to reduce the **gender pay gap** under the contract. Where possible, these targets/indicators should be directly linked to organisational, national/regional or even international policy commitments on gender equality.

For more guidance, see [Sections 5.3.3](#) and [5.3.4](#).

How to act

Develop context-specific indicators for GRPP that are linked to broader policy commitments on gender equality.

Decide on realistic but ambitious targets to be met during the period of the contract or framework agreement.

Introduce contractual requirements for the contractor to monitor/report on the implementation of GRPP conditions and set consequences for the failure to meet targets.



Tool 1: Self-assessment questionnaire about the legal, regulatory and policy frameworks

Introduction to the tool

This tool can be used by contracting authorities, policymakers and practitioners working towards gender equality and gender mainstreaming to explore the possibilities of, knowledge regarding and the context for applying GRPP.

GRPP focuses on bringing a gender perspective to public procurement. If you are considering applying GRPP, it may be helpful to know to what extent your specific context (laws, strategies, support structures, stakeholders) may facilitate the use of GRPP and to determine the extent of your knowledge of these existing frameworks in your country. This tool consists of nine questions and is designed for you to

make a quick assessment of your existing enabling conditions and your knowledge thereof and as such can serve as an initial guide for further investigation.

Before you start, here are some points to bear in mind:

- *it will take you between 10 and 15 minutes to complete the questionnaire;*
- *there are NO wrong answers;*
- *you can redo the questionnaire any time and as many times as you want.*

Legislation is in place to support GRPP (e.g. public procurement laws mentioning gender equality as an objective, gender equality laws mentioning public procurement or GRPP as a tool to advance gender equality).

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Policy objectives and targets for promoting and supporting GRPP (e.g. strategies on public procurement or gender equality action plans) have been defined / are in place.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Gender equality strategies specifically mention GRPP as a tool to promote gender equality.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Support structures, guidelines and capacity-building strategies to promote GRPP are in place and readily available.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Effective coordination mechanisms are in place to facilitate collaboration among public procurement actors and gender equality bodies and experts involved in promoting GRPP.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Monitoring and evaluation are used to measure progress regarding the application of GRPP.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

GRPP is an intrinsic part of public procurement.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

There is collaboration between gender equality institutions/departments and those responsible for public procurement.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Responsibilities for GRPP are clearly identified and divided between gender equality institutions/departments and those responsible for public procurement.

To what extent is that true in your context (e.g. country/region)?

1. Not true at all
2. Somewhat true
3. True
4. Don't know

Results

If most of your answers are 1, the context in which you operate is not favourable to GRPP, but the toolkit will help you, step by step, to develop GRPP.

If most of your answers are 2, the context in which you operate is rather favourable to GRPP. The toolkit will assist you in further developing GRPP given your specific context.

If most of your answers are 3, the context in which you operate is favourable to GRPP. As you implement GRPP, the toolkit may be helpful in addressing some specific issues that you may encounter in its application.

If most of your answers are 4, the 'What to do next' section will help you find information relevant to GRPP in your Member State. Afterwards, you can redo the questionnaire and assess to what extent the context in which you operate facilitates the use of GRPP.

What to do next

In all four cases, this toolkit can provide further guidance.

Once you have completed the self-assessment questionnaire, you can move on to Tool 2, which will provide you with information on the legislative, regulatory and policy frameworks relevant for GRPP in your Member State. EIGE also has online resources that can provide you with information about gender equality and gender mainstreaming in your country⁽³⁸⁾, and additional sources are also listed in [Section 8](#) of this toolkit.

As a general rule, you should also consider establishing contact with gender equality and/or public procurement bodies to start developing a strategy for implementing GRPP.

If you are a policymaker, you can take inspiration from the green 'How to act' boxes to develop better enabling conditions for the promotion of GRPP.

⁽³⁸⁾ See EIGE's country-specific pages (<https://eige.europa.eu/countries>) and gender mainstreaming platform (<https://eige.europa.eu/gender-mainstreaming>).



Tool 2: Overview of the legislative, regulatory and policy frameworks relevant for GRPP in the 27 EU Member States ⁽³⁹⁾

Introduction to the tool

This tool provides you with an overview of the legislative, regulatory and policy frameworks relevant for GRPP that exist in your country. You can also compare the frameworks that exist in your country with the frameworks from other

EU Member States. If you are a policymaker, you can draw inspiration from other EU Member States.

You can also use this tool in combination with Tool 1, 'Self-assessment questionnaire about the legal, regulatory and policy frameworks', to determine your level of knowledge about the frameworks that exist in your country.

Country	Public procurement law explicitly mentions gender equality as objective	(Gender) equality law explicitly mentions public procurement as a tool to promote gender equality	Public procurement strategies promote SRPP and GRPP	Gender equality action plans mention public procurement as a tool to promote gender equality	Existence of support structures or entities providing capacity building to promote GRPP
Belgium	No reference to gender equality	Gender mainstreaming law of 12 January 2007, Article 3, paragraph 3: https://igvm-iefh.belgium.be/sites/default/files/downloads/loigm.pdf	Sustainability report for 2019 published by FPS Economy: https://economie.fgov.be/fr/publications/rapport-de-durabilite-2019 Article 31 of the administration agreement for 2019–2021 published by FPS Economy: https://economie.fgov.be/fr/publications/le-contrat-dadministration <i>Regional level</i> Social clauses scheme published by Wallonia: https://marchespublics.wallonie.be/home/pouvoirs-adjudicateurs/passer-un-marche-public-responsable/quels-sont-les-clauses-et-outils-specifiques-a-chaque-type-de-marche/marches-de-travaux.html	<i>Regional level</i> Action plan for equality between men and women for 2020–2022 published by BXL Feminist: https://www.bruxelles.be/plan-egalite-femmes-hommes <i>Regional level</i> Circular of 26 November 2020 published by the government of the Brussels-Capital Region: https://www.actiris.bruxelles/media/jzdfk1/vade-mecum-clauses-sociales-h-A52D444A.pdf	Institute for the Equality of Women and Men: https://igvm-iefh.belgium.be/en <i>Regional level</i> Brussels Pouvoirs locaux: http://pouvoirs-locaux.bruxelles

⁽³⁹⁾ For the purposes of this overview, the cut-off date is 1 March 2021.

4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks

Bulgaria	No reference to gender equality	No reference to GRPP	No reference to GRPP	<i>Only indirectly</i> 2018 report on equality between women and men in Bulgaria: https://mlsp.government.bg/uploads/1/blgarsko-zakonodatelstvo/doklad-ravnopostavenost-2018.pdf	No support structures exist to promote GRPP
Czechia	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Denmark	No reference to gender equality	<i>Only indirectly</i> Act No 1147 on equality between women and men of 3 July 2020: https://www.retsinformation.dk/eli/ta/2020/1147	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Germany	No reference to gender equality at federal level <i>Regional level</i> Bavaria, ordinance on equal pay for women and men in the awarding of public contracts of 6 December 2019: https://www.stmi.bayern.de/assets/stmi/kub/2019-12-06_-_rundschreiben_an_kommunen_zu_equal_pay_-_kopie_.pdf	No reference to GRPP at federal level <i>Regional level</i> North-Rhine Westphalia, Ordinance No 16/2013 on promoting the reconciliation of work and family life / work-life balance of 31 May 2013: https://recht.nrw.de/lmi/owa/br_vbl_detail_text?anw_nr=6&vd_id=13865&vdback=N254&sg=&menu=1 <i>Regional level</i> Berlin, Ordinance No 19/2011 on the promotion of women and reconciliation of work and family life of 19 July 2011: https://www.berlin.de/sen/frauen/recht/landesgleichstellungsgesetz/frauenfoerderverordnung	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Estonia	Public procurement act of 14 June 2017, Articles 2(2), 77(4) and 85: https://www.riigiteataja.ee/en/eli/505092017003/consolide	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Ireland	No reference to gender equality	<i>Only indirectly</i> Act No 21/1998 on employment equality of 18 June 1998: http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/html Act No 25/2014 of the Irish Human Rights and Equality Commission of 27 July 2014: http://www.irishstatutebook.ie/eli/2014/act/25/enacted/en/html	Office for Government Procurement report on incorporating social considerations in public procurement of 2018: https://www.gov.ie/en/publication/170d6-information-note-incorporating-social-considerations-into-public-procurement-december-2018/	<i>Only indirectly</i> National strategy for women and girls for 2017–2020: https://www.gov.ie/en/publication/a70fc-gender-equality-national-policy-and-strategies/	Irish Human Rights and Equality Commission: https://www.ihrec.ie/our-work/public-sector-duty/

4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks

Greece	Law No 4412/2016 on public procurement of projects, supplies and services of 8 August 2016, Article 86, paragraph 3, and Article 130, paragraph 3: https://www.eaadhsy.gr/n4412/	<i>Only indirectly</i> Law No 4604/2019 on substantial gender equality of 26 March 2019: https://isotita.gr/nomothesia/ethniki-nomothesia/	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Spain	Law No 9/2017 on public sector contracts of 8 November 2017: https://www.boe.es/buscar/act.php?id=BOE-A-2017-12902 <i>Regional level</i> Basque Country, Law No 3/2016 for the inclusion of certain social clauses in public procurement of 7 April 2016, Article 4: https://www.boe.es/boe/dias/2016/05/02/pdfs/BOE-A-2016-4172.pdf <i>Regional level</i> Navarre, Law No 2/2018 on public procurement of 13 April 2018: https://www.boe.es/buscar/act.php?id=BOE-A-2018-6001&p=20201231&tn=1#a1	Organic Law No 3/2007 for effective equality between women and men of 23 March 2007, Articles 33 and 34: https://www.boe.es/buscar/act.php?id=BOE-A-2007-6115 <i>Regional level</i> Basque Country, Act No 4/2005 on equal opportunities between men and women of 18 February 2005, Article 20(2) and (3): https://www.emakunde.euskadi.eus/contenidos/informacion/english_about_us/eu_def/adjuntos/equal_opportunities_men_women_act.pdf <i>Regional level</i> Castille-La Mancha, Law No 12/2010 on gender equality of 18 November 2010: https://www.boe.es/buscar/pdf/2011/BOE-A-2011-2708-consolidado.pdf <i>Regional level</i> Galicia, Act No 2/2015 on equality of 12 February 2015: https://www.boe.es/buscar/doc.php?id=DOG-g-2015-90667 <i>Regional level</i> Andalusia, Law No 9/2018 on promotion of gender equality of 8 October 2018: https://www.juntadeandalucia.es/boja/2018/199/2 <i>Regional level</i> Cantabria, Law No 2/2019 for effective equality between men and women of 7 March 2019: https://boc.cantabria.es/boces/verAnuncioAction.do?idAnuBlob=336499 <i>Provincial level</i> Gipuzkoa, Law No 2/2015 on equality of women and men of 16 March 2015: https://www.gipuzkoa.eus/documents/2556071/2587361/c1502351.pdf	Plan to promote socially responsible public procurement of 2019: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2019-7831 <i>Regional level</i> Basque Country, agreement of the governing council of the Basque government on the incorporation of clauses for equal pay in public procurement of 10 May 2019: https://www.euskadi.eus/bopv2/datos/2019/05/1902185a.pdf <i>Regional level</i> Catalonia, guide to gender mainstreaming in public procurement of 2018: https://contractacio.gencat.cat/web/contenid/principis/contractacio-estrategica/social/guia_genere/guia-igualtat-genere-castellano.pdf <i>Local level</i> Zaragoza, instruction relative to the incorporation of social clauses of gender in the contracts of the City Council of Zaragoza: https://www.zaragoza.es/contenidos/normativa/instruccion-igualdad-contratos.pdf <i>Local level</i> Valencia, responsible public procurement instruction and an inclusive guide to social clauses and the compliance verification system: https://www.valencia.es/documents/20142/44448/20190225%2520INSTRUCCIO%25CC%2581%2520CONTRACTACIO%25CC%2581%2520PU%25CC%2581BLICA%2520I%2520GUIA%2520CLAUSULAT%2520SOCIAL.pdf/d1716c03-c292-f426-b7c0-6c27a3cfc4ae	Plan for gender equality in the General State Administration of 29 December 2020: https://www.boe.es/eli/es/res/2020/12/29/(2)/con <i>Regional level</i> Basque Autonomous Community, plan for the equality of women and men of 2018, objective BG.12: https://www.emakunde.euskadi.eus/contenidos/informacion/emakunde7plana/es_def/adjuntos/vii_plan.pdf <i>Local level</i> Gipuzkoa, gender equality action plan for 2020–2023: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjkoeTJz_P1AhUtSFEDHcwrDu4QFnoECAUQAQ&url=https%3A%2F%2Fwww.gipuzkoa.eus%2Fdocuments%2F2556071%2F2587844%2FGFA_IIIPlana_es.pdf%2F9272b611-8f80-82be-b422-efd507b8f5c8&usg=AOvVaw20SAbWN6dd8mFLYYZvhrck	National Institute of Women: https://www.inmujeres.gob.es/home.htm <i>Regional level</i> Emakunde – The Basque Institute for Women: https://www.emakunde.euskadi.eus <i>Regional level</i> Catalan government: https://govern.cat/gov/ <i>Local level</i> Zaragoza City Council: https://zaragoza.es/ciudad/ <i>Local level</i> Barcelona City Council: https://ajuntament.barcelona.cat/es/ <i>Local level</i> Gipuzkoa Provincial Council: https://www.gipuzkoa.eus/es/inicio <i>Local level</i> Vitoria-Gasteiz City Council: https://www.vitoria-gasteiz.org/we001/was/we001Action.do?accionWe001=ficha&accion=home

