PUBLIC PROCUREMENT WITH A GENDER PERSPECTIVE

Achievements and challenges in the revitalization of women-led enterprises in Latin America as a driver of the post-COVID-19 recovery

EXECUTIVE SUMMARY

This Policy Brief aims to advocate government procurement processes as a tool for the recovery of women-led enterprises and, at the same time, promote entrepreneurship. The document identifies the main barriers faced by women upon competing in public tenders and provides examples of good practices in the region to operationalize the inclusion of women in public procurement and contracting in Latin America and the Caribbean. It also provides recommendations to leverage the power of State procurement as an opportunity to respond to the economic and social crisis caused by the COVID-19 pandemic and its particular impact on women.

INTRODUCTION

The Latin America and the Caribbean (LAC) region is facing an unprecedented challenge. The COVID-19 health crisis caused the worst recession in the region in the last 100 years, which led to a 9.1% contraction in the regional GDP in 2020. The pandemic burst forth in a complex scenario of years of low growth, rising poverty, and growing social tensions, exacerbated structural inequalities that already existed in the region, which is

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characterized by high levels of informality, lack of social protection and low productivity, and exposed critical constraints in the areas of health, education, and care.\textsuperscript{4}

But the crisis has not been gender-neutral. The pandemic has exacerbated the economic and social determinants of inequality faced by women\textsuperscript{5}, as well as the main structural causes of gender inequality\textsuperscript{6}, and has increased socioeconomic inequality. This is reflected in rising levels of poverty, an overrepresentation of women in poor households, rising female unemployment, and the exit of a large number of women from the labor market due to their presence in the sectors most affected by the economic slowdown caused by the pandemic. Its effects are compounded by the higher concentration of women in the informal labor market and micro and small enterprises, which have been heavily hit by the crisis. This situation limits their capacity to jump on the bandwagon of recovery due, among other reasons, to the persistent digital and financial gap. Added to this are the increased time women must dedicate to care tasks, higher levels of violence against women, the concentration of power, and the exclusion of women from decision-making processes of the response to the pandemic as a consequence of the reinforcement of patriarchal cultural patterns.

Gender equality is not only a fundamental ethical imperative but also a condition necessary to achieve long-term sustainable and inclusive development. Multiple studies show the economic, social, and political benefits of gender equality. If women had the same economic opportunities as men, the Global GDP would soar by 26%; in Latin America, that increase could be as high as 34% of the region’s annual GDP\textsuperscript{7}. Reports such as the Global Gender Gap Report 2020 of the World Economic Forum show that, in order to be competitive, countries will have to make gender equality part of their nation’s human capital development.\textsuperscript{8}

The objective of this Policy Brief is to advocate government procurement processes as a tool for the recovery of women-led enterprises and, at the same time, promote entrepreneurship in the context of the post-COVID-19 recovery. The document identifies the main barriers faced by women upon competing in public tenders and provides examples of good practices in the region to operationalize the inclusion of women in public procurement and contracting in Latin America and the Caribbean. It also offers recommendations to leverage the power of State procurement as an opportunity to respond to the economic and social crisis caused by the COVID19 pandemic and its particular impact on women.

\textsuperscript{4} Ibid.
\textsuperscript{5} UN Women has conducted numerous studies that synthesize the economic consequences of the pandemic, in addition to a policy briefs series to mitigate the effects of the COVID-19 health crisis on women and girls. See here.
\textsuperscript{6} ECLAC (2021). The economic autonomy of women in a sustainable recovery with equality.
\textsuperscript{7} McKinsey Global Institute -MGI- (2015), “The power of parity: how advancing women’s equality can add $12 trillion to global growth”.
PUBLIC PROCUREMENT AS A STRATEGY FOR SOCIOECONOMIC RECOVERY WITH GENDER EQUALITY

The response to the crisis the LAC region is facing requires governments to use all instruments at their reach to promote recovery. In this regard, one of the main public policy tools to achieve economic reactivation is that of goods and services transactions made by the public sector. The State has an obligation to fulfill its essential task of meeting the needs of citizens through the procurement and contracting of goods, services and works with transparent, inclusive, and sustainable processes. However, the design of public procurement policies has implications for the functioning of governments and the economy as a whole, and it can influence production and commercialization practices in certain sectors, industries, types of companies, or population groups. The proportion of public spending States allocate to public contracts is significant, a situation that positions them as economic agents with significant economic and political power.

