



Policy Case Studies on Inclusive Business

Policymakers have expressed interest in learning from peers that have already begun to support inclusive business through a variety of policy instruments. To support this request for knowledge-sharing, the G20 Global Platform on Inclusive Business developed a series of short pieces on various policy instruments, their design elements, implementation challenges, and lessons learned.¹

Preferential Public Procurement

Table of Contents

Introduction	2
Common elements and best practices	2
Case studies: Germany, Rep. of Korea, India, South Africa, United Kingdom	6
Implementation	11
Ideas for further research / knowledge gaps	13
References	13

¹ This document has been prepared in 2016 by the World Bank Group for the G20 Global Platform on Inclusive Business.

Introduction

What is the objective and purpose of preferential public procurement?

Public procurement is the process by which government and public entities purchase goods, services, capital and technologies for their own or public use. Government is the largest single buyer of goods and services in most economies, with expenditures by governments often amounting to 20% to 30% of GDP.²

This policy note describes options for public procurement preferences given to companies with inclusive business practices, thereby providing an incentive for companies to include the BoP in their value chains. This procurement preference could be part of a larger government-wide framework or a stand-alone initiative to support specific products or companies.³

Common elements and best practices

How does preferential public procurement work?

Preferential public procurement can support and direct public spending towards inclusive businesses. As a result, it can allow the government to act as an 'anchor buyer'⁴ for inclusive businesses, helping them build capacity and create reliable demand.

What are design options?

Several questions must be answered to determine the design of procurement instruments. First, what types of businesses is the preferential procurement policy meant to support? Is it intended to support businesses owned and run by people in the BoP? Is it intended to support businesses that may employ or provide goods to the BoP? Is it to support large corporations that leverage the BoP as suppliers? Will it require contractors to sub-contract services to businesses that engage the BoP? Procurement instruments can take a variety of forms, largely dependent on the answers to these and other questions about the objectives of the policy.

The design of the public procurement policy will affect the type of businesses given preferences in the award process. For example, many existing procurement policies give preferential treatment to SMEs. However, an inclusive business while potentially also qualifying as an SME could more likely be a large corporation capable of achieving economies of scale. Thus, in this scenario, preferential treatment for a large inclusive business may greatly enhance their ability to compete against large non-inclusive businesses for a government contract. Understanding the different types of companies encompassed by the inclusive business term will help policy makers determine effective procurement process elements

In scenarios with large corporate inclusive businesses, the business may not depend as heavily on the

² If designed in a decentralized manner, public procurement strategy can reach even the smallest communities, which is especially relevant in the agricultural sector. This is discussed in more detail later on in the note. Tewes-Grادل et al. (2013)

³ Ibid.

⁴ UNDP (2013).

government contract for their viability as a small SME might, but procurement policy can still create opportunities for the BoP in the large corporation's likely extensive value chain. In contrast, SME inclusive businesses can leverage public procurement tools to upgrade their capacities and find a reliable channel for their products.

In general, factors and steps that governments should consider when prioritizing their approach to inclusive business-oriented public procurement include:

- Start with a small range of prioritized products and services with a clear impact on the BoP. For example, select products or services for which BoP stakeholders are highly represented as suppliers or as consumers.
- Assess whether government spending in the targeted sectors, products, or services is significant enough to impact market demand and thereby change businesses' behaviour?
- Consider the availability and cost of inclusive business alternatives and make sure they are in line with the applicable public procurement rules and principles.
- Consider the availability of data on inclusive businesses. What level of effort is required to identify businesses that fit the policy's criteria?
- Consider the capacity of the contracting authority to put into action a workable, effective and efficient inclusive business procurement strategy.⁵

Inclusive Business Public Procurement Policy Strategies

Several commonly used preferential procurement strategies may be applied to inclusive businesses, although these remain rare in practice. These strategies include:

- Procurement set asides for inclusive businesses;
- Bid-price preferences;
- Procurement award criteria based on inclusiveness;
- Whole cost/full cost accounting;
- Improving ease of inclusive business' participation in the procurement process.

