



ACT
Government

Women in Construction Procurement Policy

Discussion Paper

Procurement ACT
March 2023

Acknowledgement of Country

We acknowledge the traditional custodians of this beautiful country we have the privilege to call home, the Ngunnawal people.

We pay our respects to their elders, past and present, and the contribution they make to the life of this city and to its success.

We recognise the land known as the Australian Capital Territory has been occupied, used and enjoyed since time immemorial by Aboriginal peoples in accordance with their traditions.

Country is of spiritual, social, historical, cultural and economic importance to Aboriginal peoples and Torres Strait Islanders.

Aboriginal and Torres Strait Islander peoples are one with their country.

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Glossary

ACT- Australian Capital Territory

BEP- Building Equity Policy- Launched by the Victorian Government in 2021.

CIT- Canberra Institute of Technology

GST- Goods and Services Tax

MMR- Mandatory minimum requirement

Introduction

The building and construction industry has been making proactive changes to increase diversity and inclusiveness of women into their workforce. Despite the increased efforts, women make up only 25 per cent of the Australian construction workforce, compared to an overall level of 51 per cent across other industries.¹ Women and girls only comprise 2 per cent of tradespeople in the Australian construction sector over the past 30 years.² The gender pay gap in the Australian construction industry is 30.6 per cent - the largest pay gap in any Australian industry.³

The ACT Government is committed to leveraging its purchasing power to help address the gender imbalance in the construction industry and ensure there is a broad and diverse talent pool to support industry growth and profitability, ensure construction workplaces are inclusive of women, and narrow the gender pay gap to strengthen the economic security for women and their families.

The increase of women in the construction sector will play an important role in addressing skills shortages, increasing productivity, and work health and safety outcomes including the overall mental wellbeing of all employees. The ACT Government is supporting the training and development of women and girls to enter the construction sector as well as ensuring all workplaces are safe and inclusive.

With your help we want to develop a Women in Construction Procurement Policy (Policy) to help achieve gender equality in construction in the Canberra Region. This discussion paper invites key stakeholders that are most impacted by the Policy to collaboratively shape its development to ensure it is both achievable and impactful.

Policy Context

The Policy will support implementation of the *ACT Women's Plan 2016-26* by building on commitments in the *First Action Plan 2017-19* to 'establish procurement strategies that prioritise contractors with Gender Equity Strategies' and the *Second Action Plan 2020-22* to 'set a 10 per cent target for the proportion of women employed in the construction industry in the ACT and support the achievement of this target by setting a requirement through the ACT Government procurement policies'.

The Policy will also work in conjunction with existing measures in the Procurement Framework aimed at addressing gender inequality including the *Government Procurement (Charter of Procurement Values) Direction 2020* and the *Government Procurement (Secure Local Jobs) Code 2020*.

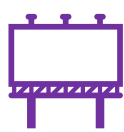
The Policy continues the ACT Government's commitment to initiatives that partner with industry and the education sector to further increase the number of women in construction. For example:

- **Canberra Institute of Technology (CIT) Campus Woden Construction Project** – where a commitment has been made in all aspects of the project to support women in construction.
- **Spark Project by Ginninderry** – An innovative training program to encourage more women to consider a career in the civil construction industry.
- **The Understanding Building and Construction Pilot Program** - that supports young women to pursue their passion of a career in construction.
- **The Women in Trades Grants Program** - that supports the implementation of eight Women in Trades Grants projects to assist over 70 women looking to pursue a trade.

¹ [2020-21 WGEA SCORECARD.pdf](#).

² <https://www.vic.gov.au/building-equality-policy>

³ See above n1.



Principles Guiding the Women in Construction Policy Development

Taking into account our context and commitments in the ACT Women's Action Plans, the following principles guide the goals and actions in the Policy.