4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks

France	Public procurement code of 1 April 2019: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000037701019/2019-04-01/ Possibilities of social clauses on equality between women and men in public procurement: http://www.occitanie.developpement-durable.gouv.fr/IMG/pdf/clauses_sociales_cle1b9e6e.pdf Circular No 5688/SG on the development of daytime cleaning services in state services of 6 November 2013: https://www.economie.gouv.fr/files/files/directions_services/dae/doc/circulaire_5688_20131106.pdf	Law No 2014-873 on real equality of 4 August 2014, Articles 16 and 61: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000029330832?init=true&page=1&query=Loi+2014-873+Ã	National action plan for responsible public procurement for 2015–2020: https://www.ecologie.gouv.fr/sites/default/files/Plan_national_d_action_pour_les_achats_publics_durables_2015-2020.pdf	Inter-ministerial plan for gender equality at work for 2016–2020, point 49: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwuiq-jTOPP1AhXWRvEDHZSpCzMQFnoECDAQ&url=https%3A%2F%2Fwww.egalite-femmes-hommes.gouv.fr%2Fwp-content%2Fuploads%2F2017%2F04%2FPlan-interministeriel-en-faveur-de-l%25E2%2580%2599egalite-professionnelle-entre-les-femmes-et-les-hommes-PIEP-revu13042017.pdf&usg=AOvVaw1OxSGC2l26eVck9-Kvrw4I	High Council for Equality: https://haut-conseil-egalite.gouv.fr
Croatia	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Italy	<i>Only indirectly</i> Legislative Decree No 50/2016 of 18 April 2016, Article 30, paragraph 1: https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-04-19&atto.codiceRedazionale=16G00062	<i>Only indirectly</i> Code of equal opportunities between men and women of 11 April 2006, Article 41: https://www.gazzettaufficiale.it/dettaglio/codici/pariOpportunita	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Cyprus	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Latvia	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Lithuania	No reference to gender equality	<i>Only indirectly</i> Law No XII-2767 on equal opportunities for women and men of 8 November 2016, Article 4: https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/d6ed8e50a74a11e68987e8320e9a5185	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Luxembourg	Impact assessment form for legislative, regulatory and other measures: https://conseil-etat.public.lu/content/dam/conseil_etat/fr/avis/2013/07/50_225/50225_Texte.pdf	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Hungary	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Malta	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP

4. Gender-responsive public procurement in practice: importance of legal, regulatory and policy frameworks

Netherlands	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	Women Win (NGO): https://womenwinlearninglab.thinkific.com/courses/gender-responsive-procurement
Austria	Act No 65/2018 on public procurement of 18 April 2018, Article 20, paragraph 6, and Article 193, paragraph 6: https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20010295	Resolution BKA-F140.240/0058-II/1/2011 of the Gender Mainstreaming Council of Ministers of 31 August 2011: https://www.imag-gmb.at/gender-mainstreaming/implementierung-in-oesterreich/umsetzung-auf-bundesebene.html	No reference to GRPP	Gender equality impact-oriented assessment and gender mainstreaming/budgeting strategy implemented by the interministerial working group on gender mainstreaming/budgeting: https://www.oeffentlicherdienst.gv.at/wirkungsorientierte_verwaltung/folgenabschaetzung/index.html https://www.imag-gmb.at/gender-budgeting/gleichstellung-und-wirkungsorientierung/wirkungsorientierte-steuerung.html	<i>Local level</i> Help desk of the Department for Gender Mainstreaming of the city of Vienna: https://www.wien.gv.at/english/administration/gendermainstreaming/office.html
Poland	No reference to gender equality	No reference to GRPP	No reference to GRPP	National action programme for equal treatment: https://www.gov.pl/web/rownetraktowanie/krajowy-program-dzialan-na-rzecz-rownego-traktowania	No support structures exist to promote GRPP
Portugal	Code No 18/2008 on public procurement of 29 January 2008, Article 42, point 6: http://www.base.gov.pt/mediaRep/inci/files/ccp2018/CCP-DL_111-B.pdf	No reference to GRPP	No reference to GRPP	National strategy for equality and non-discrimination for 2018–2030, strategic objective 1: https://dre.pt/web/guest/home/-/dre/115360036/details/maximized	No support structures exist to promote GRPP
Romania	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Slovenia	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Slovakia	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Finland	No reference to gender equality	No reference to GRPP	No reference to GRPP	No reference to GRPP	No support structures exist to promote GRPP
Sweden	No reference to gender equality	No reference to GRPP	Socially sustainable procurement strategy (https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin/) of the National Agency for Public Procurement, objective 7: https://www.upphandlingsmyndigheten.se/om-hallbar-upphandling/socialt-hallbar-upphandling/framjande-av-lika-rattigheter-och-mojligheter/	No reference to GRPP	National Agency for Public Procurement: https://www.upphandlingsmyndigheten.se/en Swedish Association of Local Authorities and Regions: https://skr.se/skr/tjanster/englishpages.411.html

5. How to include gender aspects in tendering procedures

This section looks at the different stages of the procurement cycle. You will find practical guidance on how to include gender considerations at each step of the procurement cycle. Guidance is coupled with national examples on the use of GRPP and practical tools. Examples can be neither representative nor exhaustive, but they do

provide important insights into the effective and successful use of GRPP.

The public procurement cycle follows three stages: pre-procurement, procurement and post-procurement. This section supports public sector buyers in implementing GRPP.

5.1. Pre-procurement stage

Figure 2. GRPP at the pre-procurement stage



Prior to launching a tender, contracting authorities undertake various preparatory activities. This is an important stage in the implementation of GRPP, as it determines the way in which the authority will interact with the market to purchase supplies, services or works according to its needs.

During this stage, you need to reflect on:

- whether the contract has a gender perspective;
- who the ultimate beneficiaries of the contract are and whether they include both women and men, in all their diversity;
- whether there are differences in the situations of those women and men, for example their specific needs in relation to the product or service being provided.

the needs of both women and men, in all their diversity, are considered. It can also form a key part of a **preliminary market consultation**, to develop the procurement documents and inform the market about gender aspects of the contract. While Directives 2014/23/EU, 2014/24/EU and 2014/25/EU do not strictly regulate the pre-tender stage, care is needed to ensure that activities do not prejudice the procedure, for example by giving any operator an unfair advantage or disadvantage. The TFEU principles of transparency and equal treatment must be respected in all interactions with bidders.

Gender analysis ⁽⁴⁰⁾ can be undertaken as part of a broader **needs assessment**, ensuring that

⁽⁴⁰⁾ EIGE, 2019b.

How to act

Carry out a risk assessment for public contracts prior to tendering, including an analysis of issues such as equal pay and gender discrimination throughout the supply chain.

Provide procurement staff with information on GRPP as part of their core training, together with examples and tools such as standard forms/checklists to support its implementation.

Undertake capacity-building programmes, including through secondments with gender equality bodies, to develop implementation skills for GRPP, including a better understanding of the essential concepts of gender equality and gender mainstreaming.



5.1.1. Needs assessment

Depending on the users/beneficiaries of the procurement, **needs assessment** may be a strictly internal process (e.g. office furniture or equipment is purchased) or may involve external people and organisations (e.g. social housing or a civic centre is constructed or a website/application is made accessible to the public). Needs assessment may be undertaken either formally (e.g. through a questionnaire or structured consultation) or informally through conversations with users. Regardless of the approach, it is

important to ensure that the respondents reflect the broader group of intended users and a **gender balance** is ensured among the respondents.

In some cases, it may make sense to involve an external organisation to ensure that gender considerations have been adequately addressed at this vital first stage.

The results of the needs assessment will inform the drafting of tender documents and the information made available to bidders as part of the preliminary market consultation (see [Section 5.1.2](#)), if this is undertaken. One way of doing this is by creating a needs statement, which describes the reason for the purchase and should clearly incorporate the gender aspects identified.

Example tool: Checklist to assess the gender relevance of purchases (by the city of Vienna, Austria)

In **Austria**, to make it easier for different departments to assess the gender relevance of a specific purchase, the city of Vienna has developed a simple checklist on the gender relevance of purchases. Completed with guiding questions, this checklist is useful when considering if the gender perspective is relevant to a contract. It also helps to promote thinking about how gender considerations can be integrated into the procurement process.

After a paragraph introducing the importance of gender aspects in procurement, the checklist asks three questions. First, it asks if the product or service has an impact on people; some guiding examples are also given. Second, two subquestions address gender and other aspects, such as age or disability. Third, the checklist asks how the gender perspective will be addressed in the contract.

This checklist can be adapted and used to raise awareness of GRPP and to support procurers when identifying the procedures in which to include gender aspects. It targets people working in administration who are not experts in GRPP and it aims to offer an easy-to-use approach. This checklist of the city of Vienna also usefully provides the contacts of GRPP experts.

As an example of how the checklist was used, for the organisation and implementation of an annual day of action to get girls interested in traditionally male-dominated professions, the city of Vienna required the successful bidder to implement measures for their staff on improving work-life balance during the performance of the contract.

Examples of needs assessment in public procurement procedures

In **France**, the department of Gironde employed a gender consultant at the preliminary stage of a tender to help design and build new secondary schools to ensure that a gender perspective concerning the use of space was included in the tender documents.

Fictitious example. In a **contract for the management of a public recreation centre**, the needs statement might include the following: 'The operator will be responsible for ensuring that the facility is used equally by women and men, by ensuring that the allocation of space, activities, equipment, training and time slots encourages equal participation and opportunities for users of all abilities and interests.' It might also include more specific requirements regarding consultation and communication with users.



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How to act

Identify the elements of a tendering procedure in which gender aspects can be integrated before starting a needs assessment. Then, identify the potential users of what is procured to establish who to gather information from. For example, for public transport, consider if there may be different users at different times of the day or in different parts of the city.

See if similar products, services or works were procured in the past and, if this information is available, identify what the impact was on different users (including users of different genders and different family situations).

Use different channels (e.g. social media, postal mail, live events) to gather information for the different end users (e.g. teenagers, pensioners) affected by specific products, services or works.

Mistakes to avoid

The earlier in the process that different needs are taken into account, the greater the impact that can typically be achieved. Avoid, therefore, delaying incorporating gender considerations until the drafting of the tender documents.

When assessing the different needs of men and women, girls and boys, refrain from making assumptions. If possible, engage users directly, ensuring equal representation of women and men in all their diversity, or involve experts.

When retendering avoid assuming that users' needs remain the same, as this may perpetuate gender inequalities in the way that the product or service is provided.

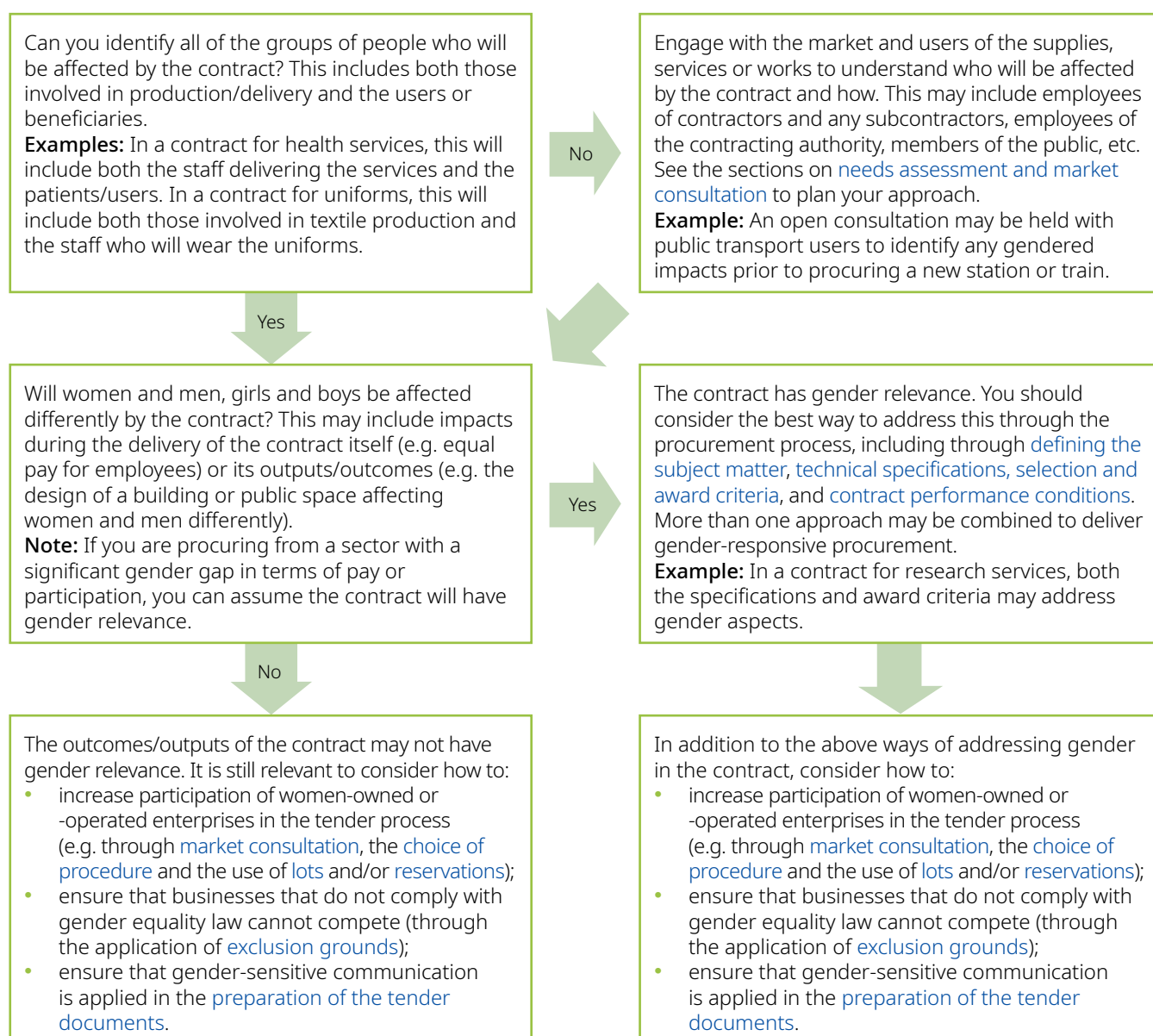


Tool 3: Decision tree to assess the gender relevance of public contracts

Introduction to the tool

This tool can be used by contracting authorities, policymakers and practitioners working towards gender equality and gender mainstreaming to assess if a public contract has gender relevance. Depending on your answers, it will help you to identify whether it would be worth designing a tendering procedure with gender elements or not.

The tool provides you with guiding questions. If, from your answers, it emerges that the contract has gender relevance, the tool also gives you some tips on how you could consider the best way to address the gender perspective through the procurement process. It also guides you towards the relevant sections of the toolkit that will help you to identify the most appropriate stages of the procurement process in which to include gender elements.





5.1.2. Preliminary market consultation

The purpose of **preliminary market consultation** is to obtain a clear picture of which products, works and services are available and to inform economic operators about the upcoming tender. Preliminary market consultations can be used to scope out the market capacity to deliver gender-responsive outcomes, as well as to refine the **contracting authority's** objectives. This can be done through informal or formal consultations with potential bidders, for example through supplier engagement events, questionnaires or direct contact. Under Article 40 of Directive 2014/24/EU, such consultations may be carried out provided that the principles of equal treatment and transparency are complied with.

When exchanging information with specific players in the market, you should determine whether they are aware of relevant differences between women and men in the context of the contract. In addition, you should also determine if they have ideas about how this can be taken into account during the performance of the contract. It may help to request that any data on groups of people are always disaggregated by sex.