Public procurement, on the other hand, accounts for 32.5% of the central government’s spending in OECD countries and 30% in LAC countries. At a regional level, these percentages range from 15% of the government’s total spending in countries like Argentina and Uruguay to 47% in others like Peru and Bolivia (IDB, 2017). Based on these figures, it is estimated that only 1% of the world’s public procurement contracts are received by women entrepreneurs.

One of the characteristics of LAC market of goods and services is that it is mainly conformed mainly by micro, small and medium-sized enterprises (MSMEs). MSMEs account for 99% of businesses in Latin America and generate 61.2% of jobs in the region, even though they only concentrate 24.6% of the production. It is also estimated that one out of three MSMEs in the region, approximately 1.3 million, is led or owned by women. Women manage between 25% and 43% of micro and small enterprises and 26% and 29% of medium-sized enterprises.

According to ECLAC estimates, the COVID-19 pandemic could lead to the closing of 2.7 million businesses, or 19% of the total number of businesses in the region. And this percentage could be as high as 21% in the case of microenterprises. The situation is particularly dire for women-led MSMEs concentrated in the economic sectors most exposed to the crisis and overrepresented in sectors where a more negative effect is expected in terms of employment and income. These enterprises face additional challenges to their survival or reopening, as they face more significant barriers to access financial resources and largely depend on self-financing.

11 DINI, Marco and STUMPO, G. (2020) MIPYMES en América Latina: Un frágil desempeño y nuevos desafíos para las políticas de fomento. CEPAL.
12 BID Invest (2019). WeForLAC Women Entrepreneurs for Latin America and the Caribbean.
In light of this challenge, public contracting is a strategic opportunity for women’s economic empowerment, considering it creates conditions that facilitate the participation of women-owned enterprises in public procurement processes. In this regard, gender-responsive procurement policies are a strategy to ensure processes for selecting goods, services, and public infrastructure consider their impact on gender equality and the empowerment of women. These policies seek to promote and guide procurement processes to favor the inclusion of women-led enterprises, particularly MSMEs, which can significantly increase their access to markets and economic opportunities, build their job creation capacity and increase their financial autonomy. This will not only contribute to women’s economic autonomy and the development of MSMEs, but will also create positive externalities, such as the development of the most feminized productive sectors, and encourage the formalization of small businesses, the creation of decent quality jobs, and the entry into the labor market of persons traditionally excluded from it.

However, for these processes to operate as catalysts, it is important to understand the obstacles that prevent women-led enterprises from participating in public procurement processes. Understanding these obstacles will make it possible to adapt and modernize public procurement processes to eliminate the structural barriers faced by these enterprises.

**MAIN BARRIERS OF ACCESS TO PUBLIC PROCUREMENT BY WOMEN-LED ENTERPRISES**

Understanding that women and men business owners do not have the same opportunities due to their differential situation is essential to executing gender-responsive public procurement programmes. The following are some of the main barriers of access to public procurement faced by women:

**Market barriers**

Women entrepreneurs and women business owners face unique challenges due to the existence of discriminatory stereotypes, policies, norms, and programmes that limit their access to human and financial capital and hinder their participation in more profitable sectors. The consequence of this situation is that their businesses are smaller and have a more limited growth potential than their male counterparts.

- **Women’s limited participation in the productive economy**
  - The barriers that limit women’s access to the labor market are the result of a series of historical biases and discriminatory gender mandates that segregate their participation in the labor market and limit their capacity to generate income, accumulate capital, and own assets. The sexual division of labor causes women to concentrate in less productive and more undervalued sectors. In addition, they are assigned different social functions, such as the social responsibility of unpaid care work, that limit the time they can dedicate to their personal and professional development.

