



مناقصات الدولة – المفتاح لإحداث انطلاقة بتشغيل العرب في سوق القطاع الخاص

GOVERNMENT TENDERS

The Key to a Breakthrough
in the Employment of Arabs
in the Private Sector

Sikkuy: the Association for the
Advancement of Civic Equality
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סיכוי סיקوي
העמותה לקידום שוויון אזרחי
The Association for the Advancement of Civic Equality

Policy Paper, Equality Policy Department, Sikkuy

Authors: Nitzan Tenami and Roi Grufi

Reviewed, edited, and advised by Shirley Racah,
Jabir Asaqla, Ron Gerlitz, Rawnak Natour, and Yair Sakov

Government Tenders

The Key to a Breakthrough in the Employment of Arabs in the Private Sector

Encouraging the Employment of Arab
Workers by Means of Government
Tenders in order to Promote Equality
in the Job Market



סיכוי סיקווי Sikkuy

העמותה לקידום שוויון אזרחי - الجمعية لدعم المساواة المدنية
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Authors: Nitzan Tenami and Roi Grufi

Reviewed, edited, and advised by Shirley Racah, Jabir Asaqla, Ron Gerlitz, Rawnak Natour, and Yair Sakov

Co-Directors, Equality Policy Department: Abed Kanaaneh and Shirley Racah

Co-executive Directors: Rawnak Natour and Ron Gerlitz

Hebrew language editing: Yasmin Halevy

Graphic Design: Oso Bayo Studio

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Jerusalem
17 Hameshoreret Rachel St., Beit Hakerem, 96348 Jerusalem
Tel: 02-6541225
Fax: 02-6541108
Email: jerusalem@sikkuy.org.il

Haifa
77 Allenby Rd. P.O.B. 99650 Haifa
Tel: 04-8523188
Fax: 04-8523065
Email: haifa@sikkuy.org.il

www.sikkuy.org.il

 sikkuy.org.il

 facebook.com/sikkuy

 twitter.com/Sikkuy

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Message from the Co-Executive Directors

The present policy paper has been published at a time when Israel is at long last embarking on a comprehensive policy change process, aimed at integrating the country's Arab citizens into the employment market after decades of discrimination, during which almost all investment in economic, industrial, and job development was directed towards the Jewish sector. Underlying the writing of this study is the critical recognition that failure to address the existing low demand for Arab workers by the private sector, the new policy has scant chance of achieving broad success. **The present document proposes an effective and low-cost approach for increasing demand for Arab workers in the private sector, by taking positive advantage of the government's purchasing power.**

Sikkuy, the Association for the Advancement of Civic Equality, is a shared Arab-Jewish organization and one of the standard-bearers of the efforts to promote equality and partnership between Jewish and Arab citizens of Israel. Believing that equality among all citizens must be the cornerstone of every democracy, we work intensively to improve government policy vis-à-vis the Arab sector. Our advocacy efforts have led to significant changes in policy and reduced budgetary discrimination.

In December 2015, Israel's government approved Resolution 922, whose goal is to integrate Arabs into the economy and labor market. Recent initial implementation steps have included the reduction of disparities and equalization of budgets in the realms of transportation, infrastructure, housing and urban planning, daycare centers, job-creation programs, formal and informal education, and more.

Many elements of this program aim to increase and upgrade the supply of Arab workers and improve their access to centers of employment. These are worthy and essential steps, **but they fail to deal with the highest existing barrier to the employment of the country's Arab citizens, namely, wide-scale discrimination.** Without fundamental attention to the low demand for Arab workers, which is a direct result of this discrimination, fed by especially recent incitement that is

regrettably increasingly-prominent in the public discourse, the Israeli labor market will find itself with a growing supply of Arab workers who are ready and able to join a market, that is not willing to absorb them.

