

Policy Brief

Key challenges facing women seeking government tenders

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This policy brief draws on evidence from an in-depth Kenya Country Study conducted by Strathmore University Business School researchers. The research project² focused on the *effectiveness of the Access to Government Procurement Opportunities (AGPO) initiative in enhancing women's participation in public procurement and promoting their empowerment*. Based on evidence from 25 counties, a key finding is that the AGPO initiative contributes to women's empowerment. However, some barriers limit women from actively participating in and fully benefitting from the AGPO programme. This brief delves into specific barriers that undermine women's participation and highlights gender responsive interventions that can help the government to achieve gender equality in public procurement.

Introduction

The Kenyan government launched the Access to Government Procurement Opportunities (AGPO) programme in 2013. The AGPO programme is founded on the *Constitution of Kenya, 2010* Article 227 on the fair, equitable, transparent and cost-effective public procurement of goods and services, Article 55 on affirmative action and the Public Procurement and Asset Disposal Act, 2015. AGPO requires all government procuring entities to allocate at least 30 per cent of their procurement budget to women, youth and persons with disability. The aim is to empower these groups economically through participation in Government procurement. This policy brief highlights the barriers that women continue to face ten years after the implementation of the AGPO programme and proposes some interventions to enhance its uptake.

Methodology

Twenty-five counties were selected for the study. A sequential mixed method was employed. The first stage involved quantitative data collection using questionnaires from 1,591 women entrepreneurs in three categories:

- I. Those who had been awarded AGPO tenders
- II. Those who applied for AGPO tenders but were unsuccessful
- III. Those that are not AGPO-registered, although they are eligible to register.

This was followed by focus group discussions with 370 women entrepreneurs to gather insights into some of the findings from the quantitative research.

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Additionally, interviews with The National Treasury, and the regulator, the Public Procurement Regulatory Authority (PPRA), provided insights into the findings.

Barriers to gender responsive procurement in Kenya

Despite an existing legal and regulatory framework and efforts to increase women's participation in public procurement, the value of procurement awards made to women-owned enterprises continues to be lower than expected (Hivos, 2017). Several barriers are preventing women from fully participating in Kenya's public procurement system. These barriers may be categorised as capacity, complexity, cost, communication and corruption (5Cs), and payment delays.

Capacity

Capacity entailed both technical and financial. On the technical capacity, the entrepreneurs indicated that they lacked the expertise to understand tender documents and/or meet the requirements. Additionally, there was inadequate training on AGPO, and difficulty in accessing the training opportunities available, either because the venues were inaccessible, or the timing did not fit with the entrepreneurs' schedules. Many of the enterprises did not have access to sufficient technical staff required for some of the contracts, such as those in construction. On financial capacity, the key issue was inadequate financial resources to service tenders. Moreover, some contract sizes were too large and required a high capital outlay. This is what the women entrepreneurs said:

Tender applications take a long time because most women don't have the requisite skills and knowledge of tendering. So, they have to hire other people to apply for the tenders on their behalf which is also expensive (Bungoma).

Cost

Some women perceived AGPO tendering to be a costly affair. This is how they expressed it:

It is expensive – costs could run up to Kshs. 50,000 because of the required documents that must be submitted in multiple copies, and one needs to make follow ups to find out if they won the tender. And after delivering the service, one needs to follow up to ensure they get paid. This makes AGPO tendering very costly (Kajiado).

Complexity

Many entrepreneurs described completing tender documents as complex, and at times confusing. Long documents that require several hours or days to complete, as well as the need to submit many documents, made the process cumbersome. They explained that the larger the contracts, the more complex the tender requirements were. This might also explain why some women entrepreneurs opted for lower value tenders. This is what the women entrepreneurs had to say:

The number of documents one is required to submit for tenders can be overwhelming. The documents are also very long. One needs a lot of time to first understand the requirements and then to put together a good bid (Kiambu).

Communication

About 80 per cent of the sample of non-AGPO registered women entrepreneurs cited lack of information as their reason for not registering. This was expressed in various ways.

Some women entrepreneurs had never heard of AGPO.

People at the grassroots are not aware of AGPO. We are very surprised that something like this exists (Trans Nzoia).

Other women entrepreneurs were aware of AGPO but did not have the right information.

Our county government is telling women to form groups to access AGPO tenders. But AGPO is not for women groups. So, county leaders are giving misleading information (Kitui).

Others had heard of negative experiences from their peers which discouraged them from registering.

I have heard a bit about AGPO but never followed it up because of what I have heard about it. I heard that entrepreneurs are awarded tenders from the county government, but they are never paid, so they become poor instead (Nyeri).

Finally, some were discouraged because they did not get feedback on their tenders.

I have applied for tenders several times without being successful. I've never been given feedback on where I failed (Makueni).

Corruption

Corruption was the most cited challenge by the women entrepreneurs. This was manifested in various ways. Examples, were unfair tendering processes where tenders were awarded to the same enterprises repeatedly, asking for bribes, sexual harassment, and being expected to know someone in government for one to get a tender award.

The tendering process is very corrupt. It is very difficult to be awarded a tender without giving a bribe. The procurement officers usually ask for a certain percentage of the tender value to be paid upfront before being awarded the tender. While it is bad to be involved in corruption, you cannot be awarded a tender without "soiling" someone's hands. You can never get awarded a tender without knowing someone. You must be connected to either the Governor, a Member of Parliament, a Member of the County Assembly, or a member of the County Executive Committee. For example, if you campaigned for a politician, they can reward you with a tender award (Baringo).

When women entrepreneurs go to look for tenders, some men take advantage and request sexual favours before they can award them tenders. We have lost some tenders because we wouldn't give in, but some women do. This results in a bad image that portrays all women involved in government tendering as exchanging sexual favours to secure tenders. You can see how government tenders can bring problems at home if your husband does not trust you (Kisii).