- **Limited access to financial resources**
  - Women face limitations both in terms of access to credit and financial services. Women’s participation in formal financial systems have been traditionally

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limited for different reasons, including physical barriers (access to branches, digitalization of processes, inability to meet bank account opening requirements) and communication and service barriers (lack of knowledge and awareness of the gender gaps faced by women and the persistence of discriminatory stereotypes—the perception that providing financial services to specific women’s niches involves a high risk).\textsuperscript{17} These financial obstacles prevent women from fully participating in the formal economy and, therefore, in the supply chains of public administrations.

- **Limited access to new markets**
  - There are several factors that limit the size and growth of women-led enterprises. In addition to the above-mentioned lack of financing, women-led enterprises have less access to robust commercial networks and human capital investments, which prevents them from developing their full potential.\textsuperscript{18} The overrepresentation of women-owned enterprises in the MSME sector is also a barrier of access to markets and public procurement. Due to the smaller scale of their operation, it is difficult for them to meet requirements, or they lack the resources necessary to perform public contracts, which are often large contracts. In addition, the exclusion of women from entrepreneurial networks limits their access to information and opportunities in public procurement processes.

The majority of these barriers and obstacles are not precisely related to procurements systems but to associated subsystems and the economic model that has been predominant in the region. However, there are other barriers related to public procurement processes themselves that can be specifically overcome by reforming State procurement systems.

**Barriers resulting from public procurement processes**

To effectively increase the number of women-owned enterprises that participate in public procurement processes it is necessary to change public procurement policies and practices.\textsuperscript{19}

- **Inadequate national legislation and policies**
  - Poor interinstitutional coordination. No registration of women-owned businesses, lack of a clear definition of ‘what is meant by women-owned businesses, and lack of knowledge about gender inequalities and their expression in the economic landscape. Need for the training of public officials and certification or accreditation of women-owned businesses.

- **Limited access to information about public procurement processes and limited use of eprocurement**
  - Limited publication of tenders and lack of opportunities to consult information. In addition, the modernization of procurement processes via online platforms sometimes requires users to have a certain level of specialization and knowledge about ICTs, which poses an obstacle for many women entrepreneurs.

\textsuperscript{17} UN Women (2021). Finance for all women. Innovative experiences and initiatives for women’s financial inclusion and recovery with gender lenses in Latin America.

\textsuperscript{18} UN Women (2017). El poder de las adquisiciones: cómo adquirir productos y servicios de empresas que son propiedad de mujeres.

\textsuperscript{19} ITC (2021). Making public procurement work for women.
• Late publication of tender notices
  — Insufficient time to submit bids in complex tenders, a situation that mainly affects women-owned enterprises due to their significant family and care responsibilities, which limit their time availability.

• Misfit tender design
  — Complex, strict and non-transparent tenders, a major issue considering a significant number of women-owned businesses are informal. Design of tenders with excessive requirements and insufficient information. This complicates procedures and makes it difficult for women-owned businesses to comply with them due to their particular characteristics. There is also evidence of a lack of transparency on evaluation criteria to decide the award and/or comparisons of offers mainly based on price.

• Lack of awareness among public procurement officers
  — Lack of a gender perspective and knowledge about gender inequality issues and their impact on the public procurement process. This makes it difficult to promote the participation of women-owned enterprises in procurement processes.

• Poor government practices
  — Limited publication of information, lack of a single platform, payment delays, excessive information requests, and limited dialogue with procurers. For many entrepreneurs, this leads to the perception that public procurement practices are corrupt or rigged.

It is also important to correct structural failures related to access, information symmetry, and lack of knowledge of how the procurement system works and how to sell to the State. Another key aspect is designing procedures that respond to the market reality of small and mediumsized enterprises and their financing capacity, for example, by establishing reasonable payment periods, among other things.
There are currently two models to promote women’s participation in public procurement.

1. Models that do not incorporate affirmative actions but include policies that encourage institutions to purchase from women-led enterprises.

2. Models that include affirmative actions as part of their rules, which establish that a certain percentage of procurement budgets must be allocated to women and MSMEs.

