Gender-Lensed Public Procurement in India

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Introduction

Context

Public Procurement (PP) refers to the purchase of goods, services and works by public authorities or civil service organisations using public funds.[1] Government procurement accounts for over 30% of gross domestic product (GDP) in developing countries and 10% of GDP in developed countries. However, globally, it is estimated that only 1% of the market is catered to by women entrepreneurs, which creates an opportunity for women to tap into this $15 trillion market.[2]

Although PP has been leveraged as a strategic policy instrument to foster gender equality since the 19th century,[3] globally, the scope of PP has widened over time. PP today, ranges from promoting growth of Small and Medium Size Enterprises (SMEs), creating partnerships between private and public sector stakeholders, to achieving environmental sustainability. The large size of government spending also magnifies the potential of PP as an influential regulatory tool for the market, which can simultaneously help achieve social, economic and environmental goals.

A structured approach to ensuring gender-responsive PP begins with integration of gender equality into procurement planning processes. The benefits of gender responsive procurement are echoed by the The World Economic Forum who report a positive correlation between gender equality, a country's GDP per capita and its HDI rank[4] highlight the growing need to ensure gender-responsive PP legislation, policies and guidelines that could potentially reduce gender gaps.

Although existing literature suggests that there has been greater inclusion of gender-equality across legal regulations, the literature also suggests a gap in policy translating to action. According to a Goldman Sachs and International Finance Corporation (IFC) report (2019), women entrepreneurs own approximately 28% of all MSMEs and face a 1.5 trillion-dollar annual credit gap in emerging world markets. Moreover, a Boston Consulting Group study predicts that if women and men around the world had equal access to the market as entrepreneurs, global GDP could rise by ~3-6%, i.e., by USD 2.5 trillion to 5 trillion.[5] Implementation of gender policies are found to be limited, especially in cases where social inclusion by contracting authorities was an optional requirement rather than legally mandated. The European Commission's Evaluation Report on EU PP legislation found that while 45% of contracting authorities used social consideration of some form in their PP processes, only 14% regularly included social criterion in their tender documentation[6].

[1] United Nations Framework Convention on Climate Change
[2] International Trade Centre News, 2017. Public Procurement, a Tool to Boost Women's Economic Empowerment. International Trade Centre.
[3] E. K. Sarter, 2020. The Development and Implementation of Gender Equality Considerations in Public Procurement in Germany, Feminist Economics, 26:3
[4] Chin, K., 2017. The Power Of Procurement: How To Source From Women-Owned Businesses. UN Women
[5] WeConnect International, 2020. How To Rebuild Global Businesses For Good: Why Connecting Access To Markets With Access To Capital For Women-Owned Businesses Is Critical And Urgent For Inclusive And Sustainable Global Growth.
[6] E. K. Sarter (2020). The Development and Implementation of Gender Equality Considerations in Public Procurement in Germany, Feminist Economics, 26:3

Public procurement in India

In order to build an effective understanding of gender-lensed public procurement and its potential in India, it is crucial to understand the public procurement system as a whole, taking into account central public procurement policies, along with public procurement at a state level. Further, to truly gauge potential, it is vital to look at the government's procurement needs, what women-owned enterprises are producing, and accordingly, the overlap between the two.

Central Public Procurement in India

Policy and Regulatory Framework

The Public Procurement system in India is complex as there is no comprehensive public procurement law guiding the procurement activities. Instead, the public procurement framework in India has four broad features namely;

- **Constitutional provisions**: The Constitution of India authorises the Central and State Governments to contract for goods and services, and directs autonomy in public spending. However, it does not stipulate any procurement policies or procedures.

- **Legislative provisions**: While there is no single comprehensive central legislation that exclusively governs public procurement, various rules and policies from different central legislations cover different aspects. This includes the Contract Act 1872, Sale of Goods Act 1930, Prevention of Corruption Act 1988, Arbitration and Conciliation Act 1996, and others.

- **Administrative guidelines**: Comprehensive administrative rules and directives on government procurement are contained in the General Financial Rules ("GFR"). All government purchases must strictly adhere to the principles outlined in the GFR, which include specific rules on procurement of goods and services and contract management. Apart from the GFRs, the Ministry of Finance publishes separate procurement manuals of policies and procedures for work contracts, purchase of goods, and employment of consultants.

- **Overseers**: The framework is bolstered by authorities including: (a) the Central Vigilance Commission ("CVC") tasked with increasing transparency and objectivity in public procurement; (b) the Competition Commission of India ("CCI") which checks anti-competitive elements; and (c) the Central Bureau of Investigation ("CBI") engaged for investigation and prosecution of the criminal activities in the procurement process such as probity issues.

Apart from these, a few states such as Tamil Nadu, Karnataka, Rajasthan, Andhra Pradesh, and Assam have their own specific procurement acts. Additionally, there are various reserved procurement guidelines at the national level for different sectors, such as khadi goods, domestically manufactured electronic products, etc.

In recent years, the government has modified public procurement norms to give maximum preference to companies whose goods and services have 50% or more local content, a move aimed at promoting 'Make in India' and making the country self-reliant. **Further, under the Public Procurement Policy for MSEs Order, 2018 under the MSMED Act, 2006, every Central Ministry /Department / PSUs shall set an annual target for 25% procurement from MSME Sector. Within this 25%, 3% of procurement should be earmarked for procurement from Micro and Small Enterprises owned by women.**[7]

Public Procurement Process

Public procurement in India has five different stages; **planning of procurement, preparation and publication of bids, submission and evaluation of bids, award and execution of bids, and redressal mechanisms**. Within the public procurement landscape, there are two major methods for public procurement: tendering and rate contracts.

- **Tendering**: Tendering seems the most popular method of public procurement in India. Any tender above a value of 2.5million rupees must be through invitation by public advertisement. Five types of tenders as per the GFRs 2017: advertised tender enquiry; limited tender enquiry; single tender enquiry; two stage bidding; and electronic reverse auctions. Ordinarily most procurement is conducted through advertised tender enquiries. While tendering has its benefits, including opening up the market and encouraging competition, it does not necessarily suit women-owned enterprises, for various reasons, including challenges with the bid or documentation requirements, or being unable to produce at the scale requested in tenders.