Payment delays

Another major pain point for women entrepreneurs was related to delayed payments. First, they reported being asked for kickbacks before their payments could be processed.

I got my first tender from the county government soon after AGPO was launched in 2013. I supplied them with tents. I was told I would be paid the following week, but that did not happen. Thereafter, I was promised to be paid the following week, and this went on until I got tired and stopped following up. I was told I needed to give an incentive for the payment to be processed, which I didn't. In the end, I gave up. I've still not been paid (Embu).

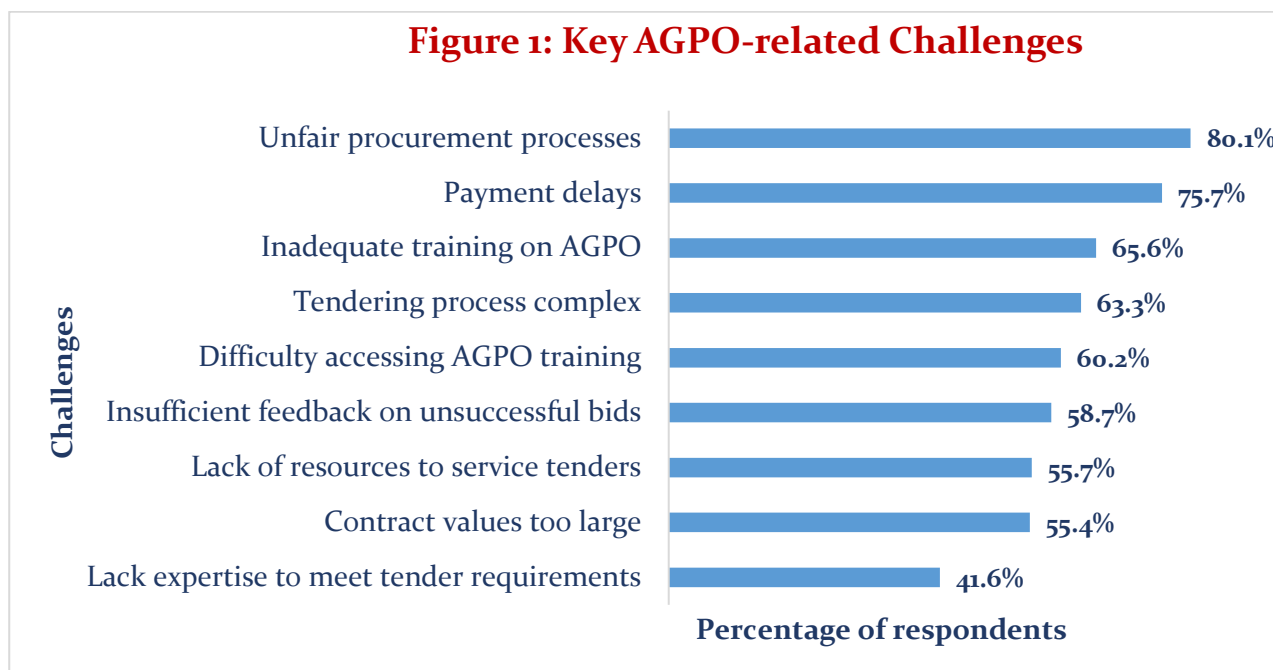
Second, delayed payments make it difficult for women entrepreneurs to get finances to service other tenders, repay their loans, or pay their tax obligations.

The County Government is notorious for not paying suppliers on time. So, if one had taken a loan to repay in 90 days, and the payment doesn't come for 6 months to a year, interest accrues on the loan, and by the time payment comes, all the profit is taken up to pay for the interest and penalties for late payment on the loan, as well as tax arrears and penalties for late tax payment (Machakos).

Third, at the county level, whenever there is a change in government, those who supplied under the previous regime may wait for a long time and may eventually not get paid.

If there is a change in the county government before you have been paid your dues, you can forget about that payment. I'm still waiting to be paid from the previous regime (Mombasa).

The key challenges analysed from the survey data are presented in Figure 1 below.



The key systemic challenges in the procurement process were unfair procurement process (corruption, lack of transparency), complex tendering process, insufficient feedback on unsuccessful bids, and payment delays. The other challenges were related to the woman entrepreneur. These included inadequate training, difficulty in accessing training opportunities, lack of financial resources and lack of technical expertise. These can be addressed through various technical, financial and human capacity building initiatives.

Policy and Practical Interventions

The women entrepreneurs proposed some interventions that could make AGPO more accessible and improve uptake:

1. Ensuring that the procurement process is fair and transparent, including providing meaningful feedback to successful bids, and allowing sufficient time between a call for bids and the closing date.
2. Paying suppliers on time, and imposing penalties on procuring entities for late payments.
3. Creating more sensitisation campaigns on AGPO by the government.
4. Developing several capacity building initiatives. First, regular training on AGPO should be provided on multiple platforms including digital ones. Second, Huduma Centres should have a desk specifically to address AGPO-related needs. Third, there should be government-approved agents to help women entrepreneurs bid for AGPO tenders.
5. Providing multiple financing options for AGPO tenders. First, LPO financing should be readily available. Second, large contracts should be unbundled into smaller ones to increase uptake. Third, consortium bidding should be made possible through the law to allow multiple enterprises to bid together. Fourth, an AGPO Fund should be set up to allow for affordable and readily accessible credit.

Further Reading

Council of Governors (2018) *Tendering for public contracts: A beginner's guide for women, youth and persons with disabilities in Kenya*. Nairobi: CoG.

Hivos (2017) *Kenya's Efforts to Empower Women, Youth and Persons with Disability through Public Procurement*. The Hague: Hivos.

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