The following are some examples of the implementation of these models in several countries in Latin America and the Caribbean:

**Chile**

Chile was one of the first countries to implement a robust procurement and contracting system in the LAC region. In 2003 they created a public procurement regulatory framework by means of Law 19.886 – Bases of Administrative Contracts for Supplies and Services, with the aim of making procurement processes for goods and services more efficient. They also created the Directorate of Public Procurement and Contracting (ChileCompra), which is part of Chile’s Ministry of Finance, as the public body in charge of administering public procurement. Their main role was the creation of a single public and free information system that combined the procurement processes of all public institutions with the aim of opening the State procurement market to users and potential suppliers through the www.mercadopublico.cl online platform.20

The initiative also sought to promote MSMEs’ access to procurement processes through framework agreements and facilitate procurement processes for them.

In 2014 they began developing a series of strategies to increase women’s participation in public procurement. Their intervention model was mainly based on an assessment and the design of a comprehensive action plan. The basis for the development of the plan was a supply-demand model21 that sought to: promote the participation of women-owned enterprises in the procurement platform (increasing the State’s demand for women suppliers), create more opportunities for women-owned enterprises to do business with the State, learn more about the characteristics of women

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suppliers (consolidation of the offer), and develop networks to increase and connect supply and demand. This was combined with changes in legislation, in particular with the passing of Directive No. 20, which states recommendations directed to public agencies to incorporate the gender perspective into public contracts and tenders. To facilitate the implementation of this directive, they created the Empresa Mujer (“Woman Enterprise”) certification programme to identify women-led enterprises operating as state suppliers, and established that institutions could include that certification as part of their bidding requirements for direct purchases of less than 10 “monthly tax units” (unidades tributarias mensuales, or UTMs).

As part of the measures to consolidate the offer of women-owned enterprises, a campaign was launched to promote the participation of women entrepreneurs with the hashtag “SiNosotrasGanamosChileGana” (“#IfUsWomenWinChileWins”). The campaign featured several success stories of women state suppliers.

**Dominican Republic**

In 2012 the Dominican Republic launched the “Dominican Sustainable and Inclusive Public Procurement Model,” a strategy that focuses on mainstreaming the gender perspective to increase and eventually achieve women’s equal participation as State suppliers. The objective of the model is to contribute to eliminating access barriers and providing equal opportunities. For the Dominican Republic, assuming this role from an inclusive, sustainable, and gender equality perspective required, on the one hand, leaving behind the traditional vision of the State’s procurement system as a clientelistic mechanism to favor particular interests and, on the other, adopting a long-term inclusive vision to determine the priorities of the system as a whole, incorporating largely excluded groups such as those of women, MSMEs and people with disabilities, while taking into account the system’s environmental sustainability.

The General Directorate of Public Procurement, the governing body of the National Public Contracting System (SNCP), led the process and became the first public entity to develop and implement a system focusing on the inclusion of women-owned enterprises and MSMEs in Latin America and the Caribbean.

Their experience was developed in the context of a law to promote the participation of MSMEs enacted in 2008, which establishes the State’s obligation to allocate 15% of the procurement budget of state ministries to purchases from of MSMEs, and 20% in the case of women-led MSMEs. To leverage this opportunity, they developed a strategy to identify women-led MSMEs and facilitate their access to and permanence in the market. The strategy included:

1. Assessment and promotion of the public market, bringing the national supply closer to the demand for goods, services, and works. Approaching women’s associations to gather information and targeted training depending on the sector.
2. Awareness raising actions, training, and technical assistance to all the system stakeholders, including government agencies or bodies, suppliers (particularly MSMEs and women), and organized or non-organized civil society in the territory.
3. Regionalization of public procurement in territories to revitalize their economies while reducing transportation, storage, and other costs (bring suppliers closer to their communities).
4. Citizen participation and partnerships through oversight commissions or other forms of organization (neighborhood associations, community-based organizations, etc.).
5. Identification and use of tools to bring the supply closer to the demand and identify opportunities: analysis of procurement plans of government agencies based on the National Budget; organization of public market business rounds, supplier fairs exclusively for women, and high-level meetings to bring suppliers closer to potential State clients.