Given this, the necessary intervention is one which will increase private-sector demand for Arab workers. The following document lays out policy proposals based on Sikkuy's extensive analysis of existing successful international experiences with regulations that encourage companies bidding on public tenders to increase their employment of minorities. This is a relatively gentle approach on an ascending scale of possible tools, ranging from obligatory reports by firms about their percentage of Arab employees and the required submission of work plans to increase employment rates, and up to the provision of point score preference in large tender awards, to companies with higher rates of Arab employment.

The policies proposed here will improve realities for Arab citizens and communities, by providing access to the most basic right of job market-based employment. These changes are also essential for the overall health of Israel's economy. **Careful analysis by TASC Strategic Consulting found that the maximum cost of such policy change will not exceed 22 million shekels a year. This is a minimal investment, especially when compared to other existing government employment promotion programs, and given the enormous potential benefit to the economy of increasing employment rates of Arab citizens, estimated at billions of shekels.**

The writing of this position paper was a complex process, requiring the cooperation of many team-members, with a wide set of multidisciplinary knowledge and expertise. First and foremost, we would like to thank the authors of this outstanding study, Nitzan Tenami and Roi Grufi. Roi Grufi is currently spearheading Sikkuy's efforts to have the recommendations implemented, with determination, perseverance, and noteworthy professionalism.

We would also like to thank Jabir Asaqla, Sikkuy's former Co-Executive Director, who invested major efforts in launching the project, and for his important input to the draft report. We are grateful to Shirley Racah and Yair Sakov for their close reading, helpful comments, and contribution to the research. Yasmine Halevy should be complimented for her excellent editing of the Hebrew text and useful comments, and Lenn Schramm for his fluent English translation. We would also

like to extend our special thanks to the UJA Federation of New York, with whom we have partnered on many pioneering projects for over more than a decade. Our friends and colleagues at the UJA Federation of New York had the vision and commitment to support this project with major funding, even knowing the time investment required to reach the project's goals.

This document was written as part of Sikkuy's wider strategy to advance government policy for equality, and is addressed to all those stakeholders and partners - in government ministries, the Knesset, among the Arab leadership, from the business community, civil society, and the media - who are working day in and day out to promote the employment of Arab citizens of Israel. **We believe that implementation of this proposal will advance the breakthrough so desperately needed to ensure equitable employment of Arabs citizens of Israel.**

Rawnak Natour and Ron Gerlitz
Co-Executive Directors

Executive Summary

A broad consensus prevails as to the importance of integrating the country's Arab citizens into the Israeli labor market. The employment of Arab men and women at all levels by companies that win government tenders could produce a breakthrough in this area, at a relatively low cost, and in a manner that has a long-term influence on the entire private sector.

Major Barriers that Impede Arab Workers' Integration into the Israeli Labor Market

■ **Physical Access:** Most Arab localities are in the Galilee, the Triangle, and the Negev, and are distant from the major foci of employment in the center of the country. The high cost of going to work, due to the lack of public transportation or a suitable support system (such as daycare centers), raises the cost of integrating Arabs into the workforce and makes the process more difficult.

■ **Education:** As a result of the low investment in schools and higher education in Arab society, that sector is under-represented in advanced occupations and registers lower achievements in the job market.

■ **Discrimination on a National Basis:** Arabs in Israel are the victims of severe discrimination in the job market, because of preconceptions that stem from cultural, security, and racist notions. Their physical and cultural distance from places of employment and residential segregation from Jews amplifies their sense of alienation and does not permit a joint effort that might reduce the manifestations of discrimination.

The combined outcome of these obstacles, which are many and diverse and have a strong impact, requires effective and powerful systematic action to deal with them.