The scope of market consultation does not need to be limited to potential bidders. It can also include the views and interests of potential users or organisations, such as NGOs, social partners, other public sector bodies and experts. For GRPP, for example, you may wish to consider including **gender equality bodies** and NGOs working on gender equality.

GRPP may also specifically encourage businesses and social enterprises owned and operated by women to participate in tenders, for example by explaining procedures, considering feedback and ensuring that the structure and size of contracts are appropriate to encourage maximum participation. In some cases, this may involve facilitating contact between different businesses and social enterprises to encourage the formation of consortiums/partnerships for the purpose of bidding for and delivering a contract. For example, in a contract for job placement services, recruitment companies may need to cooperate with organisations working with single parents or women who are survivors of gender-based violence, if these groups form part of the target population.

It is important to ensure that, in the course of preliminary market consultation, no unfair advantage or disadvantage is created for any party.

Examples of preliminary market consultations

Fictitious example. In a contract for cleaning services, meetings may be held with both the beneficiaries of the service (e.g. office workers) and the cleaners employed on the authority's current contract, to identify and potentially apply working practices that may improve **work-life balance**. This could then be discussed with prospective bidders to identify any management or logistical issues to be resolved prior to launching the tender.

In contracts related to science, technology, engineering and mathematics, reaching out to the widest possible range of contractors – including those owned by women – may help to increase the participation of women in these areas.



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In **Spain**, the City Council of Barcelona holds a stakeholders' coordination meeting to identify all of the relevant actors for market consultation. In some situations, there are multiple experts or organisations that can be identified as relevant. The aim is to hold consultations that are intersectional to avoid creating tensions. While direct promotion of women-led businesses is not authorised by Spanish law, contracting authorities use dissemination to target women-led businesses in their tenders.

How to act

Provide ample time for the pre-market consultation to obtain meaningful input from multiple experts and actors, including gender equality experts and gender equality bodies.

Organise consultations with an intersectional approach to ensure the different interests of user groups are identified and taken into account.

Consider both the size and the diversity of the potential supplier market when organising a market consultation. If this includes many small organisations or those with less experience in responding to public tenders, you may need to allow time for one-on-one or small group meetings/consultations.

Mistakes to avoid

In all preliminary market consultations, and especially for GRPP, it is important to avoid speaking only to 'the usual suspects' (i.e. companies that have previously bid for or won similar contracts). The net should be cast more widely to ensure a gender perspective is included.

In some cases, small businesses or non-profit organisations may be concerned that larger bidders will 'steal ideas' – consider whether one-on-one meetings may be preferred to group sessions when this is the case.

Ensure that any information you make available at the pre-tender stage is also included in the tender documents to avoid giving an unfair advantage to any bidder.



Tool 4: Guiding questions for needs assessment / preliminary market consultations

Introduction to the tool

*This tool can be used by contracting authorities, policymakers and practitioners working towards **gender equality** and **gender mainstreaming** to develop a needs assessment or a preliminary market consultation.*

1. Are there differences in the way women and men will use/benefit from the outcome of the contract? If so, have you consulted users in a way that represents these differences? For example, in a contract to support cycling or other mobility services, women and men may have different patterns of commuting, which influence their needs.
2. Does the procurement team have adequate knowledge/expertise of gender issues and how they affect the contract? If not, have

they consulted organisations that or individuals who have such expertise (e.g. gender equality bodies, gender experts, NGOs, social enterprises)?

3. Does the market have the ability to take into account the gender aspects identified? How can the capacity to deliver these aspects be improved (e.g. preliminary consultations, seeking feedback on specifications, encouraging consortiums/partnerships)?
4. Can greater participation of women-led businesses be encouraged in the tender? If so, how will this be done without creating an unfair advantage or disadvantage (e.g. making the same information available to everyone, openly advertising the preliminary market consultation)?



5.1.3. Defining the subject matter of the contract

Contracting authorities are free to define the subject matter of their tenders. At the pre-tender stage, you should consider how the purchase may affect women and men differently and address this in the subject matter and/or in a short description in the **contract notice**. There are two main reasons for incorporating gender aspects within the subject matter of the tender.

1. **Visibility.** By giving your contract a title that explicitly includes gender aspects, you draw bidders' attention to the importance of these

aspects (e.g. 'Sex-disaggregated data analysis services' or 'Design, build and management of a sports centre promoting equal participation').

2. **Setting the scope.** The subject matter of the contract determines which criteria you can apply in the tender, due to the link to the subject matter requirement (see the box that follows entitled '[Link to the subject matter requirement](#)'). It is therefore important to define what you are buying in a way that includes any gender impacts linked to production or consumption of the goods or services. If you are purchasing advertising services (e.g. for a public information campaign) and want to ensure that both women and men are reached equally, the scope of the tender needs to include the provision of sex-disaggregated data about the audiences for different media channels.

In some cases, the subject matter of the tender will be only loosely defined, leaving room for the market to propose innovative ways of addressing a particular need, for example if a service is needed to help women return to the workforce, but the nature of the activities has not been defined. In these cases, you can state the gender outcomes/impacts to be achieved in the subject matter and/or short description rather than describing the specific services that are required.

Another important consideration at this stage is setting the duration of the contract or framework. In general, a longer duration will provide more opportunity to implement GRPP measures, especially when these require the contractor to put training or other resources in place and to measure impacts or outcomes. In some cases, meeting GRPP targets may be set as a condition for the extension or renewal of a contract (see [Section 5.3.1](#)).

Link to the subject matter requirement

Under the EU public procurement directives, all of the criteria applied in tenders must be linked to the subject matter of the contract. This means that they cannot concern general corporate policies or practices of bidding companies, but must be specific to the goods, services or works that are being purchased. This distinction is important when formulating **award criteria** to address gender equality issues. For example, it would be possible to have a criterion that specifically concerns **gender equality** in recruitment and staffing for the purposes of the contract being awarded. It may not be possible to award more marks to a company on the basis of its overall **gender balance**, as this would go beyond what is relevant to the contract. There is some doubt about the interpretation of the subject matter link due to limited case-law from the EU Court of Justice. In some cases, a general policy or practice may serve as evidence in relation to a more specific criterion, but it is the application to the individual contract that matters.

Examples of how to define the subject matter of contracts in a way that is gender sensitive

In a contract for mobility services, the subject matter could explicitly refer to the needs of women and men, including differences regarding journey types and the use of public transport.

If a contract for construction of social housing also includes architectural design services, then it will be possible to address gender aspects of design (e.g. lighting, safety, access to childcare and other amenities) within that contract. The title and/or short description of the contract could explicitly refer to these gender aspects.



Drazen Zigic/Shutterstock.com

How to act

When appropriate, give your contract or framework a title that explicitly includes gender aspects.

Highlight GRPP in the brief description of the tender that appears in the contract notice.

Ensure that the scope and duration of the contract/framework are sufficient to meaningfully implement GRPP, for example to allow specific targets to be set and any necessary training / capacity building to be put in place.

Mistakes to avoid

Avoid assuming that all potential bidders will read the tender documents – by including gender aspects in the title and/or a short description in the contract notice, you can attract bidders with expertise in relevant areas.

In some cases, contract notices are completed separately from the tender documents and by a different individual or team. In these cases, it is particularly important to ensure that gender aspects included in the tender documents are also reflected in the notices.



5.1.4. Choosing the procedure

Directive 2014/24/EU defines six separate procedures for the award of contracts:

- open procedure
- restricted procedure
- competitive procedure with negotiation
- competitive dialogue
- innovation partnership
- design contest.

While GRPP may be applied in any of these procedures, when **open or restricted** procedures are used, there is no flexibility to engage with bidders to refine their offers in respect of gender equality or other considerations. This makes the use of preliminary market consultations

particularly important when authorities choose to implement GRPP using these procedures.

The **competitive dialogue** procedure allows bidders to propose different solutions that respond to a defined need, which are then refined in consultation with the **contracting authority**. The **innovation partnership** procedure allows a structured and phased contract to be awarded to one or more partners to carry out research and development, prototyping and testing of a new product or service to meet public sector needs. The contracting authority can then purchase the outcome on a commercial scale. There is potential for this procedure to support research and development of gender-responsive services, infrastructure or technology to meet public needs.

On the choice of procedure

A contracting authority might choose to use competitive dialogue when awarding a service contract with complex gender issues (e.g. access to community health services), allowing bidders to refine/develop their proposals following feedback from the contracting authority, gender experts or potential users of the services.

How to act

Use the decision tree of [Tool 5](#) to choose the most appropriate procedure to implement GRPP.

If your organisation allows the use of only the open or the restricted procedure, ensure that you have completed adequate market consultation to set well-targeted GRPP criteria.

If flexible procedures such as the competitive procedure with negotiation or competitive dialogue can be used, ensure that GRPP considerations are included in the negotiation/dialogue.

Mistakes to avoid

While GRPP can be included in any procurement procedure, extra time may be required to prepare tender documents and evaluate tenders, especially the first time that GRPP criteria are applied.

Avoid setting a very short tender response period, as this will limit the quality of responses to GRPP criteria.

In tenders under the EU directives' light regime (see [Section 5.1.6](#)) or national procedures, the principles of transparency and equal treatment still apply. GRPP approaches must therefore reflect these principles. For example, it would not generally be possible to insist that bidders participate in a national training programme or certification related to gender equality.

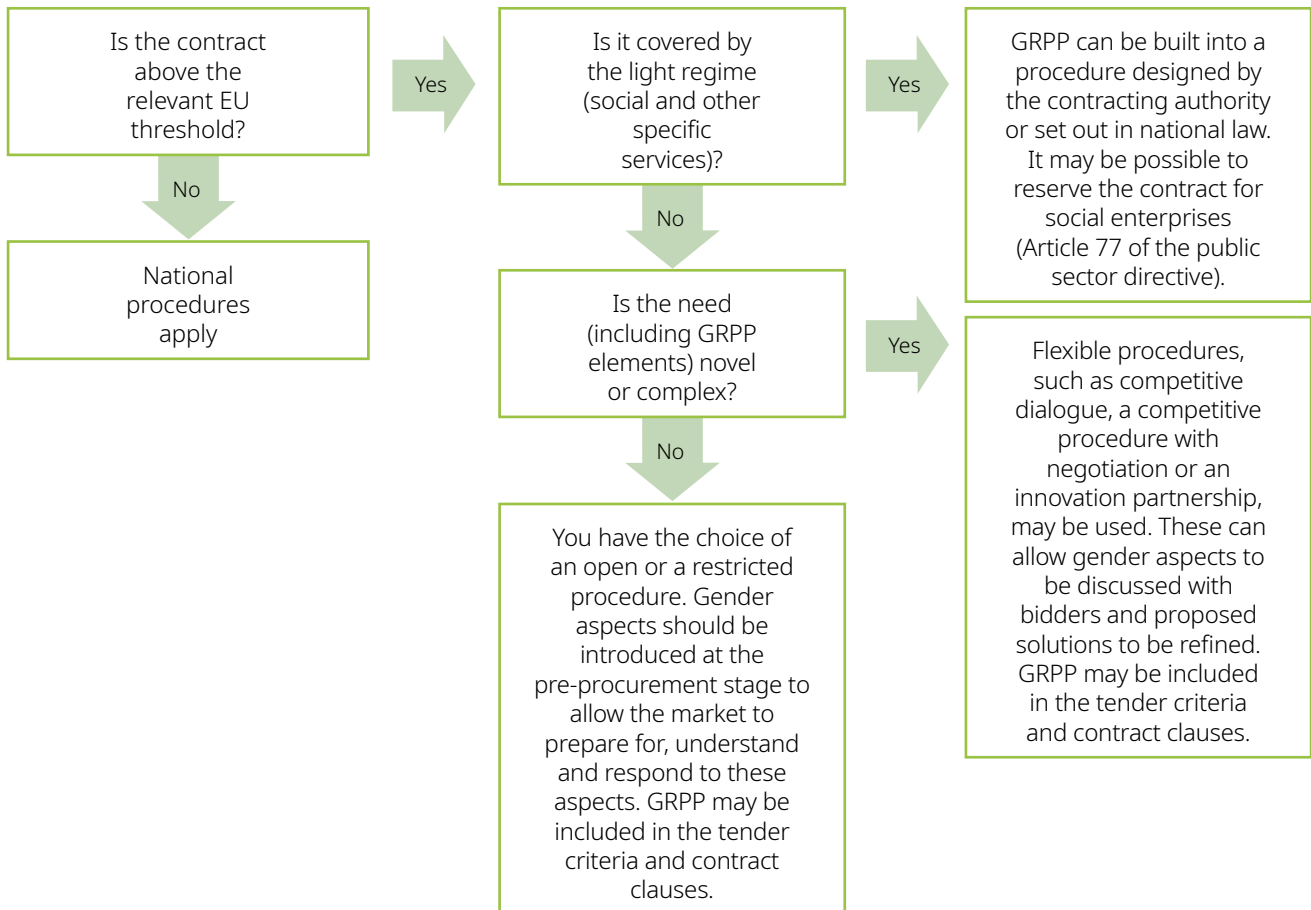


Tool 5: Decision tree for the choice of procedure for GRPP

Introduction to the tool

This tool can be used by contracting authorities, policymakers and practitioners working towards **gender equality** and **gender mainstreaming** to choose a procedure for GRPP. It summarises the

factors influencing the choice of procedure for GRPP. It asks guiding questions and, based on your answers, then guides you towards the most appropriate procedure for the tender you intend to launch.





5.1.5. Dividing the contract into lots

Dividing contracts into lots can help to ensure the participation of a wide range of bidders, including

SMEs and social enterprises, and potentially including more women-led businesses. It can also facilitate the use of a reservation (see [Section 5.1.7](#)). **Division into lots** does not in itself promote GRPP unless additional measures such as market engagement, reservations and **award criteria** are used.

Example of how to divide a contract into lots to ensure gender considerations are taken into account

In the **Netherlands**, the city of The Hague awarded a framework agreement with four lots; these included technical specifications and award criteria targeting diversity in the workforce, including on the basis of sex and other grounds. The lots were separated in a way that encouraged recruitment of the traditionally under-represented sex, for example women in IT and men in service positions.



Andrey_Popov/Shutterstock.com

How to act

If lots are used to help pilot GRPP on a smaller scale, there should be a clear plan for evaluating the outcomes and scaling up or changing the approach as needed.

If gender considerations are particularly relevant for certain lots, ensure that this is clear in both the contract notice and the tender documents.



Tool 6: Guiding questions for dividing contracts into lots for GRPP

Introduction to the tool

This tool can be used by contracting authorities to divide contracts into lots for GRPP.

This tool allows you to assess whether lots may be a useful approach to promote GRPP in a particular contract or framework.