6. Development of usage indicators for the Procurement Portal (SISCOMPRAS) to measure compliance with the government’s requirement to purchase from women-led enterprises and MSMEs as one of the priority objectives of government policies.

By August 2012, shortly after the strategy was launched, a total of 2,926 women had already registered as state suppliers. As of October 2020, there were 21,674 women suppliers registered, which accounts for 24% of the total number of suppliers registered in the system. The system increased women’s participation and the number of contracts awarded to women in emergency public procurement procedures to address the COVID-19 pandemic, with 22% of the processes awarded to women and enterprises.

**Colombia**

In Colombia, the government established different policy frameworks for the adoption of responsible public procurement behaviors. Decree-Law 4170 established the creation of the National Public Procurement Agency Colombia Compra Eficiente (“Colombia Efficient Procurement”). This agency has developed a series of tools to ensure the public procurement of goods and services follows the principles of respect for human rights incorporate responsible behavior criteria as part of their three sustainability pillars—social, economic, and environmental—in all the stages of the process. They also produced a Socially Responsible Public Procurement Guide that states a series of recommendations for procurement units. The guide suggests the use of social clauses to ensure inclusion by focusing on those individuals or businesses that must be included in the government’s procurement value chain. One of these social clauses must state that the supplier being awarded the contract must commit to hiring a certain number of women so they can become part of the contract value chain. Thus, women’s inclusion can be ensured through framework agreements applicable to a number of women suppliers or establish the supplier’s obligation to hire a particular percentage of women.

**Argentina**

In the city of Buenos Aires, a study on the state of Public Procurement showed that only 22.2% of the total number of individuals participating in public procurement as suppliers were women, but only 10.4% of them were awarded purchases or contracts. And only 10% of the businesses registered were women-owned enterprises. The study also showed the gender gap is wider depending on the economic sector and the type of contract. The supply of goods and services by women suppliers is concentrated in areas related to culture (28.2%), health (26.5%), and education (16.5%). Women-owned enterprises, on the other hand, are mainly concentrated in the area of health (80%). Regarding contracting modalities, “lower contracting” is the predominant modality both among women suppliers and women-owned supplier enterprises in the city of Buenos Aires.

To address these gaps, the city of Buenos Aires developed an initiative that combines four strategies: 1) affirmative action; 2) specific communication; 3) strengthening the

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design of the supply chain, and 4) commitment to the creation of an inclusive entrepreneurship ecosystem. One of the main actions of the initiative is the creation of the Empresa Mujer (“Woman Enterprise”) seal, a certification programme to identify women suppliers registered with the Single and Permanent Computerized Registry of Suppliers of the System of Procurement and Contracts of Goods and Services of the Autonomous City of Buenos Aires. The Empresa Mujer seal is a voluntary programme whose objective is to identify and promote women’s real participation in the public market and generate a significant impact on socioeconomic and environmental development, in addition to strengthening the participation of small and medium sized enterprises in procurement and contracting processes. To obtain the certification, 50% of a company’s capital must correspond to one or more women, or 50% of the company’s control and administration must be in the hands of women (Ciudad de Buenos Aires, 2019).

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RECOMMENDATIONS

In the LAC region, procurement systems have traditionally conceived the sourcing function mainly as an administrative or procurement function. The current challenge is shifting to a procurement model that makes a strategic, inclusive, and sustainable use of public resources and leveraging the power of the State’s procurement processes as an economic development tool to promote the participation of the most disadvantaged sectors by creating conditions to address market inequalities, including gender inequalities.

In this regard, governments can take advantage of their role as market regulators to contribute to the development of national productive sectors, including that of MSMEs and, more specifically, women-led MSMEs. We are talking about evolving from a “neutral” system to one that makes a strategic, inclusive, and sustainable use of public resources to achieve an impact on the productive fabric and, at the same time, promotes gender equality and women’s empowerment through capacity building and improving the quality of products and services of women-led enterprises. The following are several recommendations to achieve this goal:

• **Mobilize political will at the highest level** from the beginning of the experience, engaging high-level government authorities as champions, considering the system requires a strategic vision and organizational resources to develop a clear roadmap for activities required and a first-class team both in terms of their professional quality and their commitment to gender equality.