For the most part, the state tries to respond to this complex issue by increasing the supply of Arab workers, improving their qualifications, and giving them better physical access to the job market. For example, the most recent economic

plan (Government Resolution 922) on this subject, approved in December 2015, calls for a significant change in the mechanisms of government allocations to the country's Arab citizens. It directs large budgets to Arab society in fields whose main goal is to promote their integration into the job market: daycare centers, public transportation, education from the elementary to the tertiary level, and more. But without fundamental treatment of the low demand for Arab workers, which stems from discrimination on a national basis, the Israeli labor market finds itself with a growing supply of Arab workers who are ready and able to join a market that is not prepared to absorb them. This situation increases the frustration in Arab society and undermines the effectiveness of the government efforts to integrate Arab workers into the employment market. **This makes the efforts to increase the demand for Arab workers especially important, and even more so now, in the initial stages of the implementation of Government Resolution 922, since failing to deal with the demand side will jeopardize its successful implementation.**

Possible Regulatory Methods for Promoting the Employment of Arab Workers by means of Public Tenders

Sikkuy proposes to increase the employment of Arab workers in the private sector by means of public tenders. There are diverse regulatory instruments for doing so. These represent different levels of commitment to the fair representation of Arab men and women in the work force, with sensitivity to the needs of private-sector employers and their ability to adapt to the proposed regulations.

1. **An obligation to submit reports and draft a program to promote the hiring of Arab workers.** This means the collection and publication of information about the percentage of Arab workers on the payrolls of companies that bid on public tenders such as their seniority, their seniority with the company, and their salary levels. In addition, companies that submit bids will be required to devise and implement a plan to hire more Arab workers. The plan will include clear and concrete objectives to recruit and promote Arab workers, such as publishing help-wanted ads in the Arab media, tailoring the screening process to suit Arab candidates, and setting quantitative objectives for hiring Arab workers. Its implementation will be verified by appropriate government agencies.

2. **A preference for bidders that have appropriate representation of Arab workers.** Firms that have an appropriate level of Arab workers, at all levels of employment, will be given preference in the tender process by means of bonus points.
3. **The proportion of Arab workers on the payroll as a threshold condition for participating in tenders.** It is possible to condition eligibility to bid on public tenders on an appropriate representation of Arab employees at all levels. What constitutes appropriate representation will be determined for each field and sector on the basis of the supply of Arab workers in it, in an incremental process until the appropriate representation threshold is achieved.

Sikkuy recommends that the first of these methods apply to all tenders. The second and third should apply separately and only to medium- and large tenders, starting at a certain threshold.

The Use of Government Tenders to Further the Integration of Arab Workers into the Israeli Job Market

Many countries make use of their purchasing power to promote social and economic goals and are dropping the once-standard approach of selecting the lowest bid. Today, many countries prefer to choose the bid that is most worthwhile in the long term. Public procurement constitutes between 13% and 20% of the GDP in the developed world.¹ Many countries, including Canada, the United States, and members of the EU, endeavor to integrate marginalized population groups into the labor force by encouraging their employment by companies that win government contracts. These countries set various requirements for government contractors, such as reports on their labor force, a commitment to a work plan, and compliance with objectives for including the relevant population as a specified percentage of their workforce. The sanctions that can be imposed on firms that fail to satisfy these objectives range from fines to nonrenewal of the contract or even cancellation of an existing contract with the firm in question.

1. Ministry of Finance, Procurement Administration, [OECD Forum on Public Procurement](#), April 25, 2013, at www.mr.gov.il [Hebrew].

We estimate that **the use of state tenders (for goods, services, and infrastructure) to promote the integration of Arab workers in the job market would have a large financial payoff.** The chances that the direct and indirect costs of the tender process would increase slightly are offset by the undoubted and great profit to the Israeli economy that would come with the effective integration of the Arab citizens, and in the long term also from the savings in government outlays from the many programs that encourage the hiring of Arabs.

