

# Gender-responsive Public Procurement

## Light regime for social, health and other specific services

The 2014 EU procurement directives introduced what is known as the light regime for social, health and other specific services. The services covered include healthcare and social care, education and training, community and cultural services, and events organisation. A higher threshold and less rigid rules are applied to these services than to other fields, while contracts in some of these services can be reserved only for social enterprises under Article 77 of Directive 2014/24/EU (see "[Reserved contracts](#)"). It is possible to exclude cost considerations from the **award criteria** in light regime contracts; for example, in a contract for care services, the overall cost of the service could be set by the **contracting authority**, taking account of the need to ensure adequate rates of pay.

For GRPP, light regime contracts may allow a more collaborative approach to be taken to developing tender requirements and engaging with bidders, for example when a service is co-designed with one or more social enterprises/charities. This can help to ensure that gender equality elements are fully reflected in the subject matter and structure of the contract (e.g. that health services for women are delivered in a way that meets their needs). As many of the sectors covered by the light regime predominantly employ women, there is also an opportunity to set criteria relating to pay and working conditions that would improve the **gender pay gap** and **work–life balance**.

However, addressing issues such as discrimination and low pay may not be sufficient, in themselves, to bring about more gender-equal outcomes. Specific action may also need to be taken in terms of recruitment, training, promotion and the gender pay gap. Again, engaging with both service providers and unions or other social partners can help to target these concerns before, during and after the tender procedure. In some cases, it may make sense to award a contract or framework with an option to extend based on performance, to ensure that these issues can be addressed and that progress is monitored. If the service provider does not make adequate progress on the gender pay gap for workers delivering a contract, for example, this could be grounds for refusing to extend or renew the contract.

Finally, light regime contracts may have significant gendered impacts on the beneficiaries/users of the services, as well as on the workforce delivering them. For example, sporting services and services provided by youth organisations are both included under the light regime. Gender differences in terms of participation in sport and youth services may have a profound impact on mental and physical health. It is therefore important to ensure that these are reflected in the design and delivery of services by following the recommendations set out in this toolkit regarding **needs assessment**/user consultation, market engagement, tendering and post-procurement.

## **Examples of gender aspects in social and health service public contracts**

In **Sweden**, Stockholm County Council is committed to the provision of good healthcare on equal terms regardless of gender, and this is reflected in the terms applied in contracts. A precondition for entering an agreement with the council is that the caregiver has to follow the council's equality policy, which includes taking part in ongoing quality work and providing equal treatment for women and men in healthcare. Furthermore, in the evaluation of activities, all relevant data should be reported by sex and age<sup>[1]</sup>.

The use of the best price–quality ratio gives contracting authorities the opportunity to include specific quality criteria that are essential for the delivery of social and other services in which mainly women are working<sup>[2]</sup>. The awarding of a contract on the basis of the best price–quality ratio can take into consideration if the employee working conditions set out in a contract are intended to favour the promotion of equality between women and men at work, increase the participation of women in the labour market and/or help better reconcile employees' work and private lives<sup>[3]</sup>. To ensure that quality becomes an essential component in the awarding of contracts for social and health services that contribute to GRPP, quality should be given a weight of at least 50 % compared with other criteria such as price (value for money). Quality is essential for social and health services to meet the needs of both women and men<sup>[4]</sup>.

In **Norway**, Oslo has developed a strategy for the promotion of not-for-profit providers of healthcare and social care services (#WeBuySocial). The city council has adopted the Oslo model for the health and care sector (city council case 1006/19)<sup>[5]</sup>. This also applies to subcontractors. The workforce of the healthcare and social care sector is made up of a significant proportion of part-time workers (often women), which, in Norwegian municipalities, is on average two out of three. More women than men work reduced hours, while at the same time taking responsibility for child-rearing and domestic work. In spite of the positive impact of part-time working on work–life balance and overall life satisfaction for some, there are well-known career penalties for part-time workers, including lower status and pay and fewer training and development opportunities, as well as lower pensions upon retirement<sup>[6]</sup>. Long, rotating shifts and night work make it difficult to enforce full-time work requirements. For this reason, the municipality requires that contracted workers are as close as possible to full-time and that this objective is promoted whenever possible. This is in line with the International Labour Organization (ILO) concept of ‘decent work’, which includes working time arrangements that are healthy, are family-friendly, promote gender equality, advance enterprise productivity and facilitate worker choice and influence over their hours of work<sup>[7]</sup>. The city council also strives for the sector to be as inclusive as possible, enabling full integration into the job market of workers who may need additional support or accompaniment.

## **Mistakes to avoid**

Light regime contracts typically require a different approach from other contracts, namely one that reflects the nature of the service. Applying standard procedures and criteria should therefore usually be avoided.

Avoid assuming that addressing issues such as discrimination and low pay will be sufficient in themselves to bring about more gender-equal outcomes. Specific action may need to be taken in terms of recruitment, training, promotion and the gender pay gap.

Addressing gender issues only in terms of the workforce delivering the services or in terms of the service users will generally be insufficient – both need to be addressed (as Tools 7 and 8 illustrate).

### **Footnotes**

[1] See the Observatory of the European Charter for Equality of Women and Men in Local Life’s web page on gender equality requirements in public procurement <https://charter-equality.eu/exemple-de-bonnes-pratiques/gender-equality-...>.

[2] Eurostat, 2020.

[3] European Commission, 2016.

[4] See, for example from Social Platform, 2015, p. 21.

[5] European Commission, 2020b.

[6] Lyonette, 2015.

[7] ILO, 2019.