

BUILDING EQUALITY

A woman wearing a white hard hat and safety glasses is working on a construction site. She is holding a thick, braided rope. The background shows a complex metal structure, likely part of a building under construction. The entire image has a blue color overlay.

**Building Equality
Policy 2023**

Objectives

The Victorian Government has implemented the Building Equality Policy (BEP) to create training and employment opportunities for women¹ through government procurement on building, infrastructure, civil engineering and any other capital works projects.

The Victorian Government is committed to increasing the targets and requirements in the BEP to create a more inclusive industry where everyone thrives as they feel safe, appreciated, respected, and valued.

Building equality through procurement

The BEP seeks to disrupt the existing gender stereotypes, norms and roles in the construction sector.

The BEP is comprised of three actions that seek to address the structural and cultural barriers women face. Contractors are required to:

- **Action 1** – meet project specific gender equality targets
- **Action 2** – engage women as apprentices, trainees and cadets
- **Action 3** – implement Gender Equality Action Plans (GEAPs).

Application

The BEP applies to all entities defined as either a public body or a department under Section 3 of the *Financial Management Act 1994*.

The BEP came into effect on **1 January 2022**. It does not apply retrospectively.

The BEP applies to all publicly funded construction projects valued at \$20 million or more. Where the procurement activity involves multiple, discrete packages of work, the total value of the activity is the combined value of all packages of work, and not the value of individual contracts.

¹ We acknowledge that our approach to gender equality must always be trans and gender diverse inclusive. We celebrate the critical role of trans and gender diverse people in the fight for gender equality. A person's gender is their own concept of who they are and how they interact with other people. Many people understand their gender as being female or male. Some people understand their gender as a combination of these or neither. A person's gender may or may not exclusively correspond with the sex they were assigned at birth. When we say women, that word always includes trans and gender diverse women and sistergirls.

Implementation, compliance and monitoring

The BEP is implemented through the Social Procurement Framework (SPF). The targets and requirements are incorporated in SPF buyer guidance, model contract clauses, and request for tender templates for construction projects.

Victorian government departments and agencies are responsible for implementing the BEP by incorporating it into tender processes and contracts. Once a project is underway, departments and agencies must ensure Contractors meet and report on their BEP commitments.

Contractors have a contractual obligation to ensure all subcontracting under the principal contract is contributing to the overall targets and requirements across the project.

The Building Industry Consultative Council provides a consultative forum for advice to government on the BEP and its implementation.

Transitional compliance period

In the 2022–2023 calendar years, the BEP was subject to a two-year transitional compliance period, which has been extended by six months to allow non-compliance to be managed through education and awareness.

Staged approach to non-compliance

From 1 July 2024, non-compliance will be managed using a staged approach:

- i. Compliance arrangements will be identified in the request for tender documentation and form part of the contract between Government and the preferred Contractor.
- ii. Contractors experiencing or anticipating difficulties meeting the BEP contractual obligations must notify the contract manager² as soon as practical. The notification must be in writing to the contract manager and include:
 - details of the BEP actions that cannot be met and reasons for non-compliance
 - evidence demonstrating the steps taken to meet the BEP obligations³
 - any other relevant supporting documentation
- iii. Contract managers will work with Contractors experiencing or anticipating difficulties and mutually agree an alternative appropriate obligation, including alternative actions or targets, to achieve suitable levels of compliance.
- iv. The contract manager must write to the Contractor to confirm the agreed alternative actions and set out the evidentiary and reporting requirements.

Contractors that demonstrate exemplary levels of compliance will be recognised by being placed on a register for high performing Contractors.

The non-compliance framework does not have retrospective application to contracts executed during the transitional compliance period.

² The contract manager is the person nominated in the contract as responsible for managing the day-to-day matters of the contract on behalf of the State.