The Importance of Integrating Arab Workers into the Private Sector Labor Force by Means of Public Tenders

■ **The Impact on the Israeli Economy:** According to data of the Authority for the Economic Development of the Arab, Druze and Circassian Sectors, the failure to take full advantage of the potential of the Arab workforce costs the Israeli economy some 31 billion shekels a year.² Consequently, the use of public procurement to integrate Arab workers into the private sector has vast potential to help the Israeli economy. The economic potential of such a step has also led to OECD to recommend that Israel introduce regulations for tenders with the goal of promoting Arab employment.³

■ **Relatively Small Monetary Investment:** Between 2010 and 2016, Government resolutions led to the allocation of billions of shekels in programs to invest in Arab society. A large proportion of these funds were intended to increase the integration of Arabs in the job market and to provide infrastructure that supports employment (such as public transportation, daycare centers, access to higher education, and so on). Nevertheless, **these programs generally deal with the supply side and focus on training Arab citizens for jobs and increasing their access to them; they do not provide a solution to the lack of demand for Arab workers by employers.** Some programs that try to influence demand by means of subsidized wages have had local success, but their high cost limits their scope. In order to extract the maximum from the large government investment

2. At the website of the Authority for the Economic Development of the Arab Sector, [Integration in the Labor Market](http://afed.gov.il), at <http://afed.gov.il> [Hebrew]

3. [OECD Reviews of Labor Market and Social Policies: Israel, Jan. 2010](#)

in increasing the supply of Arab workers, it is essential to make use of public tenders, which will increase the demand at a minimal cost to the state and in a way that creates a true and sustainable change in the employment of Arabs in the private sector.

The Business Advantage of Hiring Arabs to Work in the Private Sector

Not only is the integration of Arab workers into the private sector essential for the Israeli economy; it is also good for individual companies. A diversified workforce has many advantages when it comes to personnel management, the development of markets and products, increasing innovation, improving one's image, and plugging into the global market. All of these enhance the firm's commercial resilience and contribute to personnel stability and higher revenues.⁴ But these advantages are manifested only where there is substantial diversity and workers of different backgrounds are employed at all levels and jobs.

The Advantage of Promoting the Hiring of Arab Workers by Means of Public Tenders

- 1. Suitability to the characteristics of Arab society:** Arab society has a large supply of candidates who can and wish to find jobs immediately, both among the leadership and individuals. On the other hand, it is strongly impacted by discrimination on a national basis. This is why it is necessary to stimulate the demand for Arab workers in the private sector. The use of tenders to help the Arab population get ahead is an optimum method of encouragement that suits the characteristics of Arab society.
- 2. An Effective Tool:** Of all the marginalized sectors of Israeli society, Arabs constitute the largest group (other than women). The need to integrate them into the workforce requires the use of tools suited to the dimensions of the challenge. According to the Government Procurement Administration, total

4. A study by the international consultant McKinsey shows that companies with more diverse workforces have above-average financial results. What is more, according to the study, diversity seems to be a competitive advantage that over time attracts a larger market share to more diversified companies. See Vivian Hunt, Dennis Layton, and Sara Prince, "[Why Diversity Matters](#)," January 2015 (www.mckinsey.com).

purchases by government ministries, including the defense establishment and hospitals, comes to 54 billion shekels. This figure does not include purchases by local authorities, government corporations, and the like. In any case **this is a huge volume of public procurement that can be used to effect a significant change in the employment situation of the country's Arab citizens.**

3. The Private Sector: The private sector is the largest employer in the economy, accounting for some 63% of all jobs. Without a meaningful program that requires firms to significantly increase their employment of Arab workers at all levels (executive offices, middle management, etc.), the required change in the job market will not take place. A study by Shaldor Consulting, conducted for the Collective Impact project, found that there are currently around 27,000 Arab workers who could accept positions immediately in the core of the private sector (industry, professional services, financial services, and high tech).

4. A Proven Method: In the wake of the Government resolutions and actions to promote the appropriate representation of Arab workers by raising the demand for them in the civil service, which were accompanied by effective regulatory measures, their percentage rose from 5.7% in 2007 to 10% in 2016—an increase of some 75%.

This past experience indicates that effective action on the demand side can work to effect significant changes in the long term.