- **Rate Contracts**: Typically, rate contracts are entered into by DGS&D for common user items which are frequently needed in bulk across government departments. These contracts can be entered into with one or more suppliers for the supply of specified goods/services at specified prices for a stipulated period of time. The contract acts as a standing offer from the supplier and no quantity or minimum drawal is guaranteed under the contract. The procurer can conclude more than one rate contract for a single item and can also provide the option to renegotiate the price with the rate contract holders.

With the onset of online platforms, both processes of public procurement are often conducted using **e-platforms**. The government of India has increasingly emphasized information technology (e-procurement) as a tool for enhancing transparency, efficiency, and accountability in public procurement. The use of the Central Public Procurement Portal (CPPP) and the Government e-Marketplace (GeM) by the procuring entities is now mandated by GFR 2017. GeM has 74,657 sellers with more than 3.37 lakh sellers being MSMEs having a majority share in the order value at 52.98%. Similarly, State governments and institutions like the Indian Railways use their respective portals for conducting e-procurement.

7 Ministry of MSME: Public Procurement Policy

State-Level Public Procurement

Almost no Indian state governments engage in any sort of gender-lensed public procurement. The table below highlights specific state public procurement policies, with key focus on procurement from MSMEs, and whether there is any gender lens at all.

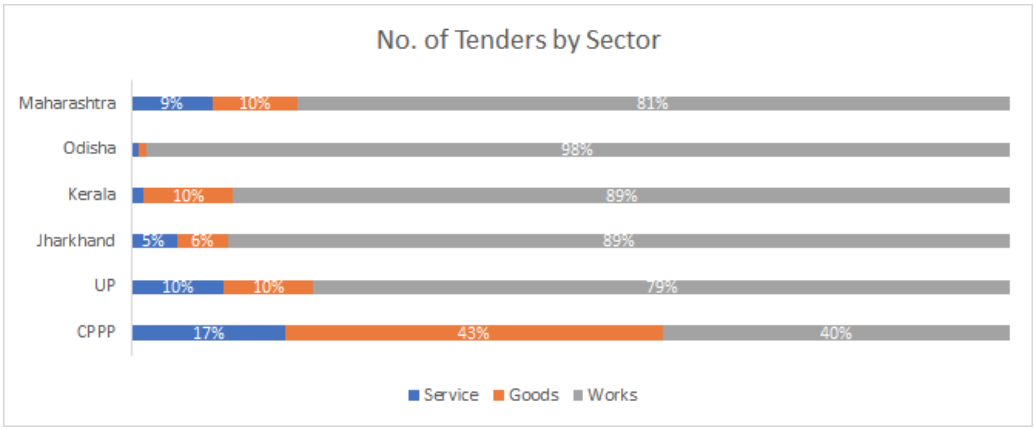
State	Key Features of State-Level Policy	Gender-Lens
Odisha	• Specific MSME procurement policy from 2015, with 20% quota for MSME • Registration required including VAT/GST • Grievance cell and review committee for annual review • Annual procurement plans • **4% combined for SC, ST, Women, Disabled, and Technical Entrepreneurs**	No
Karnataka	• Exclusive List (Adopted from central list) • Registration required • 15% price preference • Free tender, exemption from earnest money through NSIC reg • Adoption of GeM	No
Kerala	• 20% MSME, 4% SC/ST • Only Aadhar + Self-declaration required • 15% price preference • Free tender, exemption from earnest money through NSIC reg • Movement from DGS&D rate contract to GeM	No
Jharkhand	• Specific MSME procurement policy • 20% products, 15% services (4%/3% for SC/ST) • For enterprises within state • Registration req • 15% price preference • Exclusive list (state specific list) • 2%/3% additional price preference for national/international standards accreditation • Free tender, exemption from earnest money • Bill discounting available	No
Madhya Pradesh	• 15% price preference (but only 50% of contract) • No specific MSME registration req (UA+GST) • Rate contracts + GEM • MP Laghy Udyog Nigam to facilitate MSME procurement and create VDP.	No

Uttar Pradesh	• Quota of 25% reservation for MSMEs, with 4% for SC/STs and 3% for women owned MSMEs announced early 2020. • Specific amendments to the procurement manual yet to be put in place. • No prior advantages to MSMEs in public procurement.	No (but does at least have the 3% quota)

Fig 1 : Key Features of State-Level Policy

What is the Government Procuring?

A large proportion of the overall tenders that are awarded by the central government, state governments and their agencies are categorised as “works” tenders, i.e. they are awarded for construction of a wide variety of infrastructure like office buildings, schools, roads, irrigation canals, toilets etc. Charts in figure 5 below outline the share of these three broad categories of public procurement.



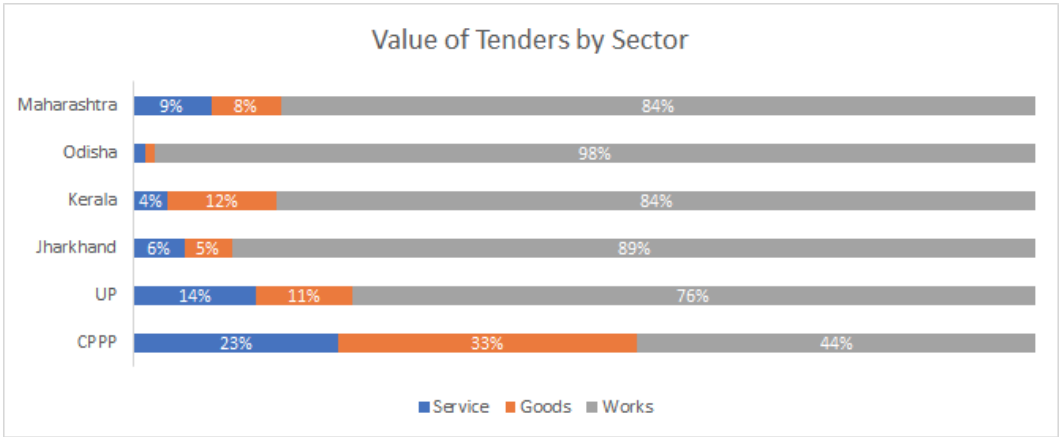


Fig 2: Distribution of Public Procurement by Type[8]

[8] Analysis of data from FY17-18, FY18-19 and FY19-20 from e-Procure Dashboard

The share of works is very high for most state governments, accounting for at least three-fourths of total procurement expenditure. In comparison, agencies of the central government procure a far higher share of services and goods.

Making public procurement work for women-owned enterprises

What are women-owned enterprises producing?