The questions will help you in the decision of whether or not to divide a contract into lots.

1. Do you have knowledge of the full range of organisations (including small companies, social enterprises and charities / voluntary bodies) that may be able to deliver all or part of the need? If not, **preliminary market consultations** should be held.
2. Would dividing the contract/framework into lots facilitate greater participation by / chances of success for the range of organisations above, including women-owned or -operated enterprises? If so, this could be a strong argument for **division into lots**.
3. Are there specific aspects of the contract/framework (e.g. gender-sensitive design or communication) that may require a different type of expertise and experience from other contract activities? If so, consider whether **awarding a separate lot** for this activity would be an effective way of targeting this expertise/experience.
4. Is there a case for reserving one or several lots for performance by an organisation employing persons with disabilities or **disadvantaged workers** (Article 20 of Directive 2014/24/EU) or by a social enterprise (Article 77 of Directive 2014/24/EU)? This could help to facilitate employment for women or men facing discrimination in the labour market.
5. In a framework agreement, could lots be used to enable small businesses or those with less experience to carry out contracts that are low value or low risk or to enable more innovative/experimental contracting (e.g. **social outcomes contracting**) for a particular activity?



5.1.6. Light regime for social, health and other specific services

The 2014 EU procurement directives introduced what is known as the light regime for social, health and other specific services. The services covered include healthcare and social care, education and training, community and cultural services, and events organisation. A higher threshold and less rigid rules are applied to these services than to other fields, while contracts in some of these services can be reserved only for social enterprises

under Article 77 of Directive 2014/24/EU (see [Section 5.1.7](#)). It is possible to exclude cost considerations from the **award criteria** in light regime contracts; for example, in a contract for care services, the overall cost of the service could be set by the **contracting authority**, taking account of the need to ensure adequate rates of pay.

For GRPP, light regime contracts may allow a more collaborative approach to be taken to developing tender requirements and engaging with bidders, for example when a service is co-designed with one or more social enterprises/charities. This can help to ensure that gender equality elements are fully reflected in the subject matter

and structure of the contract (e.g. that health services for women are delivered in a way that meets their needs). As many of the sectors covered by the light regime predominantly employ women, there is also an opportunity to set criteria relating to pay and working conditions that would improve the **gender pay gap** and **work-life balance**.

However, addressing issues such as discrimination and low pay may not be sufficient, in themselves, to bring about more gender-equal outcomes. Specific action may also need to be taken in terms of recruitment, training, promotion and the gender pay gap. Again, engaging with both service providers and unions or other social partners can help to target these concerns before, during and after the tender procedure. In some cases, it may make sense to award a contract or framework with an option to extend based on performance, to ensure that these issues can be addressed and that progress is

monitored. If the service provider does not make adequate progress on the gender pay gap for workers delivering a contract, for example, this could be grounds for refusing to extend or renew the contract.

Finally, light regime contracts may have significant gendered impacts on the beneficiaries/users of the services, as well as on the workforce delivering them. For example, sporting services and services provided by youth organisations are both included under the light regime. Gender differences in terms of participation in sport and youth services may have a profound impact on mental and physical health. It is therefore important to ensure that these are reflected in the design and delivery of services by following the recommendations set out in this toolkit regarding **needs assessment** / user consultation, market engagement, tendering and post-procurement.

Examples of gender aspects in social and health service public contracts

In **Sweden**, Stockholm County Council is committed to the provision of good healthcare on equal terms regardless of gender, and this is reflected in the terms applied in contracts. A precondition for entering an agreement with the council is that the caregiver has to follow the council's equality policy, which includes taking part in ongoing quality work and providing equal treatment for women and men in healthcare. Furthermore, in the evaluation of activities, all relevant data should be reported by sex and age ⁽⁴¹⁾.

The use of the best price-quality ratio gives contracting authorities the opportunity to include specific quality criteria that are essential for the delivery of social and other services in which mainly women are working ⁽⁴²⁾. The awarding of a contract on the basis of the best price-quality ratio can take into consideration if the employee working conditions set out in a contract are intended to favour the promotion of equality between women and men at work, increase the participation of women in the labour market and/or help better reconcile employees' work and private lives ⁽⁴³⁾. To ensure that quality becomes an essential component in the awarding of contracts for social and health services that contribute to GRPP, quality should be given a weight of at least 50 % compared with other criteria such as price (value for money). Quality is essential for social and health services to meet the needs of both women and men ⁽⁴⁴⁾.

⁽⁴¹⁾ See the Observatory of the European Charter for Equality of Women and Men in Local Life's web page on gender equality requirements in public procurement (<https://charter-equality.eu/exemple-de-bonnes-pratiques/gender-equality-requirements-in-public-procurement.html>).

⁽⁴²⁾ Eurostat, 2020.

⁽⁴³⁾ European Commission, 2021a.

⁽⁴⁴⁾ Social Platform, 2015, p. 21.

In **Norway**, Oslo has developed a strategy for the promotion of not-for-profit providers of healthcare and social care services (#WeBuySocial). The city council has adopted the Oslo model for the health and care sector (city council case 1006/19) ⁽⁴⁵⁾. This also applies to sub-contractors. The workforce of the healthcare and social care sector is made up of a significant proportion of part-time workers (often women), which, in Norwegian municipalities, is on average two out of three. More women than men work reduced hours, while at the same time taking responsibility for child-rearing and domestic work. In spite of the positive impact of part-time working on work-life balance and overall life satisfaction for some, there are well-known career penalties for part-time workers, including lower status and pay and fewer training and development opportunities, as well as lower pensions upon retirement ⁽⁴⁶⁾. Long, rotating shifts and night work make it difficult to enforce full-time work requirements. For this reason, the municipality requires that contracted workers are as close as possible to full-time and that this objective is promoted whenever possible. This is in line with the International Labour Organization (ILO) concept of 'decent work', which includes working time arrangements that are healthy, are family-friendly, promote gender equality, advance enterprise productivity and facilitate worker choice and influence over their hours of work ⁽⁴⁷⁾. The city council also strives for the sector to be as inclusive as possible, enabling full integration into the job market of workers who may need additional support or accompaniment.

Mistakes to avoid

Light regime contracts typically require a different approach from other contracts, namely one that reflects the nature of the service. Applying standard procedures and criteria should therefore usually be avoided.

Avoid assuming that addressing issues such as discrimination and low pay will be sufficient in themselves to bring about more gender-equal outcomes. Specific action may need to be taken in terms of recruitment, training, promotion and the gender pay gap.

Addressing gender issues only in terms of the workforce delivering the services or in terms of the service users will generally be insufficient – both need to be addressed (as Tools 7 and 8 illustrate).

⁽⁴⁵⁾ European Commission, 2020b.

⁽⁴⁶⁾ Lyonette, 2015.

⁽⁴⁷⁾ ILO, 2019.



Tool 7: Guiding questions for applying GRPP under the light regime – designing healthcare and social care service contracts with a gender perspective

Introduction to the tool

*This tool can be used by contracting authorities, policymakers and practitioners working towards **gender equality** and **gender mainstreaming** to apply GRPP under the light regime and to design healthcare and social care service contracts with a gender perspective.*

This tool offers guiding questions that can help you to integrate a gender equality perspective when designing a tendering procedure for the provision of social and health services. If you are a contracting authority, you can also propose that tenderers use this tool for preparing their bid and for taking gender differences into account for healthcare and social services.

Taking gender into account is essential for optimising healthcare and social care services, bridging the gender gap in access to healthcare services and advancing gender equality. Healthcare and social care services that do not address gender inequality or other forms of inequality inflict significant social and economic costs upon society. Other costs of failing to address gender differences include reduced user satisfaction with services, which may affect both women and men, depending on which services are highlighted. This can also lead to less efficient use of services, which in turn affects health outcomes ⁽⁴⁸⁾.

Guiding questions

The following questions can guide you, as a contracting authority, when preparing a feasibility study for integrating a gender equality perspective in healthcare / social care services.

1. Is it possible to integrate a gender equality perspective within this particular healthcare / social care service?
2. Does the healthcare / social care service concern women and men, girls and boys?
3. Who will use and benefit from the healthcare or social care service? Will women and men benefit equally?
4. Does the healthcare / social care service concern women and men who may experience multiple forms of inequality (as a result of the intersections of socioeconomic status, disability, ethnicity, age and gender, for example)?
5. Can this healthcare / social care service have consequences that make it essential to do a gender analysis? (Gender analysis considers the different experiences of women and men depending on their different characteristics, such as age, income, poverty level, urban/rural location, disability, race or ethnicity. This intersectional analysis of the characteristics that affect women's and men's daily lives is essential for understanding gender inequality.)
6. How does the new or upgraded healthcare / social care service consider women's and men's different health needs throughout the life cycle?
7. Are the statistics related to the healthcare / social care service sex disaggregated? (This question is important when evaluating the background information.)
8. Is there a connection between this healthcare / social care service and the gender

⁽⁴⁸⁾ Payne, 2009.

equality objectives that the national or local government has set up? (A feasibility study should include an examination of how the procurement can help the organisation achieve its gender equality objectives.)

9. Is it possible to include gender elements in the contract title (e.g. 'Health outreach services for women and men')?
10. Are there any criteria for evaluation from a gender equality perspective and is there a plan for follow-up?

It is also important to formulate measurable criteria or indicators for the evaluation of the public procurement from a gender perspective. Gender equality requirements should thus always be linked to the evaluation criteria. Likewise, it is important to define how the monitoring and evaluation will be carried out and who is responsible for the various activities.

To verify if the requirements are accurate and appropriate, it can be useful to ask the following questions.

1. Are the requirements comprehensive enough to meet their purpose?
2. Are the requirements proportionate and non-discriminatory?
3. Are the requirements measurable?
4. Do the requirements have a connection to the procurement's subject?
5. Is it possible to compare and evaluate the (evaluation) requirements?
6. Is it possible to check on and follow up the requirements?
7. Are the requirements clearly formulated so that all contractors, national and international, are given the same opportunities to respond?
8. Are the requirements compatible with other requests or technical conditions that are set out in the specifications?



Tool 8: Guiding questions for applying GRPP under the light regime – improving working conditions in healthcare and social care services by means of public procurement

Introduction to the tool

*This tool can be used by contracting authorities, policymakers and practitioners working towards **gender equality** and **gender mainstreaming** to apply GRPP from the perspective of service providers.*

It offers guiding questions that can help you to improve the working conditions of the workforce employed during the execution of a contract for the provision of social and health services, including from a gender perspective. If you are a contracting authority, you can also propose that tenderers use this tool for preparing their bid and for taking gender differences into account with regard to the workforce delivering healthcare and social services.

Contracting authorities can integrate a gender perspective within procurement with regard to healthcare / social care providers by using an employment structure designed to address gender (or other) discrimination, and by requiring minimum standards of equity from the private sector suppliers of goods and services ⁽⁴⁹⁾. For example, the EU public procurement framework (as set out in Articles 74–77 of Directive 2014/24/EU) makes it possible to exclude cost considerations from the **award criteria** in light regime contracts. In a contract for care services, the overall cost of the services could therefore be set by the contracting authority, taking account of the need to ensure adequate rates of pay. Connecting gender, the healthcare / social care workforce and decent work also raises the issue of how to address and prevent sexual harassment in the workplace (e.g. by having protocols in place) ⁽⁵⁰⁾.

Importance of integrating a gender perspective for the provision of healthcare / social care services

Gender affects access to healthcare and social care services, social dynamics and health behaviours and it shapes the work environment ⁽⁵¹⁾. Integrating a gender perspective into the procurement of healthcare / social care services for healthcare and social service providers contributes to ensuring good working conditions for healthcare and social care service workers. It helps to combat persisting gender inequalities within the healthcare / social care system. Female healthcare / social care workers, for instance, still face significant barriers in terms of achieving leadership positions and income equality (wage gaps / gender pay gaps) and in overcoming stereotypes about the healthcare / social care roles that women generally fill ⁽⁵²⁾.

Guiding questions

Pre-procurement/specification

1. Gender equality requirements for employees can be included at different stages of the procurement. Which stage is the most effective, considering the desired outcomes, to address this?
2. What principles and/or specific legislation apply to the concept of equal wages for work of equal value and other conditions of work and employment?

⁽⁴⁹⁾ Payne, 2009.

⁽⁵⁰⁾ Betron et al., 2019.

⁽⁵¹⁾ EIGE, 2016; Oertelt-Prigione, 2020.

⁽⁵²⁾ EIGE, 2016; Betron et al., 2019.

3. What principles and/or specific legislation apply to prohibiting gender-based discrimination in wages?
4. Do women and men have equal access to employment in this specific healthcare service? If not, what are the critical barriers?
5. What are the social protection measures provided? How inclusive and equitable are they, in terms of access by both women and men, and in addressing women's particular needs, specifically protection for women in relation to sexual and reproductive rights?
6. What support would be required or desirable to help suppliers meet gender equality requirements for employees?

Award stage

1. Are workforce conditions and working and employment practices for women and men employees and bidders' recruitment practices relevant to the subject matter of the contract?
 - Have any minimum requirements or **award criteria** been clearly set out to bidders? Do they include working conditions, working hours, health and safety, conditions for young, women and men workers, the level of wages being paid, the treatment of workers, addressing sexual harassment, etc.?
2. How can weight be given to gender equality considerations regarding employees when scoring bids?



5.1.7. Reserved contracts

'Reserving' a contract means that only businesses that meet the relevant conditions can bid for that particular contract. This does not mean that public authorities can favour these businesses generally or restrict the tender to only one operator.

Under EU procurement law, reservations in public procurement do not explicitly relate to women-owned or women-managed businesses. Directive 2014/24/EU allows for only two types of reservations.

1. It is possible to restrict competition to economic operators whose mission is the social and professional integration of **disadvantaged workers** and workers with disabilities (Article 20), provided that at least 30 % of the employees are disabled or disadvantaged. The term '**disadvantaged worker**' is not defined in

the directive, but guidance from the European Commission suggests that this may include the under-represented sex in a sector with a high gender imbalance or a single adult living with one or more dependants. With this type of reservation, it would also be possible to promote the social and professional integration of women who suffer from multiple discrimination (e.g. women with disabilities, migrant women and long-term unemployed women).

2. It is possible to restrict competition to organisations that have a public service mission and meet certain governance requirements, only in relation to social, health and education services (Article 77). Organisations covered by this reservation may include social economy enterprises, employee-led mutual organisations and charities.

Note, the **financial regulation** does not include the possibility of reserving contracts for sheltered workshops, employment programmes or social enterprises.

Examples of reserved contracts relevant for GRPP

Fictitious example. A contract could be reserved for competition by social enterprises employing, for example, women who have survived domestic violence or face the threat of gender-based violence.