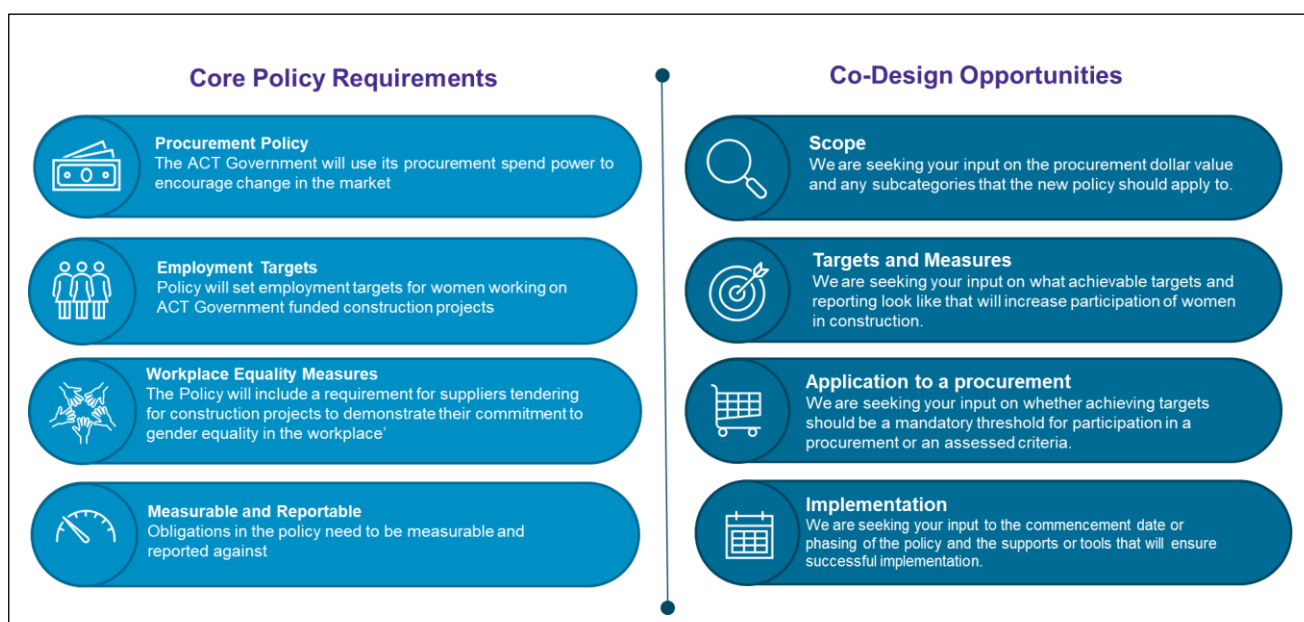


Figure 1: Women in Construction design Guiding principles

To meet the core Policy requirements the ACT Government plans to introduce two new requirements on suppliers for applicable procurements:

- gender-based employment targets, and
- evidence of gender equality measures in a supplier organisation broadly, or for the specific procurement (for example, a gender equality strategy, audits, policies or action plans).

This discussion paper seeks input on the aspects of the Policy that present opportunities for co-design and in particular the proposed targets and measures. You can read more about the specific commitments that guide the Policy in the [Women's First and Second Action Plans](#).

Policy Scope

The Women's Second Action Plan commitments included the setting of a target to apply to **all** construction procurements over **\$5 million**.

Consistent with this commitment, the Policy is proposed to apply to all construction procurements subject to the *Government Procurement Act 2001* (Act) that have a total estimated value, at the time of approaching the market, at or above \$5 million (GST inclusive).

The Policy is **not** intended to apply retrospectively to any procurements that have already been contracted or been issued to the market before the Policy commencement date.

Why are we proposing a \$5 million threshold?

From FY2018-19 to FY2021-22,⁴ infrastructure procurements with a value over \$5 million accounted for approximately 67 per cent (n=88) of all procurements over \$5 million (n=131). Over \$2 billion worth of infrastructure procurements or 47 per cent of the ACT Government's procurement spend (for procurements \$25,000 or more in value) since FY2018-19 were above the proposed threshold.

The \$5 million threshold creates a balance between the cost associated with complying with the Policy for both buyers and suppliers, ensuring the Policy targets the types of respondents where the broadest change can be enacted (such as larger suppliers), while ensuring that the Policy captures the majority of construction procurements.

Targeting lower-valued construction procurements may not strike such a balance and may affect the overall efficiency of the procurement process for construction procurements.

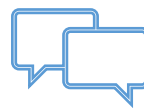
The scope is proposed to apply to all construction related procurements within the

meaning of the *Work Health and Safety Regulation 2011*, section 289. However, it would not include consultancies, planning and design activities carried out prior to commencing the work or off-site from the works.

