



# **Gender Equality in Procurement Guideline**

**Guideline for suppliers and State agencies**

**July 2024**



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## DOCUMENT CONTROL & LICENCE TO REUSE

This document has been developed by the Department of Finance for use by State agencies that are subject to the [Western Australian Procurement Rules](#) and for use by suppliers when responding to the gender equality disclosure clause.

Refer to the Buying for Government page on [WA.gov.au](#) for more information about whole-of-government procurement policies, guidelines and templates.

If you have any queries or change suggestions regarding this guideline, contact Procurement Policy and Improvement at [procurementadvice@finance.wa.gov.au](mailto:procurementadvice@finance.wa.gov.au).

### Document Control Record

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# 1. Introduction

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## 1.1 Background

The Western Australian Government recognises that government procurement is a significant lever for achieving broader social outcomes for the community. The [Western Australian Social Procurement Framework](#) brings together relevant government social procurement policies and establishes key community outcomes for agencies to consider when undertaking procurement.

Gender equality is one of those key outcomes, reflecting the Western Australian Government's commitment in [Stronger Together: WA's Plan for Gender Equality](#) to advance gender equality through public sector procurement to promote and improve suppliers' gender equality policies and practices.

### 1.1.1 Gender Equality in Procurement Pilot

The Gender Equality in Procurement: WA Public Sector Pilot (Pilot), led by the Department of Communities with support from the Department of Finance, commenced on 1 July 2022 and ended on 30 June 2024. As part of the Pilot, organisations tendering for government contracts with participating agencies were required to answer questions about their workplace gender equality policies and initiatives.

The Pilot implemented the first step in gender responsive procurement in Western Australia. Data gathered during the Pilot indicated that the Pilot improved awareness and understanding of workplace gender equality.

As a result of the pilot outcomes, a gender equality disclosure clause has been permanently implemented in certain procurement documents from 1 July 2024. This disclosure clause is detailed in 1.3 Disclosure Clause.

## 1.2 Disclosure Clause

In accordance with [General Procurement Direction 2024/02](#), State agencies are required to include a gender equality disclosure clause in all goods, services, works and community services approach to market documents for procurements with an estimated contract value of \$250,000 and above. In accordance with the direction, the disclosure clause must be in the form prescribed in section 4 of the [Gender Equality in Procurement – Disclosure Clause](#).

The clause asks Respondents if they employ 100 or more people and, if so, to disclose whether they comply with the Workplace Gender Equality Agency (WGEA) gender equality reporting requirements, as required under the *Workplace Gender Equality Act 2012* (Cth).

## 2. Guidance for Suppliers

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This section provides information for suppliers on where to find relevant information about the disclosure clause.

### 2.1 Workplace Gender Equality Act Requirements

The *Workplace Gender Equality Act 2012* (Cth) requires both non-public sector and Commonwealth public sector employers with 100 or more employees to submit a report annually to the Workplace Gender Equality Agency (WGEA).

Refer to the [WGEA Reporting Guide](#) for further information about your organisation's eligibility, how to prepare reporting and completing the submission.

For further information about obtaining a letter of compliance, refer to [this webpage](#) on the WGEA website.

### 2.2 If you answer “No”

If you answer “No” to any of the questions in the disclosure clause, you should provide information as to why. Your Offer will not necessarily be set aside if you answer ‘no’, but the additional information you provide may be used as part of the value for money decision.

## 3. Guidance for State agencies

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This section provides information for State agencies on how to use and consider responses to the disclosure clause.

### 3.1 Procurement Planning

The inclusion of the clause should be referenced in procurement plans, where applicable, or equivalent documentation. Additionally, State agencies are encouraged to consider additional opportunities for gender equality when planning their procurement, in accordance with the Western Australian Social Procurement Framework.

### 3.2 Request Development

In accordance with [General Procurement Direction 2024/02](#), State agencies are required to include a gender equality disclosure clause in all goods, services, works and community services approach to market documentation for procurements with an estimated contract value of \$250,000 and above. Table 1 below provides guidance to help State agencies comply with this requirement.

#### 3.2.1 Table 1: Procurements required to use the clause

Type of Procurement	Instruction for Insertion	Document and Link
Goods and Services	The clause has been included in goods and services Request templates for procurements valued at \$250,000 and above.	<ul style="list-style-type: none"><li><a href="#">Request</a></li><li><a href="#">Request - ICT, CUA, Group Buy and/or Panel Arrangement</a></li><li><a href="#">Request - Cleaning</a></li></ul>
Community Services	The clause has been included in community services Request templates for procurements valued at \$250,000 and above.	<ul style="list-style-type: none"><li><a href="#">Community Services Template – Request for Tender</a></li><li><a href="#">Community Services Template – Request for Preferred Service Provider</a></li></ul>
Works	Agency project manager/contract developer will need to insert the clause in relevant documentation for procurements valued \$250,000 and above.	It is recommended that the clause is inserted in agencies' works documentation under "Form of Tender" or equivalent section.

Note that State agencies are not required to include the disclosure clauses in procurements valued below \$250,000, however they can choose to do so.

## 3.3 Evaluation of Offers

This section provides guidance for State agencies on how to consider responses to the gender equality disclosure clause.

### 3.3.1 Clause Objectives

The clause is intended to be a disclosure of information; it is not a qualitative criterion and therefore is not to be scored. The clause seeks disclosures of the Respondent's compliance with the requirements of the *Workplace Gender Equality Act 2012 (Cth)*.

This doesn't impose any additional obligations on respondents as standard contractual conditions require contractors to comply with all State and Commonwealth legislation. However, the data gathered will assist Finance to understand the degree to which gender equality is implemented across government suppliers and will inform Government decisions on promoting and improving gender equality in WA workplaces.

### 3.3.2 Value for Money Considerations

Information provided by Respondents in the disclosure clause will not exclude them from contract award but may form part of the final value for money decision. Whilst an Offer may not be set aside on the basis of the disclosure clause, that information may contribute to the holistic value for money assessment in the final analysis of Offers to determine which supplier will be awarded the contract.

If a Respondent indicates in its response to the clause that it does not comply with the requirements of the *Workplace Gender Equality Act 2012 (Cth)*, State agencies may wish to clarify if the Respondent is in the process of or intending to meet these legislative requirements. This can be done either during evaluation or as an issue to be resolved as a preferred Respondent.

If a State agency considers that the disclosure clause may contribute significantly to the evaluation process, then that agency should consider a separate additional mechanism to factor gender equality into its value for money decision making, as encouraged at Section **3.1 Procurement Planning**.

### 3.3.3 Evaluation Report

The project or contract manager will be required to capture the information collected through this disclosure clause in the relevant evaluation report and, where relevant, reflect its impact (if any) on the value for money assessment.

## 3.4 Contract Award

The project or contract manager will be required to enter the successful suppliers' responses to the gender equality disclosure clause in Tenders WA when publishing the contract. As mentioned at section **3.3.1 Clause Objectives**, the data collected via Tenders WA will help inform future gender responsive procurement measures.

## 4. Further Information and Advice

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### 4.1 Suppliers

If your query relates directly to the WGEA reporting requirements and/or how to obtain a letter of compliance, you should contact WGEA directly as per the instructions on the [WGEA Reporting Guide webpage](#).

### 4.2 State Agencies

If your question is of a procurement practice nature, you should contact your State agency's internal procurement team in the first instance.

If your query relates to General Procurement Direction 2024/02 and its associated disclosure clause, you can contact Finance for further advice via [procurementadvice@finance.wa.gov.au](mailto:procurementadvice@finance.wa.gov.au).