Fictitious example. It would also be possible to reserve a contract for performance by employment programmes responsible for integrating women ex-offenders into the workforce.

Tools 7 and 8 can also be applied in the context of reservations for the award of social, health and education services, set out in Article 77 of Directive 2014/24/EU.



5.1.8. Preparing tender documents

Contracting authorities must prepare tender documents for publication prior to launching the procedure. These typically comprise several documents setting out exclusion grounds and **selection criteria**, specifications, **award criteria** and contract terms, as well as the **contract notice**, which must be published on the Tenders Electronic Daily (TED) portal if the contract value is above the EU thresholds.

In addition to the explicit inclusion of GRPP criteria, tender documents may influence the gender

outcomes of a tender in other ways. For example, the use of gender-sensitive language to refer to bidders and staff assigned to a contract or a statement regarding the gender impact of the contract and expected outcomes could be important. It is important to use the most inclusive language possible by not casting the male as the generic norm, using both grammatical genders and referring to both genders (she/he, business-woman/-man, etc.), as this makes contractors aware that their target audience (for a study, campaign, etc.) usually consists of both women and men⁽⁵³⁾. Drawing specific attention to the GRPP criteria included, and explaining them clearly, increases the likelihood of good-quality responses to these criteria.

Preparing tender documents also offers an opportunity to link GRPP to broader objectives, strategies or policies being pursued by your organisation, for example the sustainable development goals, namely sustainable development goal 5 on **gender equality**.

Examples of how GRPP training can influence tender documents

In Munich, **Germany**, there is a good example of mainstreaming GRPP through procurement training. The Procurement Office, which manages most purchasing not related to construction work, was given the mandate to include gender equality objectives in its procurement processes. By using examples of GRPP in training materials that target both procurers and administrative staff, the city of Munich aims to mainstream gender-responsive approaches in procurement. This will raise the awareness of what gender considerations can be taken into account within the existing legal framework.



Matej Kastelic/Shutterstock.com

⁽⁵³⁾ See EIGE, 2019c.

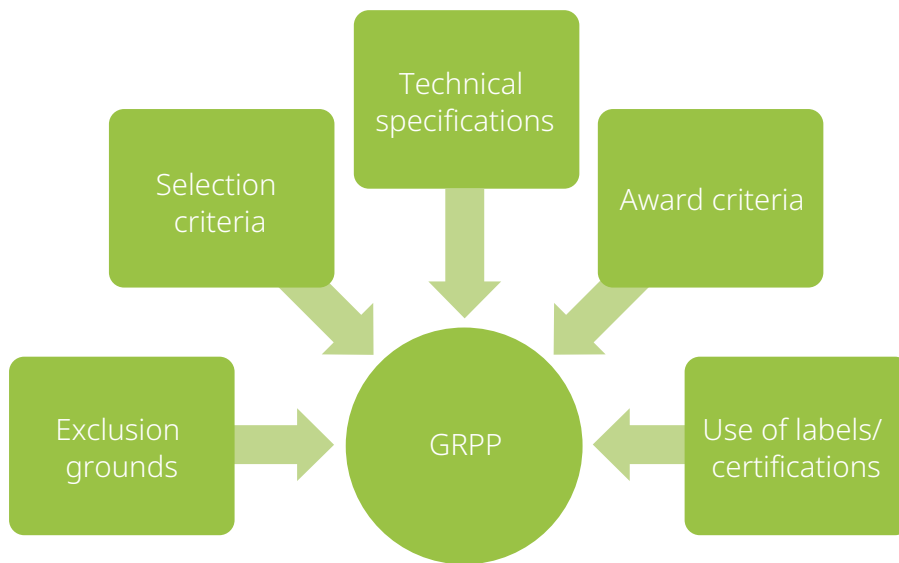
Both the training materials for procurers and those for wider administrative staff use examples of gender equality to explain different phases of the procurement cycle. Gender equality is addressed in a number of ways, from excluding potential bidders that have demonstrably violated the provisions of the general act on equal treatment, to following the ILO’s core criteria in the contract performance clauses.

The example award criteria for procurers ask bidders to outline a proposal for achieving gender equality during the performance of the contract, for instance. The criteria also include the application of women’s quotas or a gender equality quota during the performance of the contract (e.g. with a weighting of 20 % according to the score given in the evaluation matrix). The indication of the gender equality quota is obligatory and part of the tender; therefore, it becomes a binding part of the contract if the tender is awarded.

In **Italy**, the Lazio region set up an interinstitutional working group with the regional councillor for gender equality to define the content of tender documents. Following a suggestion by the gender equality councillor, a requirement was set regarding compliance with gender anti-discrimination law.

5.2. Procurement stage

Figure 3. GRPP at the procurement stage



Contracting authorities may choose to include in their tenders one criterion or more that address(es) GRPP. The type of criteria that can be applied at each stage and the evidence that can be requested are regulated by the EU procurement directives (or, in the case of EU institutions, by the financial regulation).

to the goods, services or works that the public body is purchasing. They cannot concern the general policies or practices of the bidding company. Procurement criteria must also be proportionate to the objectives pursued and must not go beyond what is needed to fulfil them.

All criteria must be linked to the subject matter of the contract, meaning that they must be specific

Example of a support structure to implement GRPP

In **Spain**, the Basque government, led by its gender equality body Emakunde, has developed gender equality clauses in public procurement to facilitate gender mainstreaming. This involves regulations, planning, guidelines, training, coordination, advice, and monitoring and evaluation to ensure a sustainable and effective approach. A collaborative process has been carried out with competent bodies in the area of contracting, experts, staff from different public administrations and private companies that are required to apply gender equality clauses. The support structure for implementing GRPP includes Emakunde and other regional gender equality bodies, the Interdepartmental Commission for Equality between Women and Men and specialised staff in all of the departments of the Basque government.



5.2.1. Exclusion grounds

The purpose of grounds for exclusion is to determine whether an operator is allowed to participate in the procurement procedure or to be awarded the contract.

Several of the **exclusion grounds** set out in Article 57 of Directive 2014/24/EU and Article 136 of the financial regulation are relevant to GRPP:

- mandatory exclusion for people trafficking / child labour;
- non-payment of tax or social security;

- non-compliance with applicable social or employment law obligations or collective agreements as set out in Article 18(2) of Directive 2014/24/EU ⁽⁵⁴⁾.

Depending on the circumstances, other grounds such as corruption, misrepresentation or poor prior performance may be relevant.

Mentioning the possibility of exclusion is important from a preventive point of view: companies that do not comply with social legislation and do not, for example, make sure that they provide equal pay to women and men for equivalent work have an unfair competitive advantage over companies that do so.

Optional exclusion grounds related to social and labour obligations should be clearly mentioned in the tender documents, as they cannot be applied if not mentioned.

Article 18(2): Enforcing compliance with social and labour law

Article 18(2) of Directive 2014/24/EU requires Member States to ensure compliance with applicable environmental, social and labour law in the performance of public contracts. Article 18(2) refers to obligations established by EU law, national law, collective agreements and the eight core ILO conventions (including Convention 100 on equal remuneration and Convention 111 on discrimination). From a GRPP perspective, Article 18(2) may be used to enforce compliance with laws relating to equal pay and employment, non-discrimination and **work-life balance**. In addition to being a contract condition, Article 18(2) can serve as the basis for the rejection of a tender (Article 56(1)), for excluding a company from bidding (Article 57(4)(a)), for requiring a subcontractor to be replaced where they have violated any applicable obligation (Article 71(6))

⁽⁵⁴⁾ This is a discretionary ground for exclusion under the public sector directive. It is not mentioned as a ground for exclusion under the financial regulation; however, compliance with applicable social and employment law obligations and collective agreements in the performance of the contract is required under Article 166.

or for rejecting an abnormally low tender (Article 69(3)). This means that a company with a history of breaches of **gender equality** legislation, for example, could be excluded from a tender.

Although Article 18(2) is far-reaching in its drafting, there is limited evidence of public bodies relying on this provision to enforce gender equality law in respect of contractors, at either the tender stage or the contract delivery stage. In some cases, this may be seen as outside the remit of the procurement or contract management officers, or such breaches may not be known to them. At the tender stage, compliance with Article 18(2) is most often a 'tick box exercise', with little incentive to actively investigate. A more robust approach is sometimes taken if competitors, NGOs or the media draw attention to a contractor's poor record.

Link between Article 18(2) and Article 56(4)(a)

A contracting authority could exclude a company when there is evidence of its failure to comply with applicable gender equality legislation within the previous 3 years – this is covered under Article 18(2), which is referenced in Article 56(4)(a). The company would have the right to 'self-clean', by demonstrating the concrete measures taken to correct the problems.

Examples of laws allowing exclusion of bidders non-compliant with gender discrimination law

In **Italy**, Article 41 of the code of equal opportunities between men and women sets out a clause that offers the possibility to exclude an economic operator from public contracts for up to 2 years if discrimination is discovered.

In **Spain**, Article 71(d) of Law 9/2017, of 8 November 2017, on public sector contracts sets out an exclusion criterion, namely exclusion for non-compliance with the obligation for companies with more than 250 employees to have an equality plan, in accordance with the provisions of Article 45 of Organic Law 3/2007, of 22 March 2007, on equality between women and men.

How to act

Clearly mention the grounds for exclusion in the contract announcement and tender documents. Remember that optional exclusion grounds related to social and labour obligations cannot be applied if not specifically mentioned in the tender documents.

Make reference to a (non-exhaustive) list of relevant social laws concerning equality between women and men, which can be added to the specifications as an annex. This means that tenderers or candidates who have violated national or EU laws relating to discrimination on the basis of sex or equality between women and men can be excluded from participation for a period of 3 years, subject to the possibility of 'self-cleaning'. This also applies to subcontractors under Article 71(6) of Directive 2014/24/EU.

To help you assess compliance with relevant social laws concerning equality between women and men, you may wish to involve gender equality bodies, gender experts, social partners and NGOs working in this field. In some countries, a national registry/database exists regarding compliance with exclusion grounds, which should incorporate compliance with applicable gender equality laws.

Mistake to avoid

As the grounds for exclusion are listed exhaustively in Article 57 of Directive 2014/24/EU and Article 136 of the financial regulation, you cannot exclude bidders based on other GRPP considerations (e.g. compliance with a gender equality code of practice that is not set out in legislation). However, these may form the basis of contract performance conditions if they are linked to the subject matter of the contract and set out in advance in the notice or tender documents.



5.2.2. Selection criteria

Selection criteria may address legal capacity, financial and economic standing, technical ability (including experience) and professional skills and qualifications. Selection criteria should be tailored to the specific contract and should be proportionate to the requirements. However, many authorities apply a generic approach to selection and are reluctant to introduce new criteria. This may limit the extent to which GRPP selection criteria are applied.

There are two main ways in which selection criteria can contribute to GRPP:

1. taking account of specific **skills, experience and technical capacity** to implement gender aspects of the contract;

2. not erecting barriers to participation of 'non-traditional' contractors, which may include **SMEs, women-owned businesses and social enterprises**.

An example of the first approach would be in a contract to deliver community health services, in which bidders could be required to demonstrate prior experience in reaching both women and men, in all their diversity, and addressing their respective health issues.

An example of the second approach would be lowering or removing the minimum annual financial turnover requirements set for bidders to allow smaller organisations and those operating as social enterprises to bid. This would need to take account of the specific financial risks associated with delivering the contract.

Examples of selection criteria that include gender aspects

EIGE launched a tendering procedure to contract a professional service provider that would carry out a study on gender equality and the socioeconomic consequences of the COVID-19 crisis ⁽⁵⁵⁾. The selection criteria included that 'the tenderer must prove **experience** in research and statistical analysis in the fields of technological developments in the labour market, labour market and gender equality, as well as drafting reports and recommendations' ⁽⁵⁶⁾.

For a framework agreement for the provision of a wide range of services related to expert language reviews for publications and website texts produced by EIGE in English and translated into other official EU languages, EIGE required tenderers to demonstrate their **capacity** to provide specialised editing services in the EU languages other than English, taking into account gender-sensitive language, as well as experience working with texts related to gender equality.

⁽⁵⁵⁾ For more information, see the contract notice (<https://ted.europa.eu/udl?uri=TED:NOTICE:348303-2020:TEXT:EN:HTML&tabId=0>).

⁽⁵⁶⁾ See the tender specifications (<https://etendering.ted.europa.eu/document/document-file-download.html?docFileId=84246>), p. 45.

How to act

Decide which types of GRPP selection criteria are most relevant to include, based on the requirements of the contract/framework and of the profile and the capacity/experience of the market players.

Link GRPP selection criteria to other criteria/requirements within the tender so that they are complementary (e.g. if the technical specifications require gender sensitivity training to be carried out, the selection criteria could ask for previous experience and/or a demonstration of the technical capacity to carry out this training).

While previous experience in addressing gender aspects of contracts may be important in some cases, consider carefully how to formulate this requirement so that it also enables bidders to develop their own capacity in this regard.

Mistakes to avoid

Avoid applying standard selection criteria that require minimum levels of turnover or insurance or a specific number of previous contracts, as such criteria can exclude new or small organisations from bidding. This can also have an effect on the number of women-owned or -operated businesses successfully competing for public contracts.



5.2.3. Technical specifications

Technical specifications set the mandatory requirements for the goods, services or works being purchased. They may be formulated by referring to standards, they may be performance-based or they may use some combination of these approaches. Under the 2014 procurement directives, there is no explicit authorisation for specifications to address social characteristics, unlike **award criteria** and contract performance clauses. Despite this, when gender elements

have been included in the subject matter of the contract, the specifications will also reflect this.

For example, in a contract for social housing, the **contracting authority** should consider how the planning and design may affect women and men differently. This could include safety issues (e.g. lighting and visibility), access to transport, employment and childcare, and the height or layout of facilities. These could all form part of the technical specifications – by defining either the inputs required (e.g. at least X lumens of illumination at night) or the outcomes (e.g. at least X affordable childcare places within walking distance of housing).

Examples of procurement procedures with technical specifications including gender elements

In **France**, the department of Gironde included requirements regarding gender-sensitive design in technical specifications for architectural services for secondary schools. This was evaluated as part of the tender, with input from a gender consultant.

The **European Commission's Directorate-General for Justice and Consumers** commissioned a study to evaluate its funding programmes. The technical specifications included gender elements. Bidders were requested to:

- take into account gender equality issues when relevant for the drafting of the technical offer by paying attention to the situations and needs of women and men;
- ensure that implementation of the proposed activities included a perspective informed by a systematic consideration of the gender dimension; and
- collect and use data disaggregated by sex when possible/necessary.

