THE TIME IS NOW TO ACCELERATE WOMEN'S PUBLIC PROCUREMENT

Case Study: Nigeria[1]

EAGER FOR STRONG COALITION

Nigeria wants a coalition to link women's groups around the country. The country is also focused on capacity building and trying to get traction with policy-makers.

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The Nigeria case study is adapted with permission from the International Trade Centre.

Nigeria recognizes the urgency to involve more women-owned businesses in the economy. The country intends to set up a program with concrete goals to implement gender-inclusive public procurement.

Who Regulates Public Procurement?

Public procurement in Nigeria accounts for about $5.5 billion each year. The Nigerian Public Procurement Act from 2007 established the Bureau of Public Procurement as the regulatory authority for the monitoring and oversight of public procurement.

1. Adapted with permission from ITC's *Making Public Procurement Work for Women*, published on November 11, 2020, and formally launched at Italy's 2021 Kickoff of the Women20 (W20) on February 22, 2021. The author of this case study is not indicated.

The Time Is Now To Accelerate Women's Public Procurement is a 23-part toolbox and call to action series created by USAID.

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How Are Women-Owned Businesses Involved In Public Procurement?

No statistics show how much the country spends with women-owned businesses. The consensus is that this does not reflect the representation of women-owned businesses in the Nigerian supplier market. The Nigerian government pursues gender equality in a wide range of programs. The Federal Ministry of Women Affairs and Social Development plays an important role in this, at both the federal and the state level, with its network of state commissioners. An official program or policy to establish gender-inclusive procurement has yet to be established.

The Nigeria Export Promotion Council (NEPC) runs several projects to match women entrepreneurs with potential buyers in specific market sectors, such as textiles and apparel, agriculture (e.g., spices, cashews, shea), and packaging and labelling. It is also a key partner of the International Trade Centre's (ITC) SheTrades Initiative, which includes an online matching platform, events and webinars for networking and skills development.

The Nigeria Export Promotion Council and ITC have worked together to develop a draft Gender-Responsive Public Procurement Policy for Nigeria.

Stakeholders including representatives of the Federal Ministry of Women Affairs and Social Development; the Ministry of Finance; the Ministry of Industry, Trade and Investment; the Bureau of Public Procurement, and several women's business associations participated in the stakeholder consultations, which took place from January 2020 to March 2021. Also contributing were the National Centre for Women Development, the United Nations (UN) Committee on the Elimination of Discrimination against Women, and UN Women. They shared their experiences, lessons and insights for improvement.

In-Depth Women's Public Procurement Case Studies

The Nigeria case study is one of five case studies demonstrating how five countries have worked on gender-inclusive public procurement—either on their own or in conjunction with international development and financial agencies. Case studies can serve as models of good and best practices, while providing important lessons learned and pointing to challenges to be identified and overcome.

The template used for the Chile-Compra, The Gambia, and Nigeria case studies were developed by the International Trade Centre for its recent publication, ***Making Public Procurement Work for Women*** (November 2020), profiling them as models. These three case studies are presented, with permission of the International Trade Centre. (Case studies can be found in Chapter 3 of ***Making Public Procurement Work for Women:*** Chile, pp. 28–29; The Gambia, pp. 30–31; Nigeria, pp. 32–34). Introductory statements and/or footnotes have been added for the case studies.

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The Nigeria Public Procurement Act 2007 established two regulatory authorities, the National Procurement Council and the Bureau of Public Procurement.

What Do Laws And Policies Say?

The Nigeria Public Procurement Act 2007 and two public procurement regulations are in place. The Act established two regulatory authorities, the National Procurement Council and the Bureau of Public Procurement, situated in the federal government.

The National Procurement Council is in charge of the monetary and prior review threshold to apply the Act. The Bureau of Public Procurement provides a legal and institutional framework and professional capacity for public procurement to the whole of Nigeria. "Transparency" is a keyword in its objectives.

The Act determines that procuring entities may grant a preference margin to domestic contractors and suppliers of goods manufactured in Nigeria, in the case of international bidding contracts. **Neither the Act nor the Regulations provide preferential treatment for women.** In the opinion of the Bureau of Public Procurement, procuring entities have the possibility to implement a preferential policy, such as for micro, small and medium enterprises, though the Act and Regulations do not state it explicitly. Key stakeholders have validated the draft Policy, but they are not currently considering clauses to enforce gender-inclusive procurement.