³ The contract manager will determine whether the Contractors evidence is sufficient to demonstrate compliance with the BEP cannot be achieved. Example of non-compliance may include an undersupply of women in specific trade, non-trade, management and specialist roles.

⁴ Detailed guidance for contract managers and Contractors underpins the non-compliance clause to ensure there is a common understanding of the 'alternative appropriate obligations' that can be adopted to 'achieve suitable levels of compliance'.

Responses to non-compliance

Where agreement on alternative actions cannot be reached, the contract manager may determine this represents a breach of contract.

The State will take a graduated approach to responding to non-compliance and will consider the nature and severity of the non-compliance and the capability and capacity of the contractor to comply. Responses may include, but are not limited to:

- Placement on a register for increased compliance oversight and monitoring across the portfolio of projects the Contractor is currently undertaking for the department and/or agency.
- A formal warning from the responsible departmental Secretary and/or Minister.
- Further, more consequential, responses may be considered by departments and agencies in the future, after compliance and monitoring processes have been operationalised.

Evaluation

In 2023, RMIT was appointed to undertake a two-year evaluation of the BEP. The results and learnings from the evaluation will be used to:

- increase the annual percentage requirements for trade covered labour, non-trade Construction Award covered labour, management/ supervisory and specialist labour
- increase the annual percentage requirements for the engagement of women apprentices and trainees to perform building and construction work
- identify changes that are required to the GEAPs.

The evaluation is designed to ensure changes to the targets and GEAP requirements are realistic, achievable and reflect the needs of women. RMIT is also assessing any impacts the BEP has had on project delivery outcomes.

Building Equality Policy

Actions

ACTION 1

Requires Contractors to meet project gender equality targets

Targets alone will not address the cultural and structural barriers women face in the construction industry. However, effective long-term change will arise from setting targets at the trade, non-trade, onsite managerial/supervisory and specialist roles.

The implementation of the targets will be supported by Action 3 – GEAPs.

Contractors must meet the following minimum onsite targets for women:

- **trade covered labour⁵**: women are required to perform at least **3 percent** of the total estimated hours of work on the project for each trade position
- **non-trade Construction Award covered labour⁶**: women are required to perform at least **7 percent** of the total estimated hours of work on the project for each non-trade Construction Award covered position
- **management/supervisory and specialist labour⁷**: women are required to perform at least **35 percent** of the total estimated hours of work on the project for each position.

Contractors are required to provide women with equal access to the diverse roles available onsite. Contractors are encouraged to set aspirational targets that exceed the minimum requirements in the BEP.

⁵ Trade covered labour means: building and construction qualified trades and apprentices engaged by the Contractor or sub-contracted to perform work.

⁶ Non-trade Construction Award covered labour means: trainees and ancillary workers engaged by the Contractor and subcontractors to perform work on the project. Visit: www.fairwork.gov.au/employment-conditions/awards/awards-summary/ma000020-summary

⁷ Onsite managerial, specialist and supervisory means: People that spend 80 per cent of their time dedicated to a specific project, they may be engaged by the Principal Contractors or subcontracted to perform the work. Hours spent offsite that are directly related to the project delivery can be counted towards the targets. Who is not covered – Backoffice workers, managers and other professionals who are not onsite project-based workers of Contractors, or their subcontractors are not to be counted towards the targets.

ACTION 2

Requires Contractors to engage women apprentices, trainees or cadets

Contractors are required to engage women who are registered apprentices, trainees or cadets to perform building and construction work for a minimum of **4 percent** of the total estimated hours of work on the project.

Hours spent offsite for training and education that are part of the training contract are to be counted towards the **4 percent** requirement.

ACTION 3

Requires Contractors to implement Gender Equality Action Plans

When submitting a tender for government funded construction work Contractors are required to prepare and submit the following:

- Organisation Wide Gender Equality Action Plan
- Project Specific Gender Equality Action Plan

GEAPs provide a shared understanding of what actions need to occur to create gender equitable workplaces.