Procurement Set Asides for Inclusive Businesses

A "set aside"—essentially a quota— refers to a certain percentage of designated government procurement contracts or total spending reserved, or "set aside", for a targeted category of bidders that meet the preferential qualification criteria, in this case being considered inclusive businesses.⁶ The critical aspect of this approach is that there is a segregation of competition amongst targeted firms, i.e. ensuring that inclusive businesses would not compete against non-inclusive ones in the bidding process. This approach has been used around the world, often to support SMEs in the procurement process.⁷

⁵ Adapted from the broader Socially Responsible Public Procurement considerations from the European Commission's 2010 report on Buying Social and the International Institute for Sustainable Development's report on Sustainable Public Procurement. 'SRPP' means procurement operations that take into account one or more of the following social considerations: employment opportunities, decent work, compliance with social and labour rights, social inclusion (including persons with disabilities), equal opportunities, accessibility design for all, taking account of sustainability criteria, including ethical trade issues (6) and wider voluntary compliance with corporate social responsibility (CSR), while observing the principles enshrined in the Treaty for the European Union (TFEU) and the Procurement Directives. (European Commission 2010)

⁶ ADB (2012).

⁷ Ibid.

Bid Price Preferences

Bid price preferences can take one of two forms. First, a bid from an eligible business is discounted by a given percentage, such as by cutting their bid price by 5% because it meets the preference criteria, thus making it more competitive with bids from businesses that do not meet the criteria. The second method is to add a percentage of the bid price to the bids of businesses that do not meet the preference criteria.⁸ Either method has essentially the same effect although both cases may serve as an acknowledgement that the preferred businesses are unable to compete at the same price points as non-preferred businesses. This could lead to potential confusion over the goals of the inclusive businesses, which are generally meant to achieve market rate returns.

Procurement Award Criteria Based on Inclusiveness

Point schemes are often used to allow numerous factors—not just the bid price—to be taken into consideration when awarding procurement contracts. Additional points can be awarded to bidding inclusive businesses and/or points could be awarded to any business that proves some degree of engagement with the BoP or specific BOP sub-groups via the contract.⁹ Alternatively, it may be possible for a non-inclusive business to receive additional points should they subcontract through inclusive businesses or if they propose certain BoP capacity building activities. Making these types of possibilities known and explicit in the policy instrument could help foster business-to-business knowledge exchange and linkages between formal and informal parts of the economy.

Whole Cost/Full Cost Accounting

This policy option requires an accounting methodology that looks at the ‘whole-life costs’ or ‘full costs’ of the products and services being procured. These accounting methodologies are meant to capture the negative externalities of traditional business operations and the indirect costs those externalities end up placing on the government. Similarly, multi-year accounting frameworks allow contracting authorities to show longer term benefits from the procured goods and services.¹⁰ While conceptually attractive, in reality this policy is rarely implemented, even in advanced economies, due to the significant technical challenges in effectively estimating ‘whole cost’.¹¹

Improving Ease of Inclusive Business Participation in Procurement

Policymakers can improve the ease of procurement participation for inclusive businesses in a variety of ways, such as through outreach to known inclusive businesses or provision of financial assistance.¹² Another method is to streamline the application process to minimize administrative burden on participating businesses. This could include implementing an online application process, waiving application fees for qualifying businesses, etc. Yet another route focuses on providing technical assistance and training services to inclusive businesses interested in participating in the procurement process. This

⁸ Ibid.

⁹ ADB (2012).

¹⁰ Perera (2012).

¹¹ Ibid.

¹² ADB (2012).

could include training on management, finance, or other operational competencies that would improve inclusive businesses' competitiveness in the bidding process.

Because of the resources needed to develop a competitive bid for a government contract and the fixed costs associated with administration, it is often recognized that large businesses have an advantage over smaller ones.¹³ A range of cost-related barriers limit the ability of smaller inclusive businesses to participate in procurement process and should be taken into account when designing procurement policy instruments. These include:¹⁴

- Registration requirements
- Burdensome bid information and documentation requirements
- Costs of inspection requirements
- Protracted bid qualification, evaluation and award procedures
- Lengthy payment intervals after contract award, necessitating significant interim cash flows and financing costs
- Complex contract dispute resolution procedures

Policymakers should consult with inclusive business community directly to understand which obstacles pose the greatest impediments in the targeted regions and sectors, and to solicit businesses' own ideas for how these obstacles may be reduced. For example, unbundling large centralized procurement contracts into more localized contracts, especially in regions with high BoP populations, could enhance the ability of inclusive businesses to compete.¹⁵

What are success factors and prerequisites for implementing preferential public procurement?

