

Submission to the Review of the Workplace Gender Equality Procurement Principles



CEW

Women Leaders Empowering All Women

About CEW

Chief Executive Women's (CEW) shared purpose is 'women leaders empowering all women'. CEW's over 1,200 members represent Australia's most senior and distinguished women leaders across business, academia, government, sport, the arts, and not-for-profit sectors. CEW's members have leading roles within Australia's largest private and public organisations. They oversee more than 1.3 million employees and \$749 billion in revenue. Members' organisations have a combined market capitalization greater than \$1.144 trillion and contribute in excess of \$249 billion to Australia's GDP.

Since 1985 CEW has influenced and engaged all levels of Australian business and government to achieve gender balance. Through advocacy, research, targeted programs and scholarships, CEW helps to remove the barriers to women's progression and ensure equal opportunity for prosperity. CEW's members work actively to realise our vision of a community where women and men have equal economic and social choices and responsibilities.

Acknowledgement

We acknowledge the Traditional Custodians of Country throughout Australia and pay our respect to their Elders past and present. CEW celebrates the diversity of First Nations people and their continuing connection to land, water, and community, and acknowledges the strength of First Nations women leading their communities. We extend that respect to Aboriginal and Torres Strait Islander people who are part of the CEW community.

CEW Submission to the Review of the Workplace Gender Equality Procurement Principles

CEW welcomes the opportunity to provide a submission to the Review of the Workplace Gender Equality Procurement Principles. We welcome the Government's commitment to building a more inclusive, productive, and gender equal workforce. We welcome the Review's focus on building transparency and accountability for employers as a means of measuring employer performance and progress towards gender equality.

Australia is at a turning point in its gender equality journey, and the economic narrative is changing, with women being equal economic partners in the family. Workplaces and Government must work collaboratively to facilitate an environment where everyone can thrive.

CEW supports a granular, relevant and fit-for-purpose dataset and reporting framework that includes:

1. Strengthening the token minimum standards to support the elimination of sex discrimination.
2. The Commonwealth Government amending the WGEA Instruments to set outcome-based minimum performance standards. These standards would support the elimination of discrimination more broadly and would mean that the Sex Discrimination Commissioner and the Courts would have the same objective performance standards by which to assess individual workplace matters.
3. Establishing a baseline understanding of existing gender-disaggregated data and collecting and analysing additional gender disaggregated data. Continuing to develop the framework for collection of desegregated data (including intersectional data), and a more transparent picture of the gender composition at senior leadership levels.
4. Initiating needs-based gender budgeting that identifies and prioritises policies based on their ability to fulfil gender equality needs. This could be through pilot programs to establish a methodology, similar to the 2022 October Budget pilot program, led by the Office for Women.[1]
5. Investing in and strengthening capability across government to apply a gender lens to policy development and applying gender responsive budgeting across policy and programs.

A comprehensive, whole-of-government application of a gender lens to consideration of all new policy proposals is required to deliver coherent, effective policy. To ensure the needs of different groups of women are considered, gender impact assessments must include an intersectional lens that recognises and addresses the differential impacts on diverse people, including First Nations women, migrant and refugee women, women with disability, LGBTIQ communities and women living in rural and remote communities.

CEW supports strengthening and enhancing WGEA's comprehensive data collection and reporting to drive action and close the gender gaps. This includes the gender pay gap, the gender gap in senior leadership roles in workplaces and the gender gap in workforce participation. Strengthening WGEA data collection, reporting, publication and compliance role will support corrective action by major organisations to progress gender equality in Australian workforces.

Procurement is essential to Gender Responsive Budgeting

Procurement is a foundational element to gender responsive budgeting and is a channel for increasing female labour force participation.[2] Australia has one of the most gender segregated workforces in the OECD, and procurement is an important means of breaking down these barriers. It is an avenue to utilise government investment, particularly in male-dominated sectors. This enables governments to effect relatively rapid and targeted gender equality interventions, rather than having to wait for gender equality in labour markets to improve.[3] Furthermore, awarding procurement contracts to suppliers which are committed to employing women in traditionally male-dominated industries can reduce occupational gender segregation and in turn reduce gender aggregate pay inequality.[4]

Gender equal procurement is an important opportunity for increased women's economic participation. Women hold only 5% of the top-level supply chain positions in Fortune 500 companies.[5] However, A 2019 study found that, in the US and Western Europe, where gender responsive procurement policy is the most advanced, 20% of the top 60 listed companies have a woman as chief procurement officer (CPO).[6]

Gender equal procurement is good for business and enhances the organizational reputation among internal and external stakeholders, including employees, shareholders, consumers and the community at large.[7] Like most diversity initiatives, Gender-inclusive procurement improves financial performance and long-term business resilience. Ensuring that the supply base (gender-diverse businesses) reflects the population base (women consumers).[8] It supports market growth and differentiation when the procuring organisation has access to new goods and services from diverse suppliers, or is able to reach new consumer segments as a result of supplier diversity.[9]

History of Success in Australia

The Victorian Gender Equality Strategy and the Gender Equality Act (2021).