In **Hungary**, the Prime Minister's Office procured thematic evaluation studies for a development policy period of several years. The minimum requirements for the experts in law, marketing, consulting, recruitment, printing and security included the following: at least one expert must have at least 24 months of research and analysis experience in the field of equal opportunities and one expert must have at least 24 months' practical experience in the field of equal opportunities. Professional experience with activities aimed at creating equal opportunities for disadvantaged social groups, such as Roma, women and/or people with disabilities, such as those aimed at including them in the development and/or implementation of equal opportunities projects, was also considered.

How to act

Involve gender experts in the design of technical specifications whenever relevant and carry out a 'gender equality challenge' to specifications when this is not possible.

Ensure that any gender equality terms included in technical specifications are clearly defined so that these can be understood by all 'reasonably well-informed and normally diligent' tenderers.

Mistakes to avoid

Technical specifications should not create any unnecessary barriers to competition, including when GRPP requirements are specified.

Ask yourself what is really required to fulfil your needs and, if it is possible, focus more on outcomes (e.g. producing gender statistics as part of a research project) and less on prescriptive requirements (e.g. a particular methodology to produce the data). This can make it easier for SMEs or potential bidders that have innovative gender approaches to submit an offer.

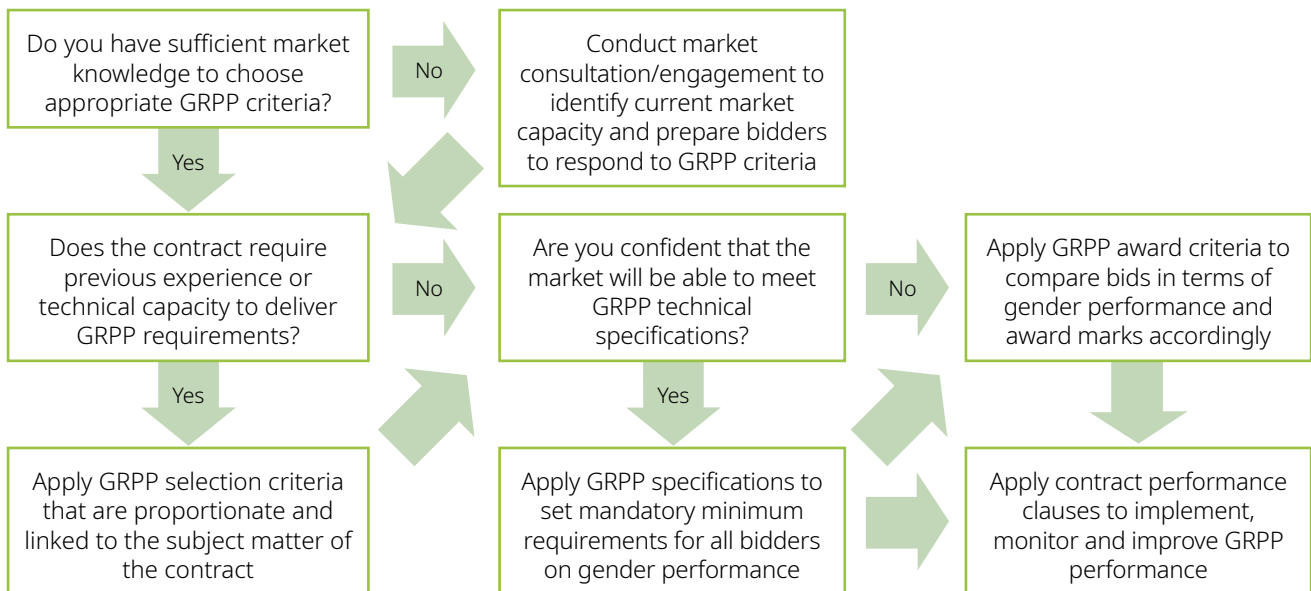


Tool 9: Decision tree for setting GRPP selection criteria, technical specifications and/or award criteria

Introduction to the tool

This tool provides contracting authorities with questions that are useful for defining selection criteria, technical specifications and/or award criteria that include gender aspects.

You will find guiding questions that can support you in identifying at which stage(s) of the procurement process it is more appropriate to include gender aspects.



5.2.4. Award criteria

Award criteria determine the outcome of a tender competition and are a key tool for addressing gender issues in the delivery of public contracts. Under the EU procurement directives and financial regulation, public buyers have the freedom to define a range of qualitative criteria provided that these are linked to the subject matter of the contract and allow fair competition.

Social and trading considerations are explicitly referred to, along with the qualifications and experience of the staff who will carry out the

contract (which might include experience with gender aspects).

The link to the subject matter means that **award criteria** cannot relate to general corporate policies or practices, but must be specific to the goods, services or works being purchased (at any stage of their life cycle). This distinction is important when formulating award criteria to address gender inequality issues. For example, it would be possible to have a criterion that specifically concerns **gender equality** in recruitment and staffing for the purposes of the contract being awarded. It is not possible to award more marks to a company on the basis of its overall **gender balance**, as this would go beyond what is relevant to the contract.

Examples of policies requiring the use of award criteria that include gender elements

In **Spain**, in the Basque Country, a minimum of 5 % of the marks under the award criteria must address gender equality.

In **Finland**, the city of Vantaa's procurement centre has designed a roadmap for strategic procurement that combines the city's strategic goals and the implementation of these goals through procurement. The roadmap is based on the UN sustainable development goals and the International Organization for Standardization (ISO) standard ISO 20400:2017 (sustainable procurement). Vantaa initiated a pilot project on **gender budgeting** in public procurement in 2020. The city is cooperating with other organisations by identifying how to apply gender budgeting in its operations, which may include award criteria.

Example of award criteria with gender elements

In **Germany**, as part of the award criteria for cardiac technicians, Hannover Medical School assigned the promotion of gender equality 5 points out of a total of 50 points awarded. The bidders were requested to submit specific information on the promotion of equal opportunities with the bid. As part of the tender evaluation, the information provided by the individual bidders was then awarded points. This criterion is included in approximately 40 tenders per year for products and services.



Pijitra Phomkham/Shutterstock.com

How to act

Carry out preliminary market consultations, where possible, to verify and get feedback about the award criteria chosen. In addition, or alternatively, involve gender experts in the definition of award criteria.

Explain award criteria in a thorough way, ideally with examples of what you are looking for. These may be in the form of a non-exhaustive list, so that bidders are also free to come up with their own ideas that are relevant to the award criteria.

State the weight assigned to each award criterion. Clearly distinguish between gender criteria and other criteria. Keep in mind that the approach to scoring determines the impact of the award criteria just as much as the weighting. Be prepared to use all of the available marks when comparing bids and assign scores that truly reflect the differences in what is being offered. See [Tool 10](#) to find out more.

Mistakes to avoid

Award criteria should address aspects that go beyond the minimum requirements set out in the technical specifications and that add value from the perspective of the contracting authority. Do not award marks for merely complying with the specifications.

More important than the weighting of award criteria is the approach to scoring. Ensure that you are using the full range of marks available to distinguish between the performances of different bids under the gender-related criteria. For example, if the specification requires a gender perspective to be integrated and a bidder merely states that they will do this, without providing any detail of their approach, they should not receive any marks under an award criterion related to the gender perspective.

Commitments made in response to award criteria should be incorporated into the contract with the successful bidder (e.g. the proposed number of gender-awareness training sessions for staff delivering the contract).



Tool 10: Formulating GRPP award criteria

Introduction to the tool

This tool can be used by contracting authorities to formulate award criteria for GRPP. It contains sample award criteria that may be appropriate for you, depending on the subject matter of the contract.

In each case, the award criteria should be further explained, ideally with examples of what you are looking for. These may be in the form of a non-exhaustive list, so that bidders are also free to come up with their own ideas that are relevant to the award criteria. The weight assigned to each award criterion must also be stated. Keep in mind that the approach to scoring determines the impact of the award criteria just as much as the weighting. Be prepared to use all of the available marks when comparing bids and assign scores that truly reflect the differences in what is being offered.

Sample award criterion 1: Quality of methodology to ensure that both women's and men's needs are met in the delivery of the service

For this criterion, bidders are asked to set out the specific actions that they will take (e.g. to consult both women and men users of a service).

This award criterion could be relevant for any contract in which women's and men's needs are likely to be different, as determined at the pre-procurement stage (see [Tools 3](#) and [4](#)). For example, in a contract for mobility services, women and men may undertake different types of journeys and, in a contract for job training, women and men may have different training needs. When the **contracting authority** has specific information about these different needs, this should be shared with bidders in the tender documents.

Bidders are then invited to set out their plans for ensuring the different needs are met in delivering the service.

Sample award criterion 2: Gender balance within the team carrying out the work – teams with a more equal gender balance will receive more marks⁽⁵⁷⁾

It should first be noted that this criterion applies only when team members are nominated as part of the tender.

This award criterion would be appropriate for contracts in sectors in which the **gender balance** of the workforce is a concern. Keep in mind that gender balance refers not only to numerical parity but also to the level of employment and roles/functions. To apply this criterion, bidders should be asked to specify the gender and role/level of each member of the team. This criterion would not be suitable for application in small contracts (e.g. with a workforce of fewer than 10 people) or in those for which very specific expertise/experience is required, meaning that the pool of potential team members is limited.

Sample award criterion 3: Quality and quantity of staff training to ensure gender equality and non-discrimination in the delivery of the contract

For this criterion, bidders must describe the specific training to be delivered, including the topics covered and time allocated.

This criterion may be applied when (1) a requirement for staff training in gender issues is included as part of the specifications or (2) such training is

⁽⁵⁷⁾ This is also allowed under the financial regulation, namely Article 21.1 of Annex I, which allows 'organisation of the staff assigned to performing the contract' as an award criterion. Please note that this is not about the experience and/or qualifications of the staff. In a service contract, gender balance may be considered as one of the factors influencing quality.

not required, but may be proposed by bidders to gain additional marks. For example, in a contract for health research services, the contractor may be required to train staff to be aware of specific health issues affecting women and men, gender-sensitive communication and other topics.

Note that this criterion refers to both the quality and the quantity of training to be provided. To evaluate this, information regarding the duration, format, topics to be covered, trainers and materials should be requested as part of the bid.



Tool 11: Bidders' concepts to ensure the integration of gender aspects in supply chains

Introduction to the tool

This tool can be used by contracting authorities to ask bidders to develop a concept of how they will identify and address gender issues in the supply chain. Points are then awarded, for example, for how comprehensive the concept is, how feasible it is and how exhaustively it penetrates into the supply chain. It is particularly relevant in sectors in which bad working conditions are rife and there are no widespread or robust certification schemes. Examples include the IT, electric vehicle battery and toy sectors. As it requires some work from potential bidders, this tool may be particularly appropriate for use in procedures with a high financial volume, such as framework agreements.

This tool considers how women are affected by purchasing decisions if they are involved in the production of goods at the global level. Women form a high percentage of underprivileged workers in some sectors, such as IT and textiles. As well as ensuring that high social standards are met, for example by requesting that workers are paid a living wage, there are gender-specific risks that can be addressed too. These include specific risks for women in terms of health, care work, sexual harassment and violence.

Reference can be made in award criteria and contract performance clauses to the ILO conventions addressing gender issues:

- Violence and Harassment Convention, 2019 (No 190),
- Maternity Protection Convention (No 183),
- Workers with Family Responsibilities Convention (No 156),
- Discrimination (Employment and Occupation) Convention (No 111),
- Equal Remuneration Convention (No 100).

To have an impact on the supply chain as a whole, it can be useful to invite bidders to develop a concept on how they will ensure that certain social criteria are met. This is particularly the case for products for which no or insufficient standards are available or the standards that exist do not cover criteria that the contracting authority is interested in ⁽⁵⁸⁾.

This bidder concept can then be evaluated in the award phase, covering its feasibility, impact on the supply chain and quality of verification method (self-declaration versus third-party audits or working with civil society). This will ensure that the link to the subject matter is clear and that the successful bidder actually implements the proposed concept. It is important to be specific in the tender documents about how many points will be awarded for each part or aspect of the concept.

Gender-specific risks for women vary between sectors. It can therefore be useful to involve NGOs or other civil society actors who have knowledge about the product you are planning to buy.

Examples of guiding questions for a bidder concept

1. Knowledge
 - 1.1. Please state clearly to what extent you or the manufacturer can name suppliers of the manufacturer for each of the products named here from the second tier of the supply chain onwards.
 - 1.2. Please outline how you plan to improve your knowledge of the supply chain of the

⁽⁵⁸⁾ Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung, 2016; Borkenhagen et al., 2020.

- goods to be delivered during the performance of the contract.
- 1.3. How do you determine the actual and potential risks of violation of the above-mentioned gender-specific labour and social standards in the production of the goods to be supplied?
 2. Corrective and preventive measures
 - 2.1. What concrete measures will you implement to eliminate or minimise violations within the scope of this contractual relationship, on the one hand, and to prevent them, on the other hand?
 - 2.2. Depending on the criteria laid out above, this could include offering awareness-raising programmes about zero tolerance to sexual violence and harassment, collecting data in collaboration with civil society focused on women's rights, offering legal support for victims of sexual harassment, and ensuring health, safety and/or social protection measures for pregnant or lactating women.
 3. Oversight
 - 3.1. To what extent are audits or other effective control measures carried out at the production locations relevant for this contract with regard to compliance with gender-specific labour and social standards?

Example of a tendering procedure requiring bidders to identify and address gender aspects in the supply chain

In **Germany**, in a tender issued by the state of Berlin concerning the replacement of parts of vehicles, bidders were obliged to fill in a declaration indicating which measures on the advancement of women would be in place during the performance of the contract.

5.2.5. Use of labels/certifications

To verify compliance with specifications or performance under **award criteria**, contracting authorities may request that bidders provide a third-party label or certification.

In the GRPP context, certain labels may assist companies in implementing gender equality measures

and in monitoring progress. For labels or certifications to be requested in tenders, they must meet certain minimum transparency standards, be based on objective criteria and be available to all operators who meet the criteria (not, for example, only those in a particular country or region).

Examples of labels or certifications

In **Malta**, an equality mark has been developed, which is available to organisations that take specific steps to foster gender equality, relating to recruitment, training, promotion, equal pay, family-friendly policies and equal access to goods and services. As of February 2022, approximately 110 organisations had achieved this certification, in sectors including cleaning services, security services, banking, consultancy, pharmacies and medical supplies.

In **Germany**, several standards are available to certify if a business is active in fostering a good work–life balance for staff with family. The criteria include approaches to recruitment, part-time work, communication and long-term planning.