Clarity in procurement criteria

Critical to the development and growth of inclusive businesses is an understanding of what inclusive business is and what it is not. Widespread awareness and clarity on definitions, identification criteria, practical guidelines, and monitoring systems for inclusive business remain limited. As such, the integration of social or inclusion criteria into procurement processes may present risks regarding unfair competition and open the door for corruption.¹⁶

For any preferential public procurement policy to be implemented effectively, clarity about the contract award criteria is critical for the long term success of the policy. The government needs to be able to consistently apply its selection criteria without perceived subjectivity. Bidding companies also have to understand what criteria they need to meet to be eligible for inclusive business procurement opportunities, such as a minimum share of their business being done with the BoP or the extent to which their service will benefit the BoP. Policymakers should consider whether the same criteria should be applied to both SMEs that are inclusive and large corporations that are inclusive, and consider how such decisions impact the goals and design of the procurement system.

¹³ ADB (2012).

¹⁴ Ibid.

¹⁵ ADB (2012).

¹⁶ Tewes-Gradl et al. (2013).

Political Environment

The existing policy landscape and political environment can significantly influence the success of the procurement regime. A UNEP report on Sustainable Public Procurement (SPP) found that the three largest drivers for a successful SPP system are:¹⁷

1. National legislation
2. Political and organizational leadership
3. Policy commitments

Other important factors include linking SPP policies to broader development goals.¹⁸ If leadership is not on board with the policy instrument, if the instrument is limited by national legislation, or if conflicting policy commitments exist, even well intentioned preferential procurement strategies may do little to support inclusive businesses.

Free Trade Agreement-Related Restrictions

A common example of potentially conflicting policy commitments relating to public procurement are the restrictions found in some free trade agreements. Depending on the agreement, public procurement process cannot prioritize a domestic company over a foreign company solely because the former is domestic – it must outperform the foreign company through costs and services provided.

For example, Article 1006 of the North American Free Trade Agreement (NAFTA) prohibits the use of offsets in the evaluation of bids. Offsets are defined as “conditions imposed or considered by an entity prior to or in the course of its procurement process that encourage local development or improve its Party's balance of payments accounts, by means of requirements of local content, licensing of technology, investment, counter-trade or similar requirements.”¹⁹ At the same time, many free trade agreements contain legal set-aside reserves that will allow for a national prioritization of SMEs in public procurement.

Case studies: Germany, Rep. of Korea, India, South Africa, United Kingdom

The following case studies illustrate examples of:

- Procurement set asides and bid price preferences for SMEs (e.g. India, China)
- Procurement award guidelines based on social criteria such as inclusiveness (e.g. Germany, France, South Africa, United Kingdom)
- Streamlined and/or increased ease of participation initiatives for SMEs (e.g. Rep. of Korea)

These case studies are not specifically focused on inclusive business, as such preferential procurement policies remain rare. Nonetheless, the approaches these policies use to support specific types of businesses may be applicable to the inclusive business context with appropriate modifications. The most important factor influencing a government's effectiveness in supporting inclusive businesses through public

¹⁷ Ibid.

¹⁸ Ibid. While this report may have been specific to SPP, inclusive business would fall under the umbrella term of SPP, making the report's findings relevant to an inclusive business procurement policy as well.

¹⁹ NAFTA (1994).

procurement is the contracting authority’s ability to distinguish an inclusive business from other types of business. As a result, implementing a public procurement policy in tandem with an overall approach for inclusive business could enhance the value of both policies.

Case 1: Germany – Social Criteria in Public Procurement

Policy instrument

Within the German public procurement framework, tenders are awarded to the “most economically advantageous tender” following the general principles of competition, transparency and non-discrimination. Following reforms in 2009, social and ecological criteria may also be considered in public procurement throughout the country.²⁰ This approach more effectively takes into account the full cost of the contract.