Which Barriers Remain?

Businesses find procurement requirements to be excessive. Communication and training are required, and internet access is insufficient.

PROCURING ENTITIES

The main barrier experienced by women-owned businesses relates to excessive requirements. Businesses consider the request for audited accounts often to be unreasonable. They are **not allowed to submit joint bids in which the track record of one party qualifies for a combination or consortium of bidders. This stands in the way of gaining experience by teaming up with a more experienced partner.**

In the category "misfit tender design," closing markets for competition due to long-term agreements was deemed the most urgent barrier to address. Procuring entities should refrain from using long-running contracts that close the market for competition for an unreasonably long duration.

Tender documents and procedures are considered bulky and cumbersome. Women-owned businesses believe they should be simplified and explained better: how does the procedure work and how does scoring work? The government should play a role in communication and training on this subject, and entrepreneurs could support each

other. **Women entrepreneurs will benefit greatly from learning from more experienced businesses, such as in a mentoring program or through joint bidding.**

Governments need to address **late payment and gender bias.** A suggested quick win is to **use gender-neutral language in tender documents.** Unfortunately, participants also reported poor practices, including sexual harassment.

WOMEN-OWNED BUSINESSES

Communication with procuring entities needs great improvement. Access to information about upcoming tenders, the chance to ask questions that arise while drafting submissions and receiving an explanation about why a tender was not won should be part of standard procedures. Although such aspects are part of public procurement regulations, women-owned businesses note that practice differs from theory.

Limited internet access is a concern, as most women-owned businesses are not digitally advanced. At the state level, women's business networks can play a role in dispersing information. Participants in the policy dialogue agreed that women's business associations should connect because they are currently scattered.[2]

Women-owned businesses could be trained in tender procedures. Many female entrepreneurs find tender procedures inaccessible and complicated. Consequently, they never complete a full procedure, or they give up after their first bid is rejected without explanation.

Nigeria does not have a central register of women-owned businesses. This makes it hard for procuring entities to reach them and for women-owned businesses to connect and collaborate. The Bureau of Public Procurement explained that businesses can register for participation in government tenders. Many women-owned businesses are not listed in this register, but by doing so, they can become visible to procuring entities. Participants agreed that the **government and its procuring entities should be more proactive in their approach to bridging the gender gap;** relying on business registration through self-enrollment and on automatic enforcement of legislation is not sufficient.

Governments need to address late payment and gender bias. A suggested quick win is to use gender-neutral language in tender documents.

2. A new national coalition may be under development.

What Steps Are Being Taken?

Nigeria is keen to pursue gender inclusive procurement, through a preferential policy, with the support of the SheTrades Initiative. At the government level, several steps are required.

Determine which institutions will take the lead. One or a combination of government institutions must take ownership. Based on the series of stakeholder consultations on the draft Gender-Responsive Public Procurement Policy, participants agreed that **a program has to be put together at the federal level and applied to the whole of Nigeria.**

Draft an action plan. Once lead institutions are officially appointed, an action plan can be drafted. The Ministry of Women's Affairs and Social Development, NEPC, the Bureau of Public Procurement, the National Bureau of Statistics and others are committed to contribute.

Formalize the obligation for government procuring entities to purchase in a women-owned business friendly manner. This obligation would ideally be laid down in the Public Procurement Act or the Regulations.

Changing legislation will take a relatively long time, however, and is currently not being considered. Policy dialogue participants suggested **using a presidential executive order** as an effective instrument.

Decide whether a target will be adopted and what percentage this should be.

Adopt a definition of "women-owned businesses". Stakeholders agreed to adopt the definitions of *women-owned businesses* and *women-led cooperatives,* aligned with ISO IWA 34, to identify target groups that could benefit from the draft Policy.

Decide whether a target will be adopted and what percentage this should be. Stakeholders agreed on the target that 30% of all government purchasing spend will be on women-owned businesses/women-led cooperatives by 2026.

An advocacy group to represent Nigerian women entrepreneurs to push gender-inclusive procurement would be valuable. Women's associations are scattered throughout Nigeria and do not all know each other.

The TIME IS NOW for Women's Public Procurement. Read how the stage is set for action!

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