As mentioned above, it is essential to understand the universe of women-owned enterprises better to effectively gauge the overlap between government procurement needs and women-owned enterprise production, and truly assess the opportunities for public procurement.

Only 13.8% of enterprises in India are women-owned.[9] Overall, while women-owned enterprises can be found in manufacturing, retail and service sectors, within each of these sectors they are concentrated in certain specific types of enterprises like tailoring, beauty services, small retail trade, manufacturing of items like paper sacks, agarbatti, imitation jewellery etc. **About 30% of women-owned enterprises in India are involved in the manufacturing sector and 18% are involved in retail trade.**

- Within manufacturing, about 38% of enterprises are involved in manufacturing of wearing apparel and 15% are involved in manufacturing of textiles. Custom tailoring is by far the most common type of manufacturing enterprise operated by women in India.
- Within the retail trade sector, about 60% of all enterprises are related to retail sale of food products and beverages. Other important sectors for women entrepreneurs in retail trade are those of retailing of clothes and footwear, and retail of pharmaceuticals, which account for 8% and 7% of women involved in retail trade.

Women are very often concentrated in the operation of certain very specific types of enterprises. The figures below represent the top five specific enterprise types within the manufacturing, retail and services sectors.

[9] Data analysis based on 6th Economic Census and 73rd National Sample Survey on Unincorporated Enterprises

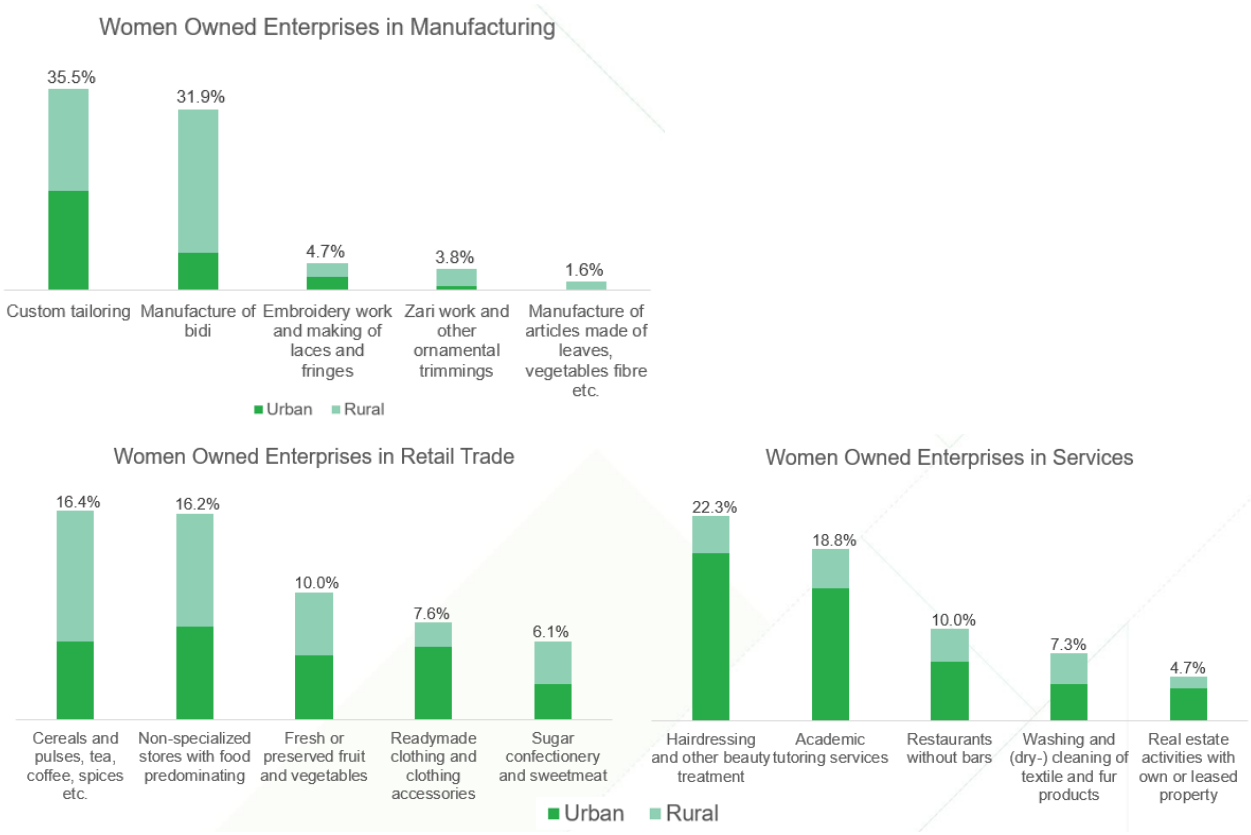


Fig. 3, 4 & 5: Top Industries for Women-Owned Enterprises in Services, Retail Trade and Manufacturing[10]

There are also certain specific sectors where women operate a majority of enterprises. Fig. 11 below shows a number of sectors where more than 50% of enterprises are owned by women. For example, 90% of enterprises which manufacture paper bags or sacks are owned by women. The graph also shows that women-owned enterprises are largely concentrated in some specific types of enterprises like manufacturing household items and needle work.

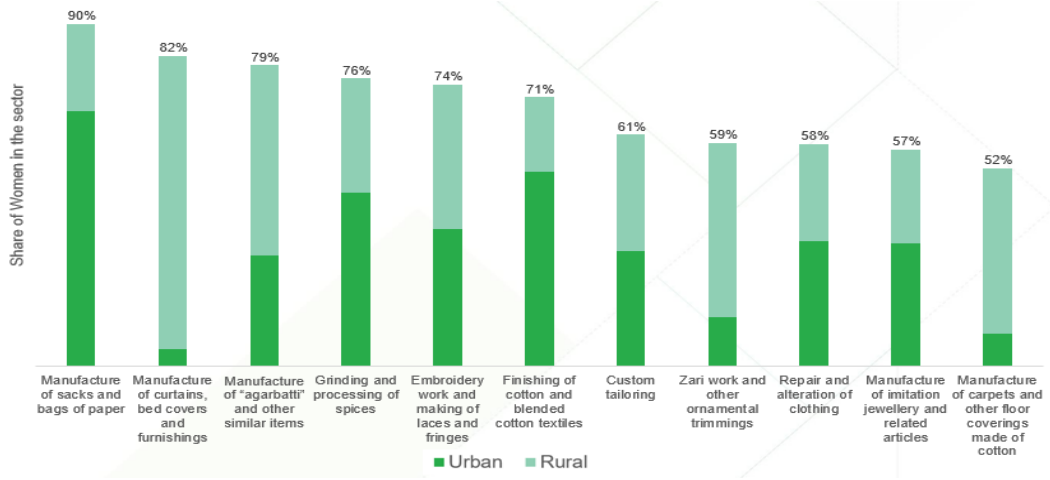


Fig.6: Share of women in sectors dominated by women-owned enterprises

[10] Data Analysis from 73rd round of the NSSO survey on unincorporated enterprises.