What other jurisdictions are doing

The Victorian Government launched the Building Equality Policy (BEP) in 2021 and aims to create training and employment opportunities for women in the construction industry.

The BEP applies to all publicly funded construction projects valued at \$20 million or more. The financial thresholds refer to the total budget allocated over the life of the project excluding GST and not the value of individual contracts.



We Want to hear from you

- Is the proposed threshold for the Policy to apply to construction procurements at or above \$5 million about right, too high or too low?
- Should the Policy apply to all construction work or only certain subcategories? If so, what subcategories should be included in scope?

⁴ All figures stated in this paragraph are derived from the Notifiable Contracts Register as at

05/05/2022 and do not include contracts that are under \$25,000.



Targets and Measures

The Women's Second Action Plan Action recommended a 10 per cent target for the proportion of women employed in the ACT construction industry. Through initial stakeholder engagement⁵, it was identified that a single target may not achieve the intended outcomes of more women in trade labour roles and new jobs for women in construction. Construction organisations have historically relied on a higher percentage of women in administration roles to fulfil this requirement which does not create or promote women in trade or leadership roles. To ensure the target addresses gender equality, particularly in trade and leadership roles, the ACT Government proposes sub-targets within these roles to ensure industry creates or promotes women into trade and leadership roles.

The Policy may provide suppliers with the choice of either contract-based or organisation-based targets. This will offer a degree of flexibility for respondents tendering for government construction work and may result in a more appropriate target for organisations to tailor their workforce, depending on the circumstances surrounding the works. In particular, this may benefit respondents with multiple ACT Government contracts and also avoids employees who identify as women being arbitrarily moved between projects to ensure contractual requirements are met.

Further for construction procurements with a total estimated value of \$10 million or more and an anticipated contract term of 3 years or more,

⁵ Procurement ACT conducted a workshop at the Women in Construction Implementation Conference, hosted by the Office for Women, in December 2021

the Policy proposes an additional apprenticeship target requirement for suppliers.

We understand that a large portion of the employees delivering ACT Government construction contracts are engaged through subcontractors. Therefore, it is proposed that targets may be achieved by using the supplier's direct workforce, their indirect supply chain (subcontractors) workforce, or a combination of both.

It is intended that after the Policy commences, the targets will be reviewed on an annual basis by the Office for Women and Procurement ACT in consultation with Major Projects Canberra and, where appropriate, will be adjusted to reflect current industry participation levels.

The ACT Government invites stakeholders to provide feedback on the proposed contract-based or organisation-based targets for the Policy including by suggesting alternative affirmative action measures.

Proposed Targets

Contract based targets

Suppliers may choose to achieve a contract-based target. These targets are based on personnel delivering the specific contract.

Contract based target: women will be required to perform at least **25 per cent** of the total estimated labour hours of the contract with at least **5 per cent** of the total estimated hours for trade covered labour and non-trade construction award covered labour⁶ roles performed by women.

⁶ Non-trade covered labour means: trainees and ancillary workers engaged by the Principal Contractor or sub-contracted to perform work

Organisational targets

Suppliers may choose to meet an organisational target. These targets are based on the Canberra Region-based full time equivalent workforce maintained during the contract term.

Overall workforce: Women must represent at least **30 per cent** of the supplier's workforce including:

- **Trade covered labour:** Women must represent at least **3 per cent** of all trade covered labour positions of the supplier.
- **Non-trade construction award covered labour:** Women must represent at least **7 per cent** of all non-trade Construction Award covered labour positions of the supplier.
- **Management/supervisory and specialist labour:** Women must represent at least **25 per cent** of all management/supervisory and specialist labour positions of the organisation.

Apprenticeship Target

For construction procurements with a total estimated value of \$10 million or more and an anticipated contract term of 3 years or more would need to achieve a contract-based target for apprenticeships.

Apprentice and Trainee Target: women are required to represent at last **20 per cent** of total estimated labour hours for registered apprentices and trainees performing the contract works.

Why are we proposing the above targets?