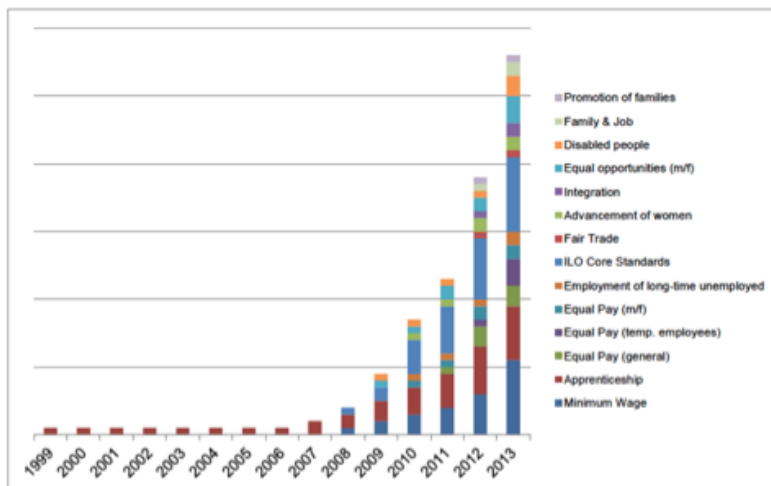
Policy Implementation

While some federal states in Germany have regulations which only include one or two social criteria (the most common being minimum wages and the compliance with ILO core labor standards), other states have laws including up to 13 different social criteria covering a wide range of issues. In general, social criteria can include “criteria that aim at structural economic features (e.g. the participation of SMEs or apprenticeships), criteria that aim to integrate disadvantaged groups into the labor market (e.g. the employment of long-term unemployed) and those meant to foster societal goals such as gender equality.”²¹

Effectiveness

Today, the following are among the criteria included in one or more federal states’ public procurement law: purchase of certified Fair Trade goods, the advancement of women and gender equality, the inclusion of workers with disabilities and long-term unemployed people, as well as measures to foster reconciliation of work and family life and the advancement of families.²²

Rise of Social Criteria used in Germany Public Procurement



²⁰ Sarter et al. (2014).

²¹ Sarter et al. (2014).

²² Ibid.

France: Social Procurement Criteria

In France, social or environmental criteria can be included in the public procurement process in order to pursue sustainable development objectives (Art 14 Public Procurement Contracts Code).²³ This includes clauses requiring the integration of persons previously excluded from the labor market, protection of the environment, and other objectives.²⁴ Various cities and municipalities in France have also incorporated social criteria in their procurement process. For example, the city of Paris has a responsible procurement policy which—among other items—gives preference to Fair Trade certified cotton use in all clothing procurements.²⁵

Case 2: Republic of Korea – SME Preferential Procurement

Policy Instrument

The Korean Public Procurement Service Authority (PPS) has several initiatives to increase SME participation in government procurement, primarily within Korea’s electronic procurement platform, Korea On-line E-Procurement System (KONEPS).

Policy Implementation

The following elements of Korea’s procurement regime are aimed at promoting SME participation and opportunities for success in the procurement award process:²⁶

- Advance payments to SMEs, as much as 70% of the purchase price.
- Waived fees for various bidding procedures for SMEs.
- An “SME Excellent Government Supply Products” award program to increase SME product visibility among all government suppliers, contractors and consultants.
- A Multiple Award Schedule for SMEs - a simplified process when making recurring, high volume purchases.

Effectiveness

Korea provides an exceptionally wide variety of incentives in its procurement policy framework. These include awards, access to financial services, and advance payment of contracts, among others. These are described as separate policy instruments within the G20 IB Framework, but the Korean case illustrates how these policy elements can be built into a single cohesive strategy to enhance the overall policy effectiveness, in this case preferential public procurement for SMEs.

Korea’s SME procurement policies have contributed to the following results:²⁷

²³ Public Procurement Contracts Code (2006). Cf. French government website.

²⁴ Public procurement contracts and access to employment for persons excluded from the labour market (2007). Cf. French government website.

²⁵ Fair Trade Cotton and Public Procurement. Cf. https://peopleandplanet.org/dl/french_case_studies.pdf

²⁶ Ibid.

- Over 2,000 SME products were listed in the 2008 KONEPS product catalogue (ADB 2012).
- In 2008, KONEPS contracted an estimated US \$9 billion, over 250,000 contracts, using the Multiple Award Schedule for SMEs described above.

China: SME Public Procurement Policy

In 2012, China's Ministry of Finance and Ministry of Industry and Information Technology outlined preferential procurement policies for SMEs in an effort to support SME development. Their elements include requiring government departments to:²⁸

- (i) Set aside at least 30% of annual procurement budgets for SMEs, with at least 60% of that amount reserved for small and micro enterprises;
- (ii) Apply bid-price preferences of between 6%–10% for SME applicants; and/or
- (iii) Encourage larger businesses to subcontract and form consortiums with SMEs and to provide bid-price preferences of 2%–3% in those cases.