The Reality of Public Procurement for Women in India

With the addition of a mandated quota of 3% of the 25% public procurement from women-owned MSMEs, the share of women-owned enterprises in the annual procurement of goods and services by central ministries, departments, and central public sector enterprises (CPSE) has grown from zero in FY18 to 0.25% in FY20 (MSME Sambandh Portal). The number of women MSEs benefiting and the amount of procurement made from them stood at:

- 1,398 MSEs and Rs 231.50 crore respectively for FY19
- 2,596 MSEs and Rs 261.07 crore respectively in FY20 so far

However, even despite setting targets for gender-lensed public procurement, current mechanisms of PP lack a clear gender intentionality. Interviews report that in practise, PP processes for women struggle with gender biases, and schemes are often designed or implemented in a way that relegates women to secondary or "soft" roles. This is reflected in the larger data; out of 23.11% of procurement from MSEs in FY18 (worth Rs 26,357.46 crore), women-owned MSEs didn't have any share. Similarly In FY19 and FY20, women-owned MSMEs only accounted for 0.15% and 0.25% respectively of procurement from MSEs[11]. In fact, for FY20, just 0.3% of the total value of procurement by CPSEs has benefitted women-owned MSEs. As shown in Figure 3 below, about a quarter of CPSEs reporting their procurement data have no procurement from women-owned MSEs and just over 10% are meeting the outlined 3% quota.

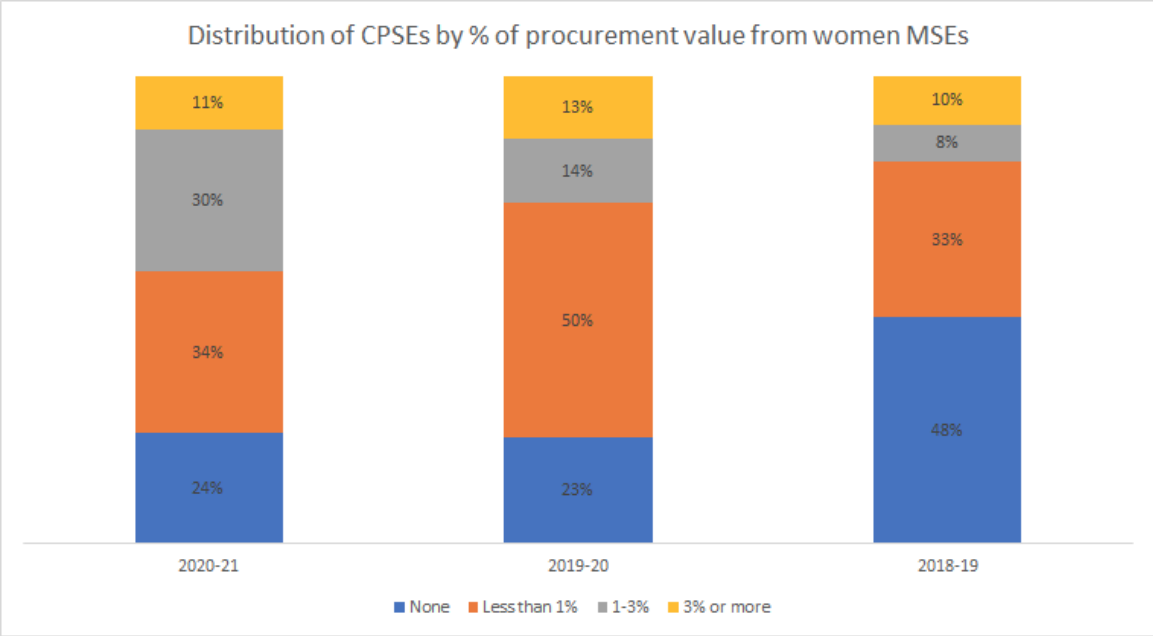


Fig 7: MSME Sambandh- Annual Women Procurement Data for previous financial years[12]

[11] Procurement from MSEs for FY19 was 26.31% of the total, and worth Rs 40,376.64 crore. This same figure for FY20 was 28.50% worth Rs 29,914.14, as of Jan 2021.

[12] MSME Sambandh: Annual Women Procurement Data for FY 2020-21

Figure 8 below highlights the top 5 CPSEs in terms of women benefited through procurement from women-owned enterprises. Even here, none of the procurement done reaches or surpasses the 3% figure, with Bharat Electronics coming closest at 2.28%. Looking at this data, and the previous sections on the nature of procurement by the government, it is likely that women-owned enterprises are not necessarily producing the kind of products that have high demand when it comes to public procurement.

S.No.	CPSE Name	Ministry/Department	Total Procurement Done(₹ in Crore)	Procurement from Women Entrepreneurs (₹ in Crore)	Women Benefited
1	BHARAT ELECTRONICS LTD.	Department of Defence Production	2671.6300	61.2500	393
2	HINDUSTAN PETROLEUM CORPN. LTD.	Ministry of Petroleum and Natural Gas	5844.8800	47.4100	202
3	FOOD CORPN. OF INDIA	Department of Food and Public Distribution	63.3925	1.3000	188
4	E. C. G. C. LTD.	Department of Commerce	16.8927	0.1900	105
5	INDIAN OIL CORPORATION LTD.	Ministry of Petroleum and Natural Gas	18868.2000	30.6700	104

Fig 8: MSME Sambandh- Annual Women Procurement Data for FY 2020-21[13]

What are the benefits of engaging with Public Procurement for Women?