The present document examines the economic need of the State of Israel to integrate Arab workers into the job market and reviews the efforts taken so far. In addition, it examines the current international use of public tenders in order to promote socioeconomic goals, presents the advantages of the method, answers the arguments that oppose the implementation of this procedure in Israel, and surveys the legal framework of international agreements and the Mandatory Tenders Law. Finally, we will propose policy measures that would make it possible to use public tenders to respond to the national economic needs and to promote the government's goal of integrating more Arab men and women into the private job market.

Israel's Economic Need to Integrate its Arab Citizens into the Labor Market

In October 2013, Karnit Flug, the Governor of the Bank of Israel, stated as follows:

The Arab population of Israel has a vast and unexploited potential with regard to the Israeli economy's ability to grow. Going beyond the economic potential, this topic also has very significant social potential. Correct policies and implementation will bear fruit for the Arab society, including its integration into Israeli society and improvement of its economic situation in particular, as well as for the public as a whole and the economy. Our ability to continue to exist as a multifaceted society, on the one hand, but with social cohesion, on the other hand, depends in part on how employment develops in Arab society in the coming years. If we are able to exploit the potential to augment growth and reduce the gaps we, both Jews and Arabs, will be able to enjoy the fruits of this step. If we do not manage to do so, I believe that we will pay a heavy social and economic price in the years to come.

Arab Workers in the Israeli Job Market: Their Profile and Implications for the Israeli Economy

Arabs account for some 19.4% of the working age population in Israel (18–64), but only 13.7% of the civilian labor force.⁵ They produce only 8% of GNP. In 2015, only 55.6% of Arabs aged 25–64 were employed; among Arab men the employment rate was 77.7%; among Arab women, it was 33.7%. By way of comparison, the Jewish employment rate (ages 25–64) was 85.1% (a disparity of 30% as compared to the Arabs); among Jewish men it was 86.7% (a disparity of 9%) and among Jewish women 83.5% (a gap of 50% as compared to Arab women).⁶

5. "[Government Actions to Encourage the Integration of the Arab Population in Employment](#)," in the State Comptroller's Report 2016, at www.mevaker.gov.il [Hebrew].

6. The Central Bureau of Statistics: labour force survey fourth quarter of 2015 (<http://www.cbs.gov.il>). The standard range of working age is 18–64, but because government objectives focused chiefly on increasing the employment rate of women aged 25–64, we have presented the employment gaps mainly for this age group.

The Arab citizens' income from work is significantly less than that of Jews. One result of the situation is that the Arabs are much poorer than the Jews.⁷ In 2014, 52.6% of Arab families were below the poverty line, when the overall poverty rate of Israeli society was 18.8%.⁸ According to data of the Authority for the Economic Development of the Arab society, the failure to take full advantage of the potential of the Arab workforce costs the Israeli economy some 31 billion shekels a year.⁹

In 2013, a research study conducted at Tel Aviv University found that government policy that encourages the integration of Arab women into the labor force would lead to an annual return on the investment (in terms of product) of 3.5%–7.3% over a term of 40 years.¹⁰

This situation, alongside demographic trends that point to a growth in the relative share of those sectors with a low labor-force participation rate (mainly the Ultra-Orthodox and Arabs), has led to broad agreement as to the importance of integrating the Arabs into the employment market. This consensus was expressed, among other ways, in a series of Government resolutions about employment objectives,¹¹ the establishment of the Authority for the Economic Development of the Arab sector in the Prime Minister's Office, and the establishment of the Office to Promote the Integration of the Arab Society into the Workforce in the Ministry of the Economy.

How Demographic Trends Influence the Job Market

Demographic trends point to two parallel processes that influence the overall labor-force participation rate: the aging of the population and the change in the relative sizes of certain sectors. According to data of the Central Bureau of

7. "[Government Actions to Encourage the Integration of the Arab Population in Employment](#)" (above, n. 5).

8. National Insurance Institute, [Report on the Dimensions of Poverty and Social Gaps](#), at www.btl.gov.il [Hebrew].

9. [Integration in the Labor Market](#) (above, n. 2).

