

Gender-responsive Public Procurement

Preliminary market consultation

The purpose of **preliminary market consultation** is to obtain a clear picture of which products, works and services are available and to inform economic operators about the upcoming tender. Preliminary market consultations can be used to scope out the market capacity to deliver gender-responsive outcomes, as well as to refine the **contracting authority** objectives. This can be done through informal or formal consultations with potential bidders, for example through supplier engagement events, questionnaires or direct contact. Under Article 40 of Directive 2014/24/EU, such consultations may be carried out provided that the principles of equal treatment and transparency are complied with.

When exchanging information with specific players in the market, you should determine whether they are aware of relevant differences between women and men in the context of the contract. In addition, you should also determine if they have ideas about how this can be taken into account during the performance of the contract. It may help to request that any data on groups of people are always disaggregated by sex.

The scope of market consultation does not need to be limited to potential bidders. It can also include the views and interests of potential users or organisations, such as NGOs, social partners, other public sector bodies and experts. For GRPP, for example, you may wish to consider including **gender equality bodies** and NGOs working on gender equality.

GRPP may also specifically encourage businesses and social enterprises owned and operated by women to participate in tenders, for example by explaining procedures, considering feedback and ensuring that the structure and size of contracts are appropriate to encourage maximum participation. In some cases, this may involve facilitating contact between different businesses and social enterprises to encourage the formation of consortiums/partnerships for the purpose of bidding for and delivering a contract. For example, in a contract for job placement services, recruitment companies may need to cooperate with organisations working with single parents or women who are survivors of gender-based violence, if these groups form part of the target population.

It is important to ensure that, in the course of preliminary market consultation, no unfair advantage or disadvantage is created for any party.

Examples of preliminary market consultations



Fictitious example. In a contract for cleaning services, meetings may be held with both the beneficiaries of the service (e.g. office workers) and the cleaners employed on the authority's

current contract, to identify and potentially apply working practices that may improve work–life balance. This could then be discussed with prospective bidders to identify any management or logistical issues to be resolved prior to launching the tender.

In contracts related to science, technology, engineering and mathematics, reaching out to the widest possible range of contractors – including those owned by women – may help to increase the participation of women in these areas.

In **Spain**, the City Council of Barcelona holds a stakeholders’ coordination meeting to identify all of the relevant actors for market consultation. In some situations, there are multiple experts or organisations that can be identified as relevant. The aim is to hold consultations that are intersectional to avoid creating tensions. While direct promotion of women-led businesses is not authorised by Spanish law, contracting authorities use dissemination to target women-led businesses in their tenders.

How to act

Provide ample time for the pre-market consultation to obtain meaningful input from multiple experts and actors, including gender equality experts and gender equality bodies.

Organise consultations with an intersectional approach to ensure the different interests of user groups are identified and taken into account.

Consider both the size and the diversity of the potential supplier market when organising a market consultation. If this includes many small organisations or those with less experience in responding to public tenders, you may need to allow time for one-on-one or small group meetings/consultations.

Mistakes to avoid

In all preliminary market consultations, and especially for GRPP, it is important to avoid speaking only to ‘the usual suspects’ (i.e. companies that have previously bid for or won similar contracts). The net should be cast more widely to ensure a gender perspective is included.

In some cases, small businesses or non-profit organisations may be concerned that larger bidders will ‘steal ideas’ – consider whether one-on-one meetings may be preferred to group sessions when this is the case.

Ensure that any information you make available at the pre-tender stage is also included in the tender documents to avoid giving an unfair advantage to any bidder.