Sattva's primary and secondary research suggests that PP has potential benefits at a community and individual level for women;

1. At a **community level,** PP helps with **invigorating local economies** by generating employment, increased access to market opportunities for MSMEs
2. At an **individual level, women** engaged in PP **feel more empowered**, not just financially but also socially, with an improvement in **mobility, social standing and trust in government**
3. Gender-responsive PP also leads to **women being well-aligned to their community's needs,** resulting in increased efforts and high-quality products. For example, women operating in SHGs under the World Food Programme in 4 Indian states (UP, Kerala, Rajasthan and Odisha) produce high-quality take-home ration, (which is customised to meet community's taste requirements) is procured by the government and then provided to ICDS beneficiaries.

Additionally, global evidence from several intergovernmental organisations suggests that the involvement of women in public procurement has a direct impact on sustainable development and growth. A research study from Uganda concluded that public procurement can enhance women empowerment through a gender-responsive procurement policy. Above all, pre-contract

[13] MSME Sambandh: Annual Women Procurement Data for FY 2020-21

award interventions such as streamlining evaluation criteria to ease access of women owned businesses to public procurement contracts seem to have the most significant impact on competitiveness of WECs compared to post-ward interventions during contract management.[14]

Research studies have shown that women-owned businesses that are able to successfully benefit directly from the procurement contracts are also able to contribute to an increased GDP growth and an improved female labour force participation rate. Moreover,data findings suggest, in 40% of women-owned firms, the majority of employees are females compared to only 22% in firms owned by men. Hence, it has been observed that women owned enterprises in turn employ more women than men-owned firms.[15]

[14] https://www.emerald.com/insight/content/doi/10.1108/WJEMSD-02-2020-0014/full/html
[15] https://www.intracen.org/news/Public-Procurement-a-Tool-to-Boost-Womens-Economic-Empowerment/

Gaps & Challenges

While a number of challenges affect that level of public procurement from women-owned enterprises, the prominent can be broken down into supply and demand side challenges, with demand side challenges further breaking down into problems with design vs implementation.

Demand-Side Challenges

Design

Public procurement practitioners in every country face challenges that stem from the economic, social, cultural and political environment that are unique to each country. These internal challenges range from interference from other departments, to shortage of funds. External challenges result from factors such as the markets in which they operate, legal and political set-ups, organisational and socio-economic factors.[16]

In order to realize the desired gender outcomes from In, an efficient and effective public procurement system is essential where strong and consistent implementation of the prescribed rules and regulations is equally critical. In reality, procurement practices in the country often differ from what is prescribed because of the hurdles such as inefficient monitoring process, limited accountability and governance, limited awareness and organizational culture. Following are the major gaps that have emerged in the Indian public procurement system.[17]

1. **The absence of a comprehensive procurement act or standard bid processes/documents:** The absence of a comprehensive procurement act has resulted in heterogeneous procedures and multiplicity of rules and bid documents across the procuring entities.

2. **Presence of anti-competitive elements:** Competition issues in India mainly concern with collusive bidding, bid-rigging, cartelization, and abuse of dominance. Such anti-competitive elements have detrimental effects on the public procurement through various means such as eliminating competition, denying fair/minimum price, variation in the tender specifications, paying for fabricated work, and poor quality procurement, which ultimately undercut the development prospects.

3. **Absence of an independent grievance redressal mechanism:** There's no Independent Grievance Redressal Mechanism in the procurement system. The GFR 2017 only allows the aggrieved bidders to file complaints with procuring entities, arbitrators, and courts.

4. **Weak feedback loops to engage with diverse groups:** Many procurement officials lack formal and informal mechanisms to inform, engage, and act on the feedback of diverse business communities.

[16] https://www.researchgate.net/publication/317507871_Mapping_public_procurement_practices_in_India
[17] https://www.nipfp.org.in/media/medialibrary/2017/07/WP_2017_204.pdf

5. **The absence of procurement laws at a central level:** The absence of a singular central framework governing public procurement makes engaging with it effectively challenging for different actors. Although some state governments have been enacting public procurement laws, a lack of an overarching reference point means that it is difficult to implement something like gender-lensed procurement at scale, which is a huge drawback in this context.

Implementation

1. **Difficulty in identifying women led businesses**: Many government agencies and stakeholders do not have a clear and aligned definition of a women-led business, or any access to gender-disaggregated data about bidders and suppliers. This prevents them from being able to include any gender-intentionality when engaging with the PP contracting process.

2. **Proving eligibility and documentation requirements**: In some contexts, women-owned businesses face additional obstacles in bidding for contracts. For example, to demonstrate eligibility, they could be required to prove any of a range of criteria, including technical competence, the presence of financial resources, equipment and other physical facilities, managerial capability, experience, and personnel that are certified. In India, the bidding process itself can often be quite cumbersome and difficult to navigate. In both the public and private sector, tender information is not easily accessible, requirements and skills qualifications are unclear, and a significant financial burden can be placed on bidders.

3. **Systemic challenges and corruption:** Untimely payments, the lack of credit mechanisms can heavily restrict the ability of women-owned enterprises to engage with PP at scale due to their previously limited financial capacity. Additionally, the absence of comprehensive legislation, violation of procedural norms, and weak monitoring procedures have led to challenges such as corruption fundamentally weakening the PP system. A primary systemic challenge reducing the efficacy of PP implementation is corruption. For e.g. Interviewees reported that in certain states, women SHG enterprises effectively exist only on paper, and the ‘karyakartha/anganwadi worker’, who acts as a middleman between women SHGs and government, pockets any revenues, giving only small token amounts to women actually engaged in working.

4. **Normative challenges during implementation**: Primary research also suggests that PP processes can often be laden with gender biases. Interviewees report a latent assumption that women don’t have the capacity to manage large sums of money or deliver at par. Additionally, the **prevalence of patronage** in the PP system excludes women who did not have the means/resources to bribe and use the system to their 'advantage'.

5. **Gender stereotypes limiting sectors for procurement from women**: Expert interviews suggest that there is a latent assumption of the kind of 'soft' roles women can do. In the PP context, this results in the government primarily procuring from women

items that they think women can/should produce (For example: Masks during COVID-19 procured from women MSMEs, textile products, stationery items, food and nutrition products like take-home ration, mid-day meals). It is important to note, that this is also because women tend to be overrepresented in these segments, partly due to gender norms, and partly due to government schemes focussing solely on these industries when looking to boost women's entrepreneurship.

6. **Inadequate competency and skill of the procurement officials**: Officials need to be more acquainted with procurement management, rules and regulations, legal issues, contract management issues, and others. They also need more exposure to cope with the best procurement norms and practices of the developed countries and the international agencies like the World Bank, IMF, ADB, and UNICEF as well as the WTO GPA and UNCITRAL Model.