- Women make up **25 per cent** of the Australian construction workforce.⁷
- Women make up **2 per cent** of all trade covered workers in Australia.⁸
- Women comprise **13 per cent** of all management positions in the construction industry.⁹
- Women currently represent around **28 per cent** of all apprentices and trainees in training nationally.¹⁰



We Want to hear from you

- Are the proposed targets feasible, and if not, what targets do you suggest?
- Should targets be based on headcount or labour hours?
- What practical challenges will suppliers face in achieving targets?
- Are the sub-targets (e.g. trade, non-trade, management) the right ones? What would other sub-targets be?
- Does the choice between contract and organisational targets provide sufficient flexibility while still achieving the objectives of the Policy?

⁷ See above n1.

⁸ [Trade pathways for women | NSW Government](#).

⁹ [Australia's gender equality scorecard 2019-20 \(wgea.gov.au\)](#).

¹⁰ [Women win under the Morrison Government's record skills funding | Treasury Ministers](#). This figure includes all apprentice across all industries not just construction-related apprentice roles.



Application to a procurement

There are several approaches that could be adopted to embed the requirements into the procurement process to achieve the Policy outcomes.

One option is to make the targets a mandatory minimum requirement – for example a supplier would have to meet the gender targets as a threshold criterion to tender for the relevant works.

Alternatively, targets could be an assessable evaluation criterion, where suppliers may not meet the target and still proceed in a procurement process but would be assessed based on how well they meet the targets. For example, a supplier that achieved or exceeded a contract target of 25 per cent women delivering the work would be assessed more favourably than a supplier that only offered 10 per cent female participation in delivering the contract.

What procurement employment targets look like in other jurisdictions

The Victorian Government BEP

Gender targets for applicable procurements are a mandatory minimum requirement.

Commonwealth Government Indigenous Procurement Policy

For certain Commonwealth contracts relevant Commonwealth entities are required to include targets for minimum Indigenous employment or supply use. These targets are referred to as the ‘mandatory minimum requirements for Indigenous participation’ or MMR.

The MMR requires suppliers to achieve a minimum percentage of Indigenous employment or supplier use (or a combination of both) on average over the term of the contract.

When tendering for procurements to which MMR targets apply tenderers must:

- outline how the MMR targets will be achieved within an Indigenous Participation Plan
- indicate if they have been subject to MMR targets previously
- declare their organisation’s current levels of Indigenous employment and supply use.

Each Tenderer’s Participation Plan, past performance and current levels of Indigenous employment are assessed as part of the tender evaluation.



We Want to hear from you

- Should the targets be mandatory minimum requirements or an assessable criterion?
- Should suppliers have to meet the target at the time of tender or can they commit to achieving the target over the life of the contract?



Implementation

The Policy is expected to be released in late 2023 with the commencement expected on 1 July 2024. This is to allow suppliers sufficient time to adapt their business practices and increase the participation of women in their organisation by the commencement date.

A range of guidance material will be developed to support suppliers and government buyers to implement the Policy such as a:

- Women in Construction Buyers' Guide
- template for Gender Equality Measures
- Guide to Suppliers on Enhancing Gender Equality in the Construction Industry.

To support monitoring of the Policy, suppliers will have a contractual obligation to report quarterly on their compliance with the targets. However, ACT Government buyers may adjust the reporting frequency to suit the nature and length of the contract.

Suppliers will need to provide the Territory with sufficient, accurate and current information to confirm compliance with employment target commitments. Compliance and monitoring would be the responsibility of contract managers.



We Want to hear from you

- Are there any barriers or risks with a 1 July 2024 commencement date assuming the Policy is released by no later than December 2023?
- Is there any specific support or guidance material that you think would support a successful implementation?
- What is the best way to monitor that suppliers have met/ maintained achievement of the targets?
- What barriers, if any, would suppliers face in meeting the contract reporting and monitoring measures?
- Are there existing reporting requirements that could be used to reduce the burden of new reporting requirements arising from the Policy?

Have Your Say

Procurement ACT is seeking feedback and input from stakeholders on the development of the Policy. Procurement ACT has a particular interest in stakeholder responses to the questions listed throughout the discussion paper.

To submit feedback or to set up a time to discuss any issues, please contact Procurement Policy and Capability via CMTEDDProcurementPolicyandCapability@act.gov.au

Stakeholders will also be consulted throughout future stages of development of the Policy.