The GEAP requirements in the BEP have been updated to align with the gender equality indicators under the Victorian *Gender Equality Act 2020*. The indicators are:

- Gender pay equity
- Gender composition of the workforce
- Gender composition of governing bodies
- Workplace sexual harassment
- Recruitment and promotion
- Gender work segregation
- Leave and flexibility

Data informed approach to change

At the tender stage, an organisation wide GEAP must be completed. The organisation must gather data for each of the indicators and implement strategies to address gender inequality within the organisation.

At the tender stage, a project specific GEAP is also required. Tenderers must provide strategies under each of the indicators to address gender inequality during project delivery. Data is not required at tender stage it is required once the project commences.

The data collected through this process will serve as a baseline for improving gender equality within an organisation and during project delivery.

Gender Equality Action Plans – workplace gender equality indicators, minimum standards and guidance

The workplace gender equality indicators represent the key areas where gender inequality persists and where Contractors need to demonstrate progress towards gender equality.

Minimum standards for each indicator have been developed to assist Contractors to implement tangible and measurable strategies and actions to create inclusive workplaces.

INDICATOR 1

Gender pay equity

- **The gender pay gap is driven by several factors, including the unequal distribution of unpaid care work, higher rates of pay in male-dominated industries, and gender discrimination.**
- **By collecting pay data, Contractors can see where pay gaps are largest and create a strategy to address the underlying causes.**

Minimum Standards

- ✓ Set an annual target to eliminate the gender pay gap.
- ✓ Provide regular progress reports to keep the leadership team informed about progress to eliminate the gender pay gap.
- ✓ Set occupational salary bands⁸ and employ into them regardless of existing salaries.

Guidance

- ✓ Allocate a specific budget to eliminate the gender pay gap.
- ✓ Increase representation of women in leadership positions.
- ✓ Regularly review the workforce gender composition to improve gender equality.

⁸ Occupational salary bands are broad categories of pay that group jobs with similar responsibilities, skills, and qualifications.

INDICATOR 2

Gender composition of the workforce

- **The gender pay gap is driven by several factors, including the unequal distribution of unpaid care work, higher rates of pay in male-dominated industries, and gender discrimination.**
- **By collecting pay data, Contractors can see where pay gaps are largest and create a strategy to address the underlying causes.**

Minimum Standards

- ✓ Set annual gender targets to drive equitable representation across all occupational salary bands.
- ✓ Conduct workshops with employees and leadership to identify occupation-specific barriers to gender equality. Establish strategies, timelines and allocate tasks to eliminate these barriers.

Guidance

- ✓ The occupational salary bands must be determined by the organisation or project, based on its structure.

INDICATOR 3

Gender composition of governing bodies

- **Boards, committees of management and other governing bodies make important decisions about finances and strategy. It is important that governing bodies have diverse voices at the table.**
- **By collecting data on the gender composition of governing bodies, Contractors can create a strategy to ensure gender-balanced boardrooms.**

Minimum Standards

- ✓ Set annual gender targets to drive equitable representation for all occupations across the governing body and executive team.
- ✓ Conduct workshops with management and executive/board members to identify barriers to gender equality within leadership roles. Establish strategies, timelines and allocate tasks to eliminate these barriers.

Guidance

- ✓ Ensure that nomination and selection processes for the governing body are fair, transparent, and considerate of the gender diversity targets.
- ✓ Prior to the workshops, share data on the current compositions of leadership in the organisation. Have an external person that can facilitate the conversation, allowing for open discussion.
- ✓ Prioritise the barriers and annually review progress to eliminate the barriers.