In **Spain**, a business equality distinction is regulated in Article 50 of Organic Law 3/2007 for effective equality between women and men. At the state level, Order SSI /113/2018 regulates the award of the ‘equality in the company’ label. To obtain the label, companies must report annually to the Institute of Women on gender equality measures and maintain an excellent standard. As of 2020, 170 companies held the label.

Example of a tendering procedure establishing the possession of a ‘family’ label as an award criterion

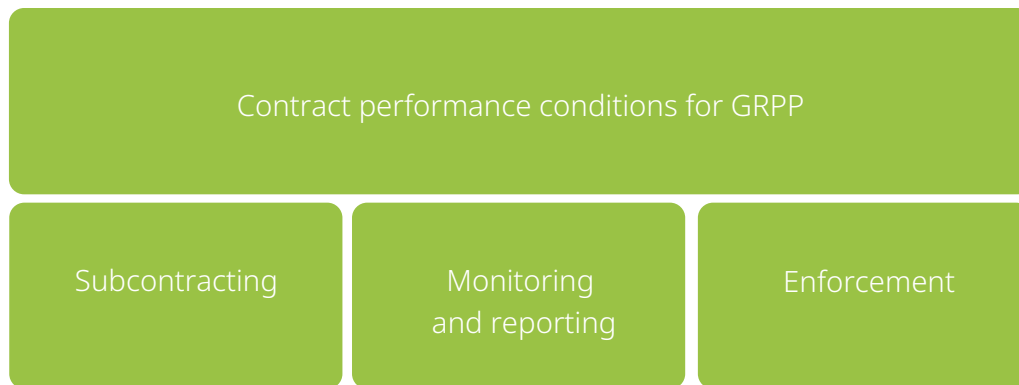
In **Italy**, in a tender concerning the provision of catering services by the Autonomous Province of Trento, an award criterion was established for operators in possession of the ‘family audit’ label or equivalent labels certifying the performance of meaningful work–life balance measures. The family audit certification, which is issued by the Autonomous Province of Trento, certifies that a company employs work–life balance measures and policies aimed at improving the well-being of its employees and their families. Among the most important measures are the flexibility of working hours and provisions for remote working (teleworking) and part-time work.



Alexander_Safonov/Shutterstock.com

5.3. Post-procurement stage

Figure 4. GRPP at the post-procurement stage



5.3.1. Contract performance conditions

At the post-tender stage, public bodies must apply the contract performance conditions that they have set out in the tender documents and agreed with the successful bidder. Under Article 70 of Directive 2014/24/EU, these may include (inter alia) social or employment-related considerations.

Recital 98 of Directive 2014/24/EU states that:

Contract performance conditions might ... be intended to favour the implementation of measures for the promotion of equality of women and men at work, the increased participation of women in the labour market and the reconciliation of work and private life ...

Contract performance conditions can be a key entry point for GRPP. For example, clauses may relate to recruitment, promotion, equal pay, training or **gender mainstreaming** in the delivery of supplies/services. In addition to basic compliance

with legislation, contract clauses may require gender actions that are specific to the contract.

However, the requirement for a link to the subject matter means that contract performance conditions cannot be used to enforce general corporate requirements on the contractor that go beyond the activities under the contract. For example, it is not possible to require contractors to train all of their staff on gender issues; instead, this requirement could apply only to those directly involved in the delivery of the contract. In some cases, GRPP clauses may be seen as adding costs/complexity to a contract, and it may be difficult for public bodies to actively monitor and enforce clauses. To avoid this, contract performance clauses related to GRPP should be introduced as early as possible in the tender procedure, ideally during pre-procurement market engagement.

It should be noted that the financial regulation provides for the use of model contracts, which may limit the ability to introduce contract performance clauses linked to GRPP.

Examples of measures to promote gender equality by means of contract performance clauses

In **Austria**, the city of Vienna requires bidders to select activities from a catalogue of measures that they will implement during the performance of the contract. The measures are grouped into the following categories: (1) the promotion of women through recruitment and career advancement, (2) the promotion of women through qualifications, (3) the improvement of work–life balance and (4) structural actions. This measure applies to service contracts with a value over EUR 50 000, to bidders with more than 20 employees and when contracts run for at least 6 months. Failure to implement the agreed measures would result in a financial penalty under the contract.

In **Poland**, the statistics agency applies contract performance conditions requiring compliance with the ILO core conventions throughout the supply chain when the agency purchases software. This aims to ensure equal remuneration and non-discrimination based on sex, among other considerations. The contractor is obliged to ensure that all subcontractors and suppliers engaged in the implementation of the contract observe the core labour standards.

Example tool: Bidder declaration on the implementation of work–life balance activities during the performance of a contract

In **Germany**, the state of Berlin has developed a self-declaration checklist of activities for potential bidders covering the advancement of women and/or the promotion of work–life balance. Companies with more than 10 employees are obliged under a contract performance condition to implement the activities in the self-declaration checklist; the number (0–3) of activities that needs to be undertaken depends on the number of employees. This approach is well established in the state of Berlin and is now applied to thousands of its contracts every year.

Bidders choose from 21 different activities to be implemented during the performance of a contract. These range from ‘Providing appropriate support and flexibility in the workplace for employees who have parenting and caring responsibilities’ to ‘Offering internships for girls and young women, especially in professions where women are under-represented’. Bidders must also confirm in writing that they will pass on the responsibility for these activities to any subcontractors.

Other contracting authorities could draw inspiration from this example tool, requiring their bidders to implement activities to foster work–life balance and the advancement of women in the workplace during the performance of a contract.

How to act

Use the checklist ([Tool 12](#)) to develop and apply GRPP contract performance conditions that are appropriate to each specific contract.

Review and compare the progress made in implementing GRPP using different types of conditions (e.g. targets, incentives and penalties) to decide which strategy to focus on.

Mistakes to avoid

Contract performance conditions should always be appropriate for the specific contract. Therefore, avoid relying on generic or standard GRPP terms without considering their relevance.

Avoid assuming that all bidders will understand concepts/terminology relating to gender equality, gender mainstreaming, etc. Provide definitions and examples wherever possible.

GRPP conditions should include a clear allocation of responsibility for implementation, monitoring and reporting, as well as consequences for non-compliance. Avoid adding conditions without clear responsibility being attributed for these aspects.



Tool 12: Checklist for including GRPP contract performance conditions

Introduction to the tool

This tool can be used by contracting authorities to help with the development and application of GRPP contract performance conditions.

This tool allows you to check that you have taken the correct steps to include GRPP conditions at each procurement stage.

Pre-procurement stage

- Discuss potential GRPP contract conditions (e.g. regarding gender balance in the delivery of the contract, equal pay or gender equality training of the contractor's staff) with internal users / contract managers. (Questions to ask: Are the proposed terms clear? Is the level of ambition right? Can compliance be effectively monitored during the contract?)
- Seek feedback from potential bidders on GRPP contract conditions as part of market engagement. (Questions to ask: Are the proposed terms clear? Do bidders have experience in implementing similar GRPP measures? Do they anticipate any difficulty in complying?)
- Draft contract terms, including the agreed GRPP conditions. If bidders will be invited to propose additional measures (i.e. in response to GRPP award criteria), indicate where in the draft contract these will be incorporated.

Procurement stage

- Respond to any queries from bidders regarding GRPP contract conditions, issuing the responses to all who have registered an interest.

- Require a declaration from bidders that they will comply with the GRPP contract conditions and (where relevant) require a nominated representative/contact with responsibility for the GRPP measures.
- In evaluating tenders, check that bidders have completed the declaration and have not entered any reservations/amendments to the GRPP conditions.

Post-procurement stage

- Ensure that any additional GRPP commitments from the successful tenderer are incorporated in the final contract terms to be signed.
- Discuss the implementation of the GRPP conditions at the kick-off meeting and assign responsibility for monitoring and reporting. The implementation of GRPP conditions may form a standing item on the agenda for contract meetings.
- Keep records of the implementation of GRPP conditions, identify any challenges and collect data on the impact (e.g. the number of women hired/promoted under the contract, the pay gap under the contract and/or the number of staff receiving training on gender issues).



5.3.2. Subcontracting

Article 71 of Directive 2014/24/EU aims to ensure visibility and accountability within subcontracting arrangements in public contracts. Depending on the subject matter of the contract, supply chains

may stretch across the globe and involve many different sectors. Gender issues may be particularly relevant for contracts with a high proportion of low-paid workers in developing countries, such as those in the textiles, food production and certain manufactured goods industries. They may also arise in contracts that have an outsourced service element that may be provided remotely, such as call centres, IT support and translation services.

Under Article 71(6) of Directive 2014/24/EU, contracting authorities can require a subcontractor to be replaced when there is evidence of non-compliance with any of the exclusion grounds,

including applicable social and labour laws and collective agreements⁽⁵⁹⁾.

As highlighted in [Section 5.1.2](#) on preliminary market consultation, subcontracting may also provide an opportunity for small and/or social enterprises to participate in public contracts. This can be a way of increasing women's participation in public contracting, as research shows that a high proportion of women-owned businesses are SMEs and/or social enterprises. Contracting authorities can set requirements to ensure the fair treatment of subcontractors, for example regarding prompt payment and sharing of contract data.

Examples of tendering procedures using subcontracting for GRPP

In **Poland**, the statistics agency applies contract performance conditions requiring compliance with the ILO core conventions throughout the supply chain when it purchases software. This aims to ensure equal remuneration and non-discrimination based on gender grounds, among other considerations. The contractor is obliged to ensure that all subcontractors and suppliers engaged in the implementation of the contract observe the ILO core labour standards.

In **Germany**, a government agency included several social aspects as part of the technical specifications when procuring a shuttle service for its employees. These social aspects encompassed fair pay, the promotion of work-life balance, diversity and inclusion, and access to training. The agency required the social aspects to also be applied when using subcontractors.

Mistake to avoid

Avoid simply assigning responsibility to the main contractor, as this may be insufficient to ensure GRPP requirements are applied throughout the supply chain. Instead, seek information about subcontractors during the tender procedure and consider whether joint liability is appropriate in respect of GRPP requirements.

⁽⁵⁹⁾ Please note that, under Article 136(9) of the financial regulation, the replacement of a subcontractor can be required when the subcontractor is found to not comply with any of the exclusion grounds. However, as non-compliance with social/labour law is not a ground for exclusion under Article 136, it is not relevant to cite it here.



5.3.3. Monitoring

Various strategies for **monitoring** of public contracts exist, including periodic review meetings, inspections, reporting and third-party audits.

Monitoring may be carried out by the contractor itself (including in relation to any of its subcontractors) or the public body or, in some cases, third-party audits or inspections are held (e.g. to confirm compliance with equal pay, working conditions or whistle-blowing provisions).

When elements of GRPP are included, these may be the subject of specific monitoring activities. For example, one or more key performance indicators may relate to gender equality performance

under the contract and, in some cases, these will be linked to contractual payments or penalties. They may also play a role in determining whether a contract is extended or renewed. For example, this may be contingent on **gender balance** being achieved in recruitment, training and promotion during the first phase of a contract.

There are opportunities to link GRPP monitoring to broader policies relating to **gender equality** and strategic procurement. To facilitate this, you should consider the type of information or metrics that are needed to contribute to broader targets (e.g. in terms of increasing gender balance) and build these into your contract terms. The party bearing the responsibility for monitoring and the consequences for not meeting targets should be clearly set out under the contract. The results of monitoring can be used to inform future tenders and strategies.

How to act

Decide who is best placed to effectively monitor GRPP commitments, whether this is the contractor, the contracting authority or a third party. Clearly assign responsibility for monitoring under the contract and set regular periods for reporting/review.

Link the monitoring of GRPP to clear consequences/outcomes in terms of contractual payments/penalties, the possibility to extend or renew a contract, and/or the provision of references to the contractor.

Examples of monitoring GRPP contracts

Gender equality bodies may play a role in the monitoring of and reporting on GRPP, as illustrated below.

In **Spain**, the interinstitutional and comprehensive intervention on gender equality clauses in public procurement to facilitate gender mainstreaming developed by Emakunde (the Basque Institute for Women) and other departments of the Basque government includes monitoring and evaluation of gender equality clauses. The tool is an evaluation questionnaire focusing on 11 items, such as performance indicators for gender clauses (e.g. the number of women hired and protocols to prevent sexual harassment). The public administration must verify effective compliance with the gender equality clauses in the execution phase of the services (or upon their completion).

In the Basque Country, Gipuzkoa Provincial Council developed specific instruments for the inclusion and monitoring of gender equality clauses in public procurement processes. In 2013, clauses were included in 71 contracts and, in 2016, clauses were included in 172 contracts. Currently, these clauses are widely used and included in all public contracts.

In Berlin, **Germany**, the Women's Promotion Ordinance (FFV) requires spot checks during contract implementation, as this strengthens the obligation to implement measures to promote women that are provided for in public contracts under law. Every awarding authority must require evidence of whether the obligations under the FFV are being fulfilled.

Example tool: Verification methods for activities that foster work-life balance during the performance of a contract

In **Germany**, to help bidders verify that the proposed measures to improve work-life balance are actually performed, the state of Berlin produced a leaflet listing a number of possible verification methods.

Other contracting authorities – which may be using a catalogue of measures to improve work-life balance and women's participation in the workplace during the performance of a contract – can draw inspiration from this example tool.

For instance, for the activity 'increasing the proportion of female employees in senior and managerial positions under the contract/framework', verification can be carried out under the method entitled 'Indication of the proportion of women in senior and managerial positions before the start of the measure and at the time of verification (a specific proportion of women as a target is not specified) and, if applicable, a brief description of the means by which the share has been / is to be increased'. Another example of verification is for the activity 'participation in recognised and appropriate measures and initiatives that support girls and young women who are interested in male-dominated professions', namely under the method 'Indication of when the company participated in such a measure'.

Mistake to avoid

Avoid leaving the monitoring of GRPP activities until the end of a contract. In particular, when the activities are new for the contractor, periodic reviews need to be scheduled to ensure that the activities stay on track and any challenges/problems can be identified and resolved. In some cases, the contract may set out an initial period during which no penalties or liquidated damages will apply (e.g. for failing to meet targets) to encourage open dialogue between the contractor and the public authority regarding GRPP measures.



5.3.4. Reporting

Contracting authorities may report on GRPP to funding bodies, **gender equality bodies**, national procurement authorities or others. They may also engage in public reporting. There are opportunities to link reporting on GRPP to broader policies relating to **gender equality** and strategic procurement. Less formal reporting, for example through the publication of case studies or news items on GRPP, can help to increase uptake by other public bodies and build understanding of what is being done.