Case 3: India – SME Preferential Procurement

Policy Instrument

In April 2012, the Cabinet of the Government of India approved the Public Procurement Bill which includes a set aside and bid price preference for Micro and Small Enterprises (MSEs).

Policy Purpose

The policy is meant to promote MSEs by improving their market access and competitiveness through increased participation in government purchases and encouraging linkages between MSEs and large enterprises. India hopes to stimulate demand within its own market for products produced by their own industries; IFC estimates the micro and SME sector in India account for 45% of industrial output and 40% of exports, comprising 30 million enterprises in various sectors employing approximately 70 million people.²⁹

Policy Implementation

This legislation sets an annual goal of procuring a minimum of 20% of goods and services from micro entities and SMEs in India.³⁰ It allows for prioritizing MSE bids if their prices are up to 15% higher than those offered by the competition.

Effectiveness

A review committee has been set up to monitor the policy's implementation and effectiveness. Since the mandatory set aside requirement did not come into effect until April 2015, and results of the monitoring efforts are pending.

²⁷ ADB (2012).

²⁸ ADB (2012).

²⁹ Government of India (2011).

³⁰ ADB (2012).

Case 4: South Africa – Disadvantaged Communities Preferential Procurement

Policy Instrument

South Africa has a preferential procurement policy to counteract unfair discrimination practices. This is coupled with the Broad-Based Black Economic Empowerment (B-BBEE) program, a voluntary certification through which businesses demonstrate the extent to which their operations contribute to empowerment of blacks in South Africa. In public procurement, contracting authorities must contract with businesses that comply with B-BBEE and can award points to suppliers that meet specific additional empowerment criteria.³¹

Policy Purpose

South Africa's procurement policies are designed to apply pressure on all suppliers and service providers to meet the standards for black economic empowerment. They are intended to "increase market access and procurement opportunities in general for black companies."³²

Policy Implementation

The Preferential Procurement Policy Framework Act (PPPFA) stipulates that when government assesses contracts, it must take into account a preference point system which prescribes functionality, price, and Reconstruction Development Programme (RDP) goals.³³

Policy Mix

B-BBEE extends beyond just public procurement. Objectives of the B-BBEE Act include:³⁴

- Promote economic participation of black people;
- Change the racial constitution of management and ownership structures;
- Increase access to economic activities, infrastructure and skills development as well as owning and managing of new and existing enterprises to communities and black women;
- Promoting broad-based participation in the economy by black people through investment programs;
- Facilitating access to economic activities by empowering rural and local communities;
- Facilitating access to finance for black economic empowerment.

Case 5: United Kingdom – Social Value in Public Procurement

Policy Instrument

The Public Services (Social Value) Act came into force on 31 January 2013. It requires "people who commission public services to think about how they can also secure wider social, economic and environmental benefits at the pre-procurement stage."³⁵

³¹ South Africa Preferential Procurement Policy Framework Act (2011).

³² DTI South Africa (2013).

³³ UNDP (2013).

³⁴ B-BBEE Act (2003). http://www.saflii.org/za/legis/consol_act/bbeea2003311/

³⁵ United Kingdom (2016).

Policy Purpose

The objective of this policy is to promote an understanding of the full impact of a contract and consider how their services can benefit the local community. As a result, the law opens up more opportunities for socially minded businesses, such as inclusive businesses, to deliver public services.

Policy Implementation

UK commissioners must consider how the services they procure might improve the economic, social or environmental well-being of the area and whether they should consult on these issues with local markets, communities, etc. to understand innovative solutions.³⁶

Three main barriers currently exist concerning the policy's implementation:³⁷

1. Awareness and take-up of the Act is mixed;
2. Varying understanding of how to apply the Act has led to inconsistent implementation;
3. Measurement of social value is not yet fully developed.

Effectiveness

The Cabinet Office's review of the Social Value Act found that commissioning for social value has had a positive impact:³⁸

- Over 60% of respondents to a survey³⁹ believed that the Act had a positive effect on the local community, 82% thought it had a positive effect on the local economy, and 72% felt it had a positive impact on local business.
- A wide range of benefits was reported in the survey, including financial investment and environmental improvements (66% each), use of local businesses in the supply chain (70%), employment of young and disadvantaged people (75%), and opportunities for training and local employment (83%).