Supply-Side Challenges

When it comes to accessing public procurement, women-led businesses are often disadvantaged and struggle to achieve the same benefits of government contracts as compared to their male counterparts. Multiple reasons can explain this, ranging from the predominant informality of women-owned enterprises, to the lack of women's property and inheritance rights as well as other asset ownership.[18,19,20]

1. **Lack of access to finance:** Women entrepreneurs' lack of access to finance limits their ability to acquire the working capital needed to apply for government contracts. Issues with payment delays in public procurement means that businesses need access to finance in public contracting.

2. **Gender biases and norms:** Gender norms and assigned roles (such as bearing primary responsibility for unpaid care work, including childcare or sick relatives), translate into greater time restrictions for women. They can also have a negative impact on self-confidence, as these essential roles are under-recognized and valued. At a **societal level, poor social capital** in the form of lack of support from families, in some cases husbands acting as de facto heads for SHGS, makes it difficult for women to freely engage in economic activities.

3. **The small-scale of women-owned enterprises:** A majority of women-owned enterprises in India are micro-enterprises operated for sustenance, with very limited capacity for production or service delivery that prevents them from being able to engage with procurement at scale. This is true globally as well, for e.g. in Latin America, Sub-Saharan Africa, and East Asia, women lead, on average, 23% of small businesses compared to 11% of large businesses. The smaller size hinders their capacity to meet the requirements of large government contracts.

[18] https://www.empowerwomen.org/en/community/stories/2015/7/women-in-procurement-why-the-controversy
[19] https://www.empowerwomen.org/en/community/stories/2015/7/women-in-procurement-why-the-controversy
[20] https://www.open-contracting.org/wp-content/uploads/2020/07/OCP2020-Insights-WLB-procurement.pdf
https://www.open-contracting.org/what-is-open-contracting/gender/

4. **Inadequate skills or knowledge**: At an individual level, our research suggests low levels of skills, lack of exposure intimidates women from taking ownership. Additionally, research reveals there are information gaps women face at several levels - regarding tendering process, document requirements for registration in GEM portal, categorisation of certain products and services, requirement for vendor assessment, pricing mechanisms, sector-wise logistics of PP, and so on

5. **Lack of knowledge of tender opportunities:** This information asymmetry that originates from the inadequate skills/knowledge caused by inherent gender imbalances can often lead to women and women-owned enterprises (especially in rural areas), being unaware of the existence of tender opportunities or the conditions for accessing the same.

6. **Perceptions of corruption and biases** towards awarding of tenders only to male competitors: For example, interviews report the presence of a 'boys club' which provides an added advantage to men in procuring opportunities which are either known to women later or never at all. Many women-owned MSEs also do not also take part in public procurement due to a perception that government procuring entities often delay in releasing the contract payments.

7. **In practice, sectors with a high-level of public procurement do not have high numbers of women-owned enterprises:** Women-owned businesses are less present in the “high economic impact” sectors that grab the lion’s share of procurement contracts, such as construction, transportation, warehousing, manufacturing and wholesale trade. In some developed economies, the share of MSMEs owned by women ranges from only 3% to 18% in these sectors.

Best Practices for Gender Lensed Public Procurement

Over the course of this research best practices for enabling and engaging with gender-lensed public procurement in order to deliver outcomes for women-owned enterprises were identified both from the global and Indian contexts. Broadly, these come under 'targeted assistance' strategies, meant to encourage or promote economic participation by disadvantaged individuals and other marginalized groups within society. While relatively uncommon, a few governments have used these strategies to promote increased economic participation by women-owned businesses. This can include;

- **Establishing mandatory goals or targets:** Establishing mandatory goals or targets for procuring entities is an important example of a targeted assistance strategy. For example, in the United States, the statutory target for small businesses 'owned and controlled' by women is not less than 5% of the total value of all federal contracts. These targets are not mandated quotas, and rather look to encourage procuring entities to increase the share of procurement from women-owned businesses through means such as conducting gender-disaggregated market research, setting up outreach programmes, and building the capacity of those firms to do business with the government. This also often requires strong monitoring, reporting and oversight mechanisms to ensure progress toward any targets.

- **Subcontracting plans:** Subcontracting plans and requirements can be used to increase the number of women owned businesses and other target groups participating as subcontractors on government contracts. This leverages both the buying power and innovation of private sector contractors, instead of leaving the onus on the government. Firms awarded contracts over a certain threshold must submit subcontracting plans to officials establishing targets for participation by women-owned businesses in their supply chains and their strategies for achieving those targets. This approach has the potential to dramatically increase the number of business opportunities for women entrepreneurs, and can serve as a small firm's entrée into the broader public procurement market.

- **Preferences:** Preferences are perhaps the best known and most-widely used form of targeted assistance. Preferences can provide women-owned businesses with a competitive edge in public procurement value chains, and increase their participation in the formal economy more generally. They often involve granting a price preference or margin of preference to firms that are eligible for preferential treatment. Effectively, procuring entities inflate the bid prices of non-preferred firms by a set percentage before evaluating the bids of enterprises. Alternatively, the preference may take the form of additional points. E.g. In South Africa, the government has developed a preferential procurement system that awards points based on a firm's certified "Broad-Based Black Economic Empowerment" level.

- **Reservations:** Reservations, arguably a very controversial form of targeted assistance, feature prominently in many countries. They involve setting aside opportunities for a preferred category of firms, such as women-owned businesses. Firms that do not meet

the eligibility criteria are excluded. E.g. Kenya recently announced it would amend its public procurement regulations to reserve 30% of government contracts for women, youth and persons with disabilities. Even the US has taken steps to institute specific quotas for women to improve their access to public procurement.

- **Direct contracting**: Another type of best practices adopted by some countries, e.g. Korea is to skip the traditional bidding process and competition, and instead directly offer contracts to select categories of businesses, such as women-owned enterprises to support easier entry to the public market. This special type of contract refers to a contract in which the contracting entity is selected without a bidding process or competition.

Other best practices include systems that ensure advance payments to SMEs to account for working capital challenges, waiving fees and requirements for applying to contracts, award programs to increase SME visibility among all government suppliers, and systems that look to training and certify women entrepreneurs in order to establish reliable suppliers.