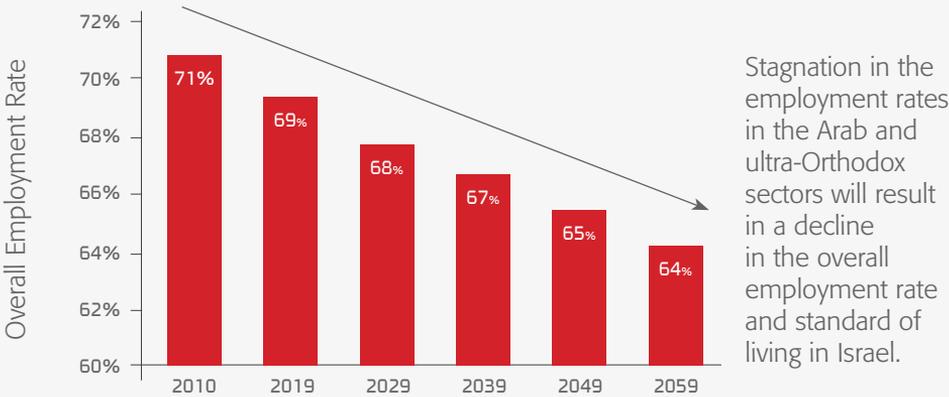
10. Eran Yashiv and Nitza (Kliner) Kasir, "[The Employment Market for Israeli Arabs: Survey of Characteristics and Policy Alternatives](#)," (Tel Aviv University, 2013), p. 81 (at www.tau.ac.il) [Hebrew].

11. [Government Resolution 1194](#), [Government Resolution 1539](#), [Government Resolution 2861](#), [Government Resolution 3211](#), [Government Resolution 3708](#), [Government Resolution 4193](#).

Statistics, until recent years the growth rate of the segment aged 25–64 (the bulk of the labor force) was significantly faster than that of the population as a whole. This led to rapid economic expansion throughout this period. Today, however, and even more so in the coming decades, this trend is being reversed, and the growth rate of the prime working age population is slower than that of population as a whole. This process can be expected to have a negative effect on the growth of GNP as early as the coming decade.

Along with this, we can also expect an increase in the relative size of the Arab society in the population, from 20.3% in 2009 to 23.1% in 2059. In the absence of appropriate policy steps, the Arabs' increased weight in the population, combined with their low labor-force participation rate and relatively low labor productivity, is liable to decelerate growth and increase inequality and poverty.¹²

figure 1: the implications of the Demographic Forecast for Employment Rates, assuming No Change in the Employment Rates of the Various Groups in the Population



Source: Mid-range scenario of CBS demographic forecasts and processing of the 2010 Labor Force Survey, as presented by the Ministry of the Economy at a hearing on "the future of the Arab society and the State budget," held by the Knesset Economics Committee on July 1, 2013.

12. Ministry of Finance, [Economic Policy and Budget Policy for Fiscal Years 2015–2016, Part II: General Survey](http://mof.gov.il) (at <http://mof.gov.il>) [Hebrew].

The Arab society low labor-force participation rate, in tandem with the emerging demographic trends, jeopardizes the strength of Israeli economy and society. The Finance Ministry forecasts that if these trends continue, the Israeli economy will experience a drop in employment and per capita product, increased economic inequality, and a larger budget deficit. This makes expanded participation by the Arabs in the job market, especially at the higher levels, essential. Both the state and society will benefit from the Arabs' integration into the workforce and a reduction of poverty in that society. This applies to both the societal aspect—increased social cohesion and reduced social alienation, disparities, and hardships—as well as the economic aspect—an expanded national product, the development of the private sector, the growth of tax revenues, and a reduction of outlays on welfare.