Commission for Gender Equality sets a strong example of how gender responsive budgeting can be applied in Australia, embedding gender equality into everyday practice.[10]

The Gender Equality Act already obligates public entities and local councils to embed strong governance structures to improve and promote gender equality. The Act requires that defined entities develop a Gender Equality Action Plan, conduct a workplace gender audit, and submit to the Commission for Gender Equality in the Public Sector. The Act has introduced gender ethical procurement policies in relation to contracted organisations, suppliers and funded agencies, to encourage and promote gender equality within procurement and supply chain. This has had significant impact on gender segregation in male dominated industries, during the West Gate Tunnel Project, suppliers jointly launched the Women in Construction initiative which identified and implemented strategies to attract and retain women in project roles. Over this period they set and met a target of over 400 women engaged in the delivery of the project.[11]

The private sector has also implemented gender responsive procurement effectively. BHP has developed and implemented gender responsive procurement measures. Specifically, in 2017, it set a Key Performance Indicator (KPI) that the workforce composition of all of its major labour hire suppliers across its Minerals Australia business be at least 40% female. BHP monitors supply chain diversity in Australia via an online tool that collects and tracks Indigenous procurement and diversity metrics (including female employment) from its contracting partners. The data tracks against contract incentives and tender evaluation criteria, and helps to identify and reward supply partners who are meeting KPIs'.[12] Their research shows that inclusive and diverse teams have 67% fewer recordable injuries, 28% lower unplanned absences and 11% higher planned and scheduled work delivery.[13]

In 2017 HESTA implemented a scheme to support gender diversity across its 'investment value chain, which comprises of internal investment operations, external "suppliers" of investment management services, and the companies in which it invests'.[14] Today HESTA's Supplier Code of Conduct states that 'suppliers foster gender balance and greater diversity in the workforce'[15]. In 2018 HESTA surveyed gender diversity within teams of investment decision makers in 70 external firms and found that women represented 17% of investment roles[16], in 2023 that had increased to 24%[17].

International Best Practice

Strengthening the procurement principles aligns Australia with our international obligations. Under the 2030 Agenda for Sustainable Development, which Australia endorsed in 2015,[18] Australia is expected to 'promote public procurement practices that are sustainable, in accordance with national policies and priorities'.[19] Similarly, it is critical to recognise that 'public procurement represents a significant portion of GDP...across OECD countries'.[20]

One of the WTO's gender equality priorities is 'promoting gender-responsive trade policy making.'[21] The organisation recognises that 'trade policy can affect men and women differently, with women facing higher obstacles to taking part in the global economy and world trade.[22] Similarly, the WTO acknowledges the benefits of gender responsive policy arrangements, in increasing women's participation in the labour market, improving countries' productivity and trade opportunities. Which in turn can foster 'greater economic diversification, innovation and poverty reduction'[23]. The organisation considers trade to have a fundamental 'role to play in driving economic growth by supporting women's empowerment and advancing gender equality'[24].



United Kingdom

In the United Kingdom The Equality Act 2010 establishes a 'public sector equality duty' which specifies that authorities must have 'due regard to the need to:

'Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not.' [25]

The state drew on gender responsive procurement in order to advance equality objectives, when undertaking a construction project at the London Olympic Park Site.[26] The 'Women into Construction project' serves as an example of where the use of such instruments can contribute to equality goals. Women make up a small proportion of the construction workforce in the UK (1.3% of those in manual trades and around 16% of professional construction roles).[27] In this case, the Act proved to be an important tool in supporting efforts to address gender inequality in the construction industry. Specifically the use of gender responsive procurement measures were used as a means to achieve 'employment equality objectives'[28].

It was shown in this case that 'responsive equality legislation in the UK was central to the procurement of construction contracts in the London Olympic Park, which increased women's employment levels in construction, although numbers still remained low. Additionally, ongoing procurement demands from other public authorities provided a lever for the WiC project to engage with employers to address women's underrepresentation".[29]

Scotland

In Scotland there are various legislative frameworks that govern or guide procurement activities . Including the Public Contracts (Scotland Regulation 2015, The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 and the Procurement Reform (Scotland) Act 2014[30]. The latter of which ‘provides direction to public bodies and setting out procurement responsibilities and accountabilities’[31]

Specifically, it sets out ‘ sustainable procurement duty, community benefit requirements in procurement and fair work practices in procurement’.[32] The 2015 contract regulations forms an important part of Scotland’s procurement approach, establishing the ‘specific duties’ that public authorities are to follow. These include ‘when a public authority awards a contract or framework agreement on the basis of the most economically advantageous offer, it must have due regard to whether the award criteria should include considerations to enable it to better perform the equality duty’, similarly ‘when a public authority proposes to stipulate performance conditions in a contract or framework agreement, it must have due regard to whether the conditions should include considerations to enable it to better perform the equality duty’ [33].



Switzerland

The Swiss Federal Act on Public Procurement specifically focuses on gender responsive procurement stating that “Contracts shall only be awarded to suppliers that guarantee equal treatment of men and women in respect of pay for workers performing services in Switzerland”. Contractors are required to first, “assess their gender pay gaps using an assessment tool developed by the Swiss government, and second, rectify inequities in pay before bidding on government contracts.[34] Art. 6, para 4, Ordinance on Public Procurement The awarding authority may call for checks in respect of equal treatment of women and men. The task of conducting such checks may be assigned to federal, cantonal or local authority gender equality offices”. This approach has led to significant results: 50% of businesses which already checked their pay practice made corrections (mostly raising women's wages), and 34% of businesses have already checked if their pay practice respects equal pay obligations.[35]



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