Setting targets for GRPP, at the national, regional or organisational level, may also help to promote its

take-up. For example, targets may refer to the number or percentage of contracts that include GRPP criteria, the levels of participation of women-owned or -operated businesses in public tendering, or the gender balance within the workforce delivering public contracts. The application of such targets can help to measure the impact of GRPP and make the link to broader policies, for example regarding the employment of women in skilled positions.

The 2014 EU procurement directives and the financial regulation include a number of provisions relating to reporting on contract awards and providing statistics to the European Commission. While this includes reporting on the number of contracts awarded to SMEs, there is currently no requirement to report on gender aspects of contracts, for example the proportion awarded to women-led businesses.

Example: Reporting on GRPP

Fictitious example. Two or more local authorities, government departments or state agencies could decide to cooperate and set up mutual reporting on GRPP. This might include (1) establishing each organisation's baseline in terms of the current gender balance, pay gap and percentage of women-owned businesses among the suppliers, (2) setting targets to improve each of these indicators against the baseline and (3) sharing reports and results on a regular basis. Additional activities, such as joint market engagement to build capacity among suppliers for GRPP, could support progress towards the targets.

How to act

Consider setting targets that refer to the number/value of contracts, including gender equality measures and the impact of contracts on outcomes (e.g. the number of women employed in skilled positions, verified compliance with equal pay legislation and audited compliance with ILO conventions along the supply chain).

Mention public procurement or GRPP as an instrument to pursue gender equality goals when revising gender equality action plans or strategies.

Mistake to avoid

In some cases, public bodies are reluctant to report on GRPP (or other strategic procurement measures) when it is not deemed to have been completely successful, for example if bidders had difficulty complying with GRPP criteria included in a tender or did not score well under the award criteria. However, not reporting on these cases should be avoided, as these cases can be particularly valuable for helping to refine and improve the results in future tenders including GRPP. Public and/or internal reporting can help to draw attention to the need for further market engagement, capacity building, etc.



Tool 13: Template for a GRPP monitoring and reporting plan

Introduction to the tool

This tool can be used by contracting authorities, policymakers and practitioners to develop a GRPP monitoring and reporting plan.

This tool allows you to keep track of the specific GRPP commitments and targets that apply under a contract or framework. It can also assist with measuring the impact of GRPP on specific indicators (e.g. the employment of women in skilled positions), which may be linked to broader policies.

Title of contract/framework:

Main contractor:

Name of person(s) responsible for GRPP measures	Contact details

Relevant subcontractors:

Name of subcontractor	Role in contract	Person(s) responsible for GRPP measures	Contact details

List of GRPP activities, targets and timeline (examples included):

GRPP activity	Target	Timeline
Staff training	(e.g. all staff working on the contract are to receive gender equality training including on sexual and reproductive rights, sexual harassment at work, work-life balance, and rights and measures)	Within 6 months from the contract start date
Recruitment and promotion	(e.g. at least 50 % of the people filling managerial roles under the contract will be women)	Within 1 year from the contract start date
Gender pay gap	(e.g. the gender pay gap for employees working on the contract will not exceed 5 % (*))	Within 1 year from the contract start date
Work-life balance	(e.g. a review of the contractor's work-life balance measures will be carried out)	Within 1 year from the contract start date
Gender-sensitive language	(e.g. all deliverables under the contract will be checked for gender-sensitive language and the use of non-sexist images)	As per schedule of deliverables

(*) To apply this target, a definition of the gender pay gap and how it will be calculated needs to be included in the contract. An example of how the gender pay gap may be calculated for enterprises with 10 or more employees can be found in EIGE's gender statistics database (https://eige.europa.eu/gender-statistics/dgs/indicator/eustrat_sege1619_gpaygap_tesem180/metadata).










Reporting on GRPP measures (examples included):

GRPP measure/target	Frequency of reporting	Format of reporting
Staff training	Monthly	The main contractor will provide monthly training records for all staff receiving gender equality training
Recruitment and promotion	Quarterly	The main contractor will provide sex-disaggregated data for all managerial positions under the contract
Gender pay gap	Quarterly	The main contractor will provide anonymised, sex-disaggregated data on pay for employees working on the contract
Work-life balance	Biannually	The main contractor will provide anonymised, sex-disaggregated data on all employees availing of flexible/remote working, parental leave or other work-life balance measures

6. Glossary

	<p>Award criteria</p> <p>A list of weighted criteria determined by the contracting authority to evaluate tenders. Under the EU procurement directives, tenders must be awarded on the basis of the most economically advantageous tender, with the possibility of applying environmental-, social- or innovation-related criteria being an important consideration. Directive 2014/24/EU and the financial regulation provide for three award methods: the lowest price, the lowest cost and the best price–quality ratio. The final method can include quality, social and environmental considerations.</p>
	<p>Contracting authority</p> <p>The state, EU institutions, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities, or one or more such bodies governed by public law.</p>
	<p>Contract notice</p> <p>The official document announcing a tender procedure and containing information regarding the subject matter, procedure and timelines. For contracts valued above the EU thresholds, the contract notice must be published in the Official Journal or the TED portal.</p>
	<p>Contract performance conditions</p> <p>The requirements to be fulfilled by the supplier during the execution of the contract. Conditions need to be linked to the subject matter of the contract, indicated in the call for competition or in the procurement documents, and may include social- or employment-related considerations.</p>
	<p>Disadvantaged worker</p> <p>Although not defined in Directive 2014/24/EU, this term generally refers to disadvantaged persons, such as the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups. Guidance from the European Commission (2021a) suggests that this may include the under-represented sex in a sector with a high gender imbalance or a single adult living with one or more dependants.</p>
	<p>Division into lots</p> <p>Splitting the contract into several smaller contracts to ensure a wide range of bidders, including SMEs and social enterprises, and potentially including more businesses led by minorities and disadvantaged groups of persons.</p>
	<p>Exclusion grounds</p> <p>Grounds based on which bidders must/may be excluded, namely for certain serious breaches or misconduct, some of which (e.g. people trafficking, compliance with social and labour law) have a gender dimension. Exclusion is for a limited time period and bidders may attempt to ‘self-clean’ within this period to avoid exclusion.</p>
	<p>Gender ⁽⁶⁰⁾</p> <p>The social attributes and opportunities associated with being male and female and the relationships between women and men (and girls and boys), as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialisation processes. They are context and time specific and are changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies, there are differences and inequalities in the responsibilities assigned to, activities undertaken by, access to and control over resources of, and decision-making opportunities of women and men. Gender is part of the broader sociocultural context. Other important criteria for sociocultural analysis include class, race, poverty level, ethnic group and age.</p>

⁽⁶⁰⁾ See EIGE’s thesaurus entry for ‘gender’ (<https://eige.europa.eu/thesaurus/terms/1141>).

	<p>Gender analysis ⁽⁶¹⁾</p> <p>A critical examination of how differences in gender roles, activities, needs, opportunities and rights/entitlements affect women, men, girls and boys in a given policy area, situation or context.</p>
	<p>Gender audit ⁽⁶²⁾</p> <p>The assessment of the extent to which gender equality is effectively institutionalised in policies, programmes, organisational structures and proceedings (including decision-making processes) and in the corresponding budgets.</p>
	<p>Gender balance ⁽⁶³⁾</p> <p>The equal participation of women and men in all areas of work, projects or programmes. In a scenario of gender equality, women and men are expected to participate in proportion to their shares in the population.</p>
	<p>Gender budgeting ⁽⁶⁴⁾</p> <p>The application of gender mainstreaming in the budgetary process. It entails a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote gender equality.</p>
	<p>Gender equality ⁽⁶⁵⁾</p> <p>The equal rights, responsibilities and opportunities of women and men, and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognising the diversity of different groups of women and men. Gender equality is not a women's issue but should concern and fully engage both men and women. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centred development.</p>
	<p>Gender equality bodies ⁽⁶⁶⁾</p> <p>National independent bodies for the promotion of equal treatment of women and men. They are responsible for providing independent assistance to victims of alleged sex- and gender-based discrimination, conducting independent surveys concerning discrimination, publishing independent reports and making recommendations on any issue relating to such discrimination. Their mandate may also include other functions, such as awareness raising, training and capacity-building activities.</p>
	<p>Gender impact assessment ⁽⁶⁷⁾</p> <p>A policy tool for the screening of a given policy proposal in order to detect and assess its differing effects on women and men so that these imbalances can be redressed before the proposal is endorsed.</p>
	<p>Gender mainstreaming ⁽⁶⁸⁾</p> <p>The systematic consideration of the differences between the conditions, situations and needs of women and men in all policies and actions.</p>
	<p>Gender pay gap ⁽⁶⁹⁾</p> <p>The percentage of men's earnings out of total earnings, representing the difference between the average gross hourly earnings of women and men employees.</p>

⁽⁶¹⁾ See EIGE's thesaurus entry for 'gender analysis' (<https://eige.europa.eu/thesaurus/terms/1143>).

⁽⁶²⁾ See EIGE's thesaurus entry for 'gender audit' (<https://eige.europa.eu/thesaurus/terms/1145>).

⁽⁶³⁾ See EIGE's thesaurus entry for 'gender balance' (<https://eige.europa.eu/thesaurus/terms/1148>).

⁽⁶⁴⁾ See EIGE's thesaurus entry for 'gender budgeting' (<https://eige.europa.eu/thesaurus/terms/1158>).


⁽⁶⁵⁾ See EIGE's thesaurus entry for 'gender equality' (<https://eige.europa.eu/thesaurus/terms/1168>).

⁽⁶⁶⁾ See EIGE's thesaurus entry for 'gender equality bodies' (<https://eige.europa.eu/thesaurus/terms/1171>).

⁽⁶⁷⁾ See EIGE's thesaurus entry for 'gender impact assessment' (<https://eige.europa.eu/thesaurus/terms/1180>).

⁽⁶⁸⁾ See EIGE's thesaurus entry for 'gender mainstreaming' (<https://eige.europa.eu/thesaurus/terms/1185>).

⁽⁶⁹⁾ See EIGE's thesaurus entry for 'gender pay gap' (<https://eige.europa.eu/thesaurus/terms/1196>).

	<p>Gender proofing ⁽⁷⁰⁾</p> <p>A check carried out on any policy proposal to ensure that any potential gender discriminatory effects arising from that policy have been avoided and that gender equality is promoted.</p>
	<p>Gender-responsive public procurement (GRPP) ⁽⁷¹⁾</p> <p>A gender mainstreaming tool to promote equality between women and men through public procurement. GRPP promotes gender equality through the purchase of works, supplies or services by public sector bodies. This means that buyers and suppliers look at the impact of all contracted activities on women's and men's interests and concerns, and design and deliver contracts in a way that reduces gender inequalities. It does not necessarily imply higher costs but does require knowledge and capacity.</p>
	<p>Managing authority ⁽⁷²⁾</p> <p>An authority responsible for the efficient management and implementation of an operational programme. A managing authority may be an EU institution or agency, a national ministry, a regional authority, a local council or another public or private body that has been nominated and approved by a Member State. Managing authorities are expected to conduct their work in line with the principles of sound financial management.</p>
	<p>Needs assessment</p> <p>A pre-tender activity in which the needs of users are identified in order to inform the subject matter, scope and choice of the tender procedure. This may involve formal or informal consultation with internal and/or external users.</p>
	<p>Positive measures ⁽⁷³⁾</p> <p>Actions aimed at favouring access by members of certain categories of people, in this particular case women, to rights that they are guaranteed, to the same extent as members of other categories, in this particular case men.</p>
	<p>Preliminary market consultation</p> <p>A pre-tender activity in which potential bidders are informed of the upcoming tender and provide feedback on the requirements. Other public bodies, NGOs or experts may also be consulted.</p>
	<p>Reserved contracts</p> <p>Restriction of the competition specifically to economic operators whose mission is the social and professional integration of disadvantaged workers and workers with disabilities, provided at least 30 % of the employees are disabled or disadvantaged, and to organisations that have a public service mission and meet certain governance requirements, only in relation to social, health and education services.</p>
	<p>Selection criteria</p> <p>Compulsory requirements to be met by the potential suppliers to be considered in the procurement procedure. Selection criteria may address financial and economic standing, technical ability (including experience), and professional skills and qualifications.</p>
	<p>Sex-disaggregated statistics ⁽⁷⁴⁾</p> <p>Data collected and tabulated separately for women and men, allowing the measurement of differences between women and men in terms of various social and economic dimensions. This is one of the requirements for obtaining gender statistics.</p>





⁽⁷⁰⁾ See EIGE's thesaurus entry for 'gender proofing' (<https://eige.europa.eu/thesaurus/terms/1202>).

⁽⁷¹⁾ See EIGE's web page on gender-responsive public procurement (<https://eige.europa.eu/about/projects/gender-responsive-public-procurement-eu>).

⁽⁷²⁾ See the European Commission's glossary entry for 'managing authority' (https://ec.europa.eu/regional_policy/en/policy/what/glossary/m/managing-authority).

⁽⁷³⁾ See EIGE's thesaurus entry for 'positive measures' (<https://eige.europa.eu/thesaurus/terms/1321>).

⁽⁷⁴⁾ See EIGE's thesaurus entry for 'sex-disaggregated statistics' (<https://eige.europa.eu/thesaurus/terms/1366>).

	<p>Social outcomes contracting ⁽⁷⁵⁾</p> <p>An innovative form of procuring social services based on outcomes rather than outputs. Typically, in social outcomes contracting operations, the service provider's compensation is linked to a measurable social impact rather than to a specific set of tasks.</p>
	<p>Technical specifications</p> <p>Mandatory requirements for the goods, services or works being purchased. They may be formulated with reference to standards or may be performance based, or some combination of these approaches may be used.</p>
	<p>Tools for gender mainstreaming ⁽⁷⁶⁾</p> <p>Operationalised instruments that can be used separately or combined together to shape largely different programmes, in terms of aims, approaches and dimensions.</p>
	<p>Work-life balance policies</p> <p>As defined under the EU directive, policies that should contribute to the achievement of gender equality by promoting the participation of women in the labour market, the equal sharing of caring responsibilities between men and women and the closing of gender gaps in earnings and pay ⁽⁷⁷⁾. Such policies should take into account demographic changes including the effects of an ageing population.</p>

⁽⁷⁵⁾ See the Advisory Hub's web page on 'social outcomes contracting' (<https://eiah.eib.org/about/initiative-social-outcomes-contracting>).

⁽⁷⁶⁾ See EIGE's thesaurus entry for 'tools for gender mainstreaming' (<https://eige.europa.eu/thesaurus/terms/1409>).

⁽⁷⁷⁾ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, OJ L 188, 12.7.2019, p. 79.

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8. Additional resources

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- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65 (the public sector directive).
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