Due to the broad scope of the Act, the Cabinet's review found that the Act was being used to drive a diverse variety of preferential procurement strategies based on local conditions.⁴⁰ The flexibility of the Act has allowed local communities to focus on those aspects of their economy and society in general they would most like to support.

Implementation

What results have preferential public procurement regimes achieved?

While the preferential public procurement policies have seen limited application to an inclusive business agenda, examples such as those illustrated above provide insight into how an inclusive business specific policy could be designed. The clearest outcome from these policies is increased government purchasing

³⁶ United Kingdom (2015).

³⁷ Ibid.

³⁸ Ibid.

³⁹ An online survey received 298 responses from a range of commissioners, providers, and interested members of the public.

⁴⁰ United Kingdom (2015).

from the target groups. However, full impacts are often unknown due to relatively recent implementation of many of the leading cases.

What are the barriers and risks?

Corruption

Corruption, especially in countries with weak institutions, can be a major issue in the procurement process.⁴¹ Evidence abounds of government officials choosing to contract with friends and family, or taking bribes from contractors to ensure a winning bid. This risk is especially relevant because corruption tends to maintain economic inequalities, limiting the ability of the large BoP populations to have any chance of being given a fair consideration for a contracting opportunity.

The issue of corruption can be exacerbated when complex criteria are used to determine procurement awards. Complex evaluation systems tend to allow greater discretion for decision-makers, enabling them to use this flexibility for their own benefit.⁴² Preferential procurement schemes can also be manipulated to facilitate ‘market capture’ or ‘rent seeking’ by vested interests, resulting in higher prices for goods and services as well as market behavior that undermines transparency and competition.⁴³

It is critical that the risk of corruption be considered in the design of any preferential procurement policy. Building on the base of strong instrument design, policymakers should also take care to transparently communicate the details of the instrument and the award process to reduce the potential for public misperceptions about the policy’s purpose.

Increased cost of procurement by engaging IBs that work with BoP

The potential for increased costs associated with preferential procurement strategies may pose political risks. It is important for outside stakeholders such as multilateral organizations to support policymakers in addressing the issue of increased purchasing costs and the need to demonstrate value for money. However, even with help, especially during the early days of policy implementation and when markets for inclusive business goods and services are in their infancy, procurers may not be able to purchase goods or services for the same purchasing price as their non-inclusive business alternatives. This may pose risks for policymakers in elected positions, and should be counteracted with strong public communication and transparency about the goals of the procurement preference policy. Proponents may bolster their support for preferential procurement by referencing the “whole cost” accounting systems to illustrate the wider social benefits of such policies

Risk Aversion

Government procurers tend to be risk averse when dealing with companies that have a limited track record. Government procurers may specify more stringent financial or experience requirements that may preclude newer and financially weaker inclusive businesses. Through application of such qualification

⁴¹ Corruption in general is a major issue for development given that it erodes trust, breaks down the rule of law, distorts market operations, diverts resources from where they are most needed, etc.

⁴² Tewes-Grادل et al. (2013).

⁴³ Ibid.

criteria, procurers also reduce work for themselves by not having to evaluate a larger number of bids from inclusive businesses with whom they may not have previously done business.⁴⁴

Ideas for further research / knowledge gaps

Given the scale of public procurement, governments have the ability to significantly influence local and national markets and effectively create demand for a type of good or service that may not have previously existed or that may have struggled to find reliable demand. This can potentially create new opportunities for inclusive business. In order to advance our knowledge of the role and effectiveness of public procurement systems to support inclusive businesses, the following is a sample of ideas for further research:

- There is a need to understand the impact of existing socially oriented procurement strategies. This could include analysis on the extent to which access to public procurement boosts the performance of businesses that are awarded contracts through preferential treatment.
- An in depth analysis of the costs of preferential procurement strategies compared to benefits would help inform current debates surrounding the appropriateness of these policies. Analysis should disaggregate results according to the type of preferential procurement strategy used including: set asides, bid-price preferences, award criteria, etc.
- How can we best define inclusiveness of business activities to determine who is eligible and who is not for procurement preferences?
- As noted above, inclusive business specific procurement policies have yet to be designed and implemented in specific country contexts. How will these policies differ from other preferential procurement regime described in this note?

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*Case study available at www.g20inclusivebusiness.org
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