• **Design a strategic plan** led at the highest level that includes the different agencies or bodies involved in the execution of a gender-sensitive public procurement policy (especially those agencies or bodies responsible for: public procurement, planning, public investments, budgets, treasury, and industry and trade) to raise awareness about the importance of participating in the design of each country’s specific project, taking into account its reality.

• **Analyze information available in the procurement system** through the use of a gender approach to identify the individuals and companies registered with the Registry of State Suppliers (in case it exists) and, thus, be able to quantify women’s participation in public procurement processes, how they are participating and the number of processes and amounts awarded.

• **Process data related to women’s participation**, identifying the size of their businesses, their level of formalization, the number of jobs they create, and the sectors in which they participate.

• **Assess production in the territory** to ensure procurement processes include women-led enterprises and MSMEs in each region, revitalizing the economy of the territory and distributing the national budget equally.

• **Work together with Business Associations** to gather information to identify women-led enterprises that are legally incorporated but not registered with the Registry of State Suppliers (or its equivalent). In case these associations have not established a gender indicator, work with them so they can establish one.

• **Approach sectors with a majority of women-led enterprises** to share with them information about the State’s procurement needs, the government agencies or entities carrying out procurement processes and
budgets allocated, the amount they spend annually, procurement volumes, and the overall impact on the economy, to highlight opportunities for them in the public sector market. These meetings should also be used to share with women-led enterprises information about the operation of the public procurement system and how to participate in procurement processes.

- **Actively promote communication and connection with women entrepreneurs, women suppliers, and women’s associations** to build trust, promoting their participation and providing them with tools to access the public market.

- **Implement innovative measures to encourage registration and increase the participation of women-led enterprises and MSMEs in the Registry of State Suppliers, particularly in the context of emergency procurement and contracting processes, and promote trust and governance.**

- **Make the publication of tenders for small amounts mandatory** considering that, in principle, this is the kind of tenders that allow women-led enterprises and MSMEs to start participating in the public market given their low level of complexity and prompt payment terms.

- **Review the requirements to register as a State Supplier**, identifying those requirements that can be eliminated and those that facilitate the registration of women-led enterprises.

- **In the case of procedures**, consider the reduction and/or elimination of bid bonds, because most MSMEs and women-led enterprises cannot afford their cost, it is a requirement that limits their participation, and it also represents a barrier to access.

- **Set up a hotline to provide advice on the preparation of bids** for women-led enterprises, promote their association and increase their access to more complex tenders for larger amounts, considering most women-led enterprises are microenterprises with limited resources and operational capacity.

- **Develop tools to bring the supply closer to the demand** such as business rounds, a catalog of women suppliers (including the goods and services they provide), participation in national and international events to give opportunities of access to new markets, capacity building and development of women entrepreneurs associations.

- **Promote the use of e-Procurement and training for women and MSMEs on the optimal use of these platforms.** This will facilitate their access to the different stages of procurement processes, from submitting bids online to managing contracts and follow-up on payments, to mention just a few. Use consolidated information from e-Procurement tools to analyze, among other things, the information available by sector, indicators on the system’s progress, and the evolution of women suppliers’ participation (number of participants by process, number of contracts or purchase orders awarded and their amounts, and the sectors in which they are achieving better results, among others).

- **Develop a communication plan for all the system stakeholders** to share information about the government policy to promote public procurement with a gender perspective and periodically inform them of its objectives, indicators, and progress.

- **Design and implement training programmes for public servants** responsible for the implementation of systems, standards, procurement mechanisms,
and measures to ensure they are knowledgeable about these tools and their management and application and are fully aware of the impact of public procurement on women-led enterprises.

- **Develop sectoral strategies that** take into account the characteristics and needs of each sector to develop a tailored training and technical assistance programme, taking into account the feedback from the sectors selected and organized women’s groups, combined with an analysis of the system data.

- **Create opportunities for citizen participation** so citizens can learn about and monitor procurement and contracting procedures to promote social audits and accountability and contribute to transparency and the fight against corruption.