Indian Exemplars

1. **Kerala:** Kerala's Nutrimix model has been an exemplar for gender-lensed public procurement in the food and nutrition space. Here, the government procures take-home rations that are produced by women SHGs, and then provided to ICDS beneficiaries. 10-11 women are attached to a single entrepreneurial unit, making a profit of about 9000/10,000 INR (appx) a month each. The success of these units partly comes from them having diversified their products to increase profits. For example, in addition to grinding rice to powder for their rations, women SHGs make dosa batter from rice powder, a staple product consumed by locals. Women in this model treat government schemes and procurement as a base/cushion that offers the guarantee and safety of regular income, and look to diversify production after this to scale and increase profits. Kudumbashree members play a role in the Kerala railways system, taking care of parking services as an enterprise model in 49 railway stations in the state, and providing customer services in the waiting halls in 5 major stations, with 243 women benefiting.[21]

   Additionally, the Government of Kerala has established various Procurement Models via the Kerala Startup Mission (KSUM). KSUM facilitates procurement of innovative products and services from startups through the following ways:

   - **Direct Procurement Model:** The Government of Kerala has set up a process to procure products from startups from INR 5 Lakh to INR 20 Lakh through Direct Procurement Model where the startup can submit a proposal to the Government Department or KSUM that shall be considered for procurement if found suitable. The purchase of products beyond 100 Lakh shall be done through Limited Tendering process.

[21] IRCTC Kudumbashree: Joining hands with the Indian Railways

- **Requirement by Department:** The KSUM hosts demand days for the Government Departments to float their procurement requirements. KSUM subsequently facilitates hosting limited tenders and RFPs inviting applications from startups to bid for the work order.

- **Innovation Zone Model:** The Government of Kerala has set up innovation zones under various Government Departments to procure highly innovative products and for procurement requirements with latent demands. This model enables the Government to work closely with startups and customize their products for the perfect fit.

2. **Odisha:** Odisha State Government no longer requires any minimum turnover requirement from Micro, Small Enterprises and Startups in the public procurement process. Additionally, all State Departments and agencies are required to relax conditions of prior experience with respect to Startups in all public procurement subject to meeting of quality and technical specifications. Further, all eligible Startups and local MSEs are exempted from the submission of Earnest Money Deposit (EMD) while participating in tenders of Government Department and agencies. The performance security (if any) has been reduced to 25% of the prescribed amount for Startups.

   The Government also implemented a decentralized implementation of the Supplementary Nutrition Programme (SNP) of ICDS by women SHGs in the state in April 2011 reaching out to approx. 46.5 lakh beneficiaries through 338 projects. Major provisions under the projects included Take Home Rations, Hot Cooked Meals, and Morning Snacks. Through institutionalising gender–aware programming and gender just governance of nutrition security, and strengthening capacities of women's groups, there was improved outreach (39 lakh children, and 7.8 lakh pregnant and lactating women), improved quality of supply and food, and stronger women's empowerment.[22] Additionally, there is also the Odisha Millets Mission (OMM), a flagship initiative of the State Government covering 72 blocks in 14 districts. OMM focuses on indigenous communities, women farmers, small and marginal farmers, and is implemented by community based organisations such as women SHGs. The scheme promotes 0.6 million SHGs with 7.2 million women members. In addition, OMM will support the SHGs in setting up millet based outlets, catering business, value addition business, etc.[23]

3. **Gujarat:** Government of Gujarat, vide Industries and Mines Department Resolution on 11.4.2018 removed the criteria of "prior experience", "turnover", "tender fee" and "submission of EMD" for encouraging Startups to participate in public procurement.

4. **Uttar Pradesh:** In Uttar Pradesh, like in Odisha, the SRLM decided to undertake the production of Take Home Rations (THR) through a decentralised model of production by micro-enterprises set up by women's SHGs. The set-up of this model is still in process,

[22] Government Procurement – Case Study No. 2 : Working Draft developed during the Gender Mainstreaming Project of UN Women, with ADB support (2014-15) (Unpublished)
[23] UNDP Equator Initiative: Odisha Millets Mission.

but anticipated benefits include nutrition gain, and more than 1000 Cr. business in a year for SHG members in the 204 blocks earmarked for the programme.[24]

Recommendations

Over the course of study, findings from both secondary research and primary research have suggested some recommendations around improving the existing public procurement policy and public procurement process to enable women-enterprises to engage more effectively and benefit from it. Overall, the recommendations have looked to address aspects specific to the demand side (policy design and implementation) and supply side (women specific) challenges.

Demand-Side Recommendations

Design

At a **policy level**, it was strongly recommended that there **needs to be an overarching central framework/law on PP**. State governments too should have a PP law, which should be encouraged by the Central government, keeping in mind differing state requirements. Additionally, In order to combat corruption in the procurement system, there is a need for **automation of systems**, and reducing the human decision making involved in bidding and awarding of contracts. Lastly there is a clear need for increased transparency and **proper redressal mechanisms** in the PP process. Women-owned MSMEs should have access to constructive feedback upon failure of securing tender to help them improve.

a) **Procurement policies can be designed with increased female labour force participation as an explicit policy objective:** The Government can potentially commit to include holistic public procurement policy as part of their overall push to increase FLFP, including preferential policies, transparency measures and gender-lensed e-procurement systems that can enable women-owned enterprises. This can include implementing pilot schemes with women-owned enterprises to generate evidence for how public procurement can achieve economic outcomes for women, and increased efficiencies in the PP value chain.

b) **Policymakers can administrative incentive systems to promote the successful implementation of gender-lensed public procurement:** When drafting gender-responsive guiding documents the Government can explicitly incentivise gender-lensed procurement by including criteria such as; bidder's track record for past gender-inclusive projects/gender-sensitive community engagement, gender-related commitments of the project (e.g., how the project intends to increase entrepreneurship and employment opportunities for local women)

c) **Increasing transparency:** Need for a more transparent PPP to eliminate corruption, effective monitoring and auditing to ensure compliance and sanctions to enforce professionalism and to punish offenders causing losses. This will also serve to reduce

[24] Product of Take Home Rations Through Self Help Groups in Uttar Pradesh: A Progress Update

some of the more problematic normative biases, and restrict the prevalence of “old-boy” clubs.