INDICATOR 4

Workplace sexual harassment

- Sexual harassment in the workplace is common. It causes financial, psychological, and physical harm to victim survivors. It also has a significant economic cost to organisations and the community.
- **The systemic barriers to reporting sexual harassment include fear of reprisals or other negative consequences, lack of confidence in the reporting system, and a limited understanding of what constitutes sexual harassment.**
- **By collecting data on workplace sexual harassment, Contractors can create a strategy that is transparent and builds workers confidence to report experiences of sexual harassment**

Minimum Standards

- ✓ Conduct quality industry specific training for sexual harassment, discrimination, bullying and other forms of work-related violence for all workers with a focus on awareness, prevention, and reporting.
- ✓ Embed the Respect Code – *Building and Construction Industry* across the organisation and projects to ensure everyone knows their workplace legal rights and obligations.
- ✓ Implement an anonymous, impartial and victim centric reporting system to encourage workers to report incidents. All complaints must be reported to the governing body.
- ✓ Provide a contact officer for workers to seek advice and support, including internal and external reporting options.

Guidance

- ✓ Include sexual harassment reporting related questions in worker satisfaction surveys to gauge how well the reporting systems are working and to assess progress and improvement.
- ✓ Contact officers must be available for any worker that needs advice or assistance. They must be trained appropriately in relevant legislation, including matters of privacy, disclosure, responsible referral practices and work-related violence.
- ✓ Include the Respect Code – *Building and Construction Industry* as a regular agenda item at onsite and offsite meetings, toolbox talks etc.

INDICATOR 5

Recruitment and promotion

- Gendered bias and gendered stereotypes influence recruitment, promotion and career progression. This often results in women not having equal access to the same career opportunities as men.
- By collecting data on recruitment and promotion outcomes, Contractors can identify the barriers and create a strategy to ensure equitable outcomes for women.

Minimum Standards

- ✓ Review recruitment and appointment procedures to remove gender bias.
- ✓ Provide training to raise awareness about gender bias to strive for a gender balanced workforce that promotes equality and inclusivity.

Guidance

- ✓ Establish diverse interview panels to participate in the employment process.
- ✓ Once promotions are finalised divide them by gender to ensure equitable outcomes are achieved.
- ✓ Set recruitment targets that reflect the strategies set out in *Indicator 2 – Composition of Workforce*.

INDICATOR 6

Gendered work segregation

- **Gendered segregation is driven by gendered norms and stereotypes about what work is appropriate for men and women.**
- **By collecting data on workforce composition, Contractors can see which roles and areas have more women or more men and create a strategy to achieve a more gender diverse workplace.**

Minimum Standards

- ✓ Set an annual gender target to create equality across all roles.
- ✓ Provide regular education and training opportunities for workers and leadership to identify occupation-specific barriers. Establish strategies, timelines and allocate tasks to eliminate these barriers.

Guidance

- ✓ Set occupational salary bands and employ into them regardless of existing salaries.

INDICATOR 7

Leave and flexibility and promotion

- **Flexible working arrangements and leave entitlements including parental leave help all genders balance paid work with other responsibilities. Structural and cultural factors mean women are far more likely than men to work flexibly, be employed in part time or casual work, and take longer parental leave.**
- **On average women do nearly twice as much unpaid work as men. Unpaid work must be recognised, redistributed, valued, and shared.**
- **By collecting data on who is accessing flexible work arrangements, parental leave, family violence leave and other forms of gendered violence leave, Contractors can create a strategy to support more men to work flexibly and share the caring responsibilities.**

Minimum Standards

- ✓ Implement policies for parental leave, family violence leave, and flexible working arrangements. Ensure policies are gender neutral and provide equal access for all workers to share equally in caring responsibilities.
- ✓ Provide training and education to workers about their legal rights to flexible work, parental leave and family violence leave.
- ✓ Ensure that workers on leave or utilising flexible work arrangements have equal access to secure employment, overtime hours and career development opportunities, such as training programs and promotions.

Guidance

- ✓ Develop and offer programs to support individuals returning from parental leave or extended periods of absence such as coaching.
- ✓ Promote the uptake of parental leave and flexible work arrangements by men, as they should equally share the caring responsibilities.



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