Implementation

Governance reforms in the PP process were suggested to combat issues of corruption, information gaps, financial stability of women. **Ensuring timely payment** to women, **enabling access to advance payments** for small enterprises becomes crucial for women MSMEs to sustain themselves. Overcoming information gaps also requires the government to step up and provide **information regarding the PP process in a user-friendly**, transparent way and ensure women have access to this information.

a) **Governments must generate and track gender-disaggregated procurement data**

   i) Governments should identify women-led businesses in data from procurement systems and/or company registers. There is a need for sex disaggregated data around SMEs to better understand role of women as business owners in the global value chain.

   ii) Having Open Contracting Global Principles and Data Standard to monitor competition and gaps, quality of implementation, and understanding and addressing complaints of structural discrimination.

b) **Actively engage in sensitising central and local stakeholders**: Conduct workshops, user research and data analysis with key stakeholders within the government, entrepreneurs and civil society to identify gender gaps and challenges

c) **Ensure prompt payment cycles and advances**: Implement and enforce rules regarding prompt payment of women-owned businesses and MSEs at the prime and subcontract levels and hold procuring entities and government officials accountable for the same. Additionally, allow payments to be processed in advance in order to ensure working capital support.

d) **Direct contracting/pre-qualification**: Governments should Permit women-owned businesses to be certified/pre-qualified for contracts in certain groups of industries or certain categories of goods, works and services.

Supply-Side Recommendations

Prior to setting ambitious gender-lensed procurement targets, the government needs to **properly identify and address existing information gaps** in terms of skills, technological literacy of women. There is also a need for a gender-lensed **mechanism to analyse the supply-demand gap,** and identify where supply can be boosted to match demand.This can then be addressed by focusing on targeted skilling and other relevant interventions. E.g. It was recommended by interviewees that the government could skill women in sectors with high demand but low female participation such as defence, heavy electric, health sector equipment instead of the stereotypical trades like textiles, stationery, nutrition.

a) **Create awareness campaigns for women entrepreneurs and increase transparency and monitoring of tender opportunities:**
   i) Increased awareness among women entrepreneurs about the procurement portal (MSMESAMBANDH), delayed payment and grievance redressal portal (MSME-SAMADHAN)
   ii) Governments should publish all procurement opportunities on a central electronic clearinghouse in a standardised manner and shared directly with all women business organisations
   iii) Develop engagement and feedback mechanisms for women-led businesses

b) **Promote holistic growth and focus on capacity building and technical assistance to women, in the form of education, skill building for women:**
   i) Need for more gender-responsive budgeting to include sensitisation training for officials involved in PP systems and processes to ensure inclusivity.
   ii) Emphasis on capacity building for women led MSMEs over credit related issues and use of technology platforms can help reduce knowledge gaps and increase opportunities for women entrepreneurs to win tenders
   iii) Build capacity to implement gender-responsive procurement through training and operational guidelines. These should be targeted at senior leadership and public procurement officers.

Appendix A

Global Exemplar Models

- **Republic of Korea:** Korea's public procurement system focuses on supporting other socially-disadvantaged businesses like social enterprises and enterprises owned by women and the disabled. Korea provides an exceptionally wide variety of incentives in its procurement policy framework. These include awards, access to financial services, and advance payment of contracts, among others.
    - The government also provides benefits to companies with outstanding youth and women employment. They are given preference in the process of bidding/signing contracts as well as when they compete for the designation of Excellent Government Supply Product.
    - In Korea, a form of "direct contracting" is offered for women-owned businesses, disability-owned businesses and social enterprises to support easier entry to the public market. This special type of contract refers to a contract in which the contracting entity is selected without a bidding process or competition.

- Although small, the share of purchases from women-owned businesses more than doubled in almost ten years, increasing from 3.8% in 2007 to 8.3% in 2015.
- The Korean Public Procurement Service Authority (PPS) has several initiatives to increase SME participation in government procurement, primarily within Korea's electronic procurement platform, Korea On-line EProcurement System (KONEPS). The following elements of Korea's procurement regime are aimed at promoting SME participation and opportunities for success in the procurement award process:
  - Advance payments to SMEs, as much as 70% of the purchase price.
  - Waived fees for various bidding procedures for SMEs.
  - An "SME Excellent Government Supply Products" award program to increase SME product visibility among all government suppliers, contractors and consultants.
  - A Multiple Award Schedule for SMEs - a simplified process when making recurring, high volume purchases.

- **Chile** has shown a marked increase in women's economic participation due to its supportive system of training and certifying women entrepreneurs, establishing women's associations, and addressing regulatory reform with a gender lens. In fact, the share of women participation in public procurement was approximately 37% in 2016.
  - ChileCompra is a public agency that is supervised by Chile's Ministry of Finance and has committed to make public procurement accessible to SMEs, including women-owned enterprises. ChileCompra oversees Mercado Público, an e-marketplace for selling products and services primarily composed of MSMEs. This e-platform has helped address challenges such as lack of access to information; limited skills, experience, and time to prepare bids; and cumbersome bureaucracy.
  - In 2015, ChileCompra joined ITC's SheTrades initiative and adopted an action plan focused on equalising access to public procurement policies for men and women by identifying and addressing gender-specific challenges, and building the capacity of women suppliers. The action plan resulted in a published document on the inclusion of gender criteria in public agency purchases, including those on Mercado Público.
- **South Africa** has a preferential procurement policy to counteract unfair discrimination practices, coupled with the Broad-Based Black Economic Empowerment (B-BBEE) program, a voluntary certification through which businesses demonstrate the extent to which their operations contribute to empowerment of blacks in South Africa. In public procurement, contracting authorities must contract with businesses that comply with B-BBEE and can award points to suppliers that meet specific additional empowerment

criteria. South Africa's procurement policies are designed to apply pressure on all suppliers and service providers to meet the standards for black economic empowerment. They are intended to "increase market access and procurement opportunities in general for black companies.

- **UK:** The Public Services (Social Value) Act came into force on 31 January 2013. It requires "people who commission public services to think about how they can also secure wider social, economic and environmental benefits at the pre-procurement stage. A review of the Social Value Act found that commissioning for social value has had a positive impact, with over 82% agreeing it had a positive effect on the local economy, and 72% agreeing it had a positive impact on local business. A wide range of benefits was reported in the survey, including financial investment and environmental improvements (66% each), use of local businesses in the supply chain (70%), employment of young and disadvantaged people (75%), and opportunities for training and local employment (83%). Due to the broad scope of the Act, the Cabinet's review found that the Act was being used to drive a diverse variety of preferential procurement strategies based on local conditions.