Government Activity to Integrate the Arab Population into the Labor Market

Barriers to the Arabs' Integration into the Labor Market

Many and diverse structural barriers stand in the way of the equitable integration of Arab men and women into the Israeli labor force: their geographic dispersion, distance from centers of employment, the poor public transportation infrastructure, the absence of an appropriate support system (such as daycare centers), relatively lower levels of education, and discrimination in hiring. These obstacles can be sorted into several categories.

■ **Physical access:** The Arab population's concentration in the north of the country means that it lives far from the major foci of employment in the center of the country. In addition, Arab localities have an underdeveloped public transportation infrastructure, both within the towns and from them to employment centers. Similarly, the absence of an appropriate support system (such as daycare centers) impedes Arabs' access to workplaces.

■ **Education:** As a result of the low investments in schools and higher education in Arab society, they are under-represented in advanced occupations and registers lower achievements in the job market.

■ **Discrimination on a National Basis:** Arabs in Israel are the victims of severe discrimination in the job market, because of preconceptions that stem from cultural, security, and racist notions. Their physical and cultural distance from places of employment and residential segregation from Jews amplifies their sense of alienation and does not permit a joint effort that might reduce the manifestations of discrimination.

The combined deleterious outcome of these multiple and diverse obstacles requires effective and powerful systematic action to deal with them. When the state addresses some of them, it generally focuses on infrastructure that supports employment (chiefly public transportation and daycare centers), as well as

worker training. But **without appropriate attention to the demand for workers, Israel finds itself with a growing supply of Arabs workers who wish to enter a labor market labor force that is not prepared to absorb them.** In this chapter, after examining the government's efforts to remove these barriers, we will assert that even though the present government's efforts are important and essential, in the absence of attention to the barrier posed by discrimination against Arabs and the creation of a demand for Arab workers by the private sector, these efforts will have extremely limited effect.

The Programs to Increase the Labor-Force Participation Rate

Because of the consensus as to the importance of the equitable integration of the Arab citizens of Israel into the labor market, recent Israeli governments have launched many programs to pursue this goal and endowed them with large budgets.

Between 2010 and 2016, Government resolutions led to the allocation of billions of shekels in programs for investment in Arab society. A large proportion of these funds were intended to increase the integration of Arabs into the job market and to provide infrastructure that supports employment (such as public transportation, daycare centers, access to higher education, and so on). **Nevertheless, these programs generally deal with the supply side and focus on training Arab citizens for jobs and increasing their access to them; they do not provide a solution to the lack of demand for Arab workers by employers.**

Some programs that try to influence demand by means of subsidized wages have had local success, but their high cost limits their scope. In order to extract the maximum from the large government investment in increasing the supply of Arab workers, it is essential to make use of public tenders, which will increase the demand at a minimal cost to the state and in a way that creates a true and sustainable change in the employment of Arabs in the private sector.

The Most Important Recent Programs to Promote Arab Employment

In 2010, the Government set employment objectives for 2010–2020, including for the Arab society.¹³ In March 2010, the Government approved a Five-Year Plan for the Economic Development of Localities in the Arab society.¹⁴ The resolution stipulated that this program (hereinafter the “Twelve-Town Plan”) will focus on 12 localities that together are home to 23% of the Arab population of Israel and will deal with job development, among other topics. Its budget was set at 778 million shekels. In 2015, the Government extended the program for an additional year (2015), with a budget of 664 million shekels (Resolution 2365, December 2014).¹⁵ Some of the funds allocated under these resolutions were earmarked for promoting employment.

In September 2011, the Government approved the Program to Promote Economic Growth and Development of the Bedouin Population (hereinafter the “Southern Bedouin Program”).¹⁶ The overall budget allocated to this program was 1.26 billion shekels. The program is intended, among other things, to increase employment among the Bedouin in the south, develop job-supporting infrastructure in their localities, and improve education among them. Some 700 million shekels was allocated for these goals.

In the wake of this report submitted by the Committee for Social and Economic Change, headed by Prof. Manuel Trajtenberg (hereinafter the Trajtenberg Committee), in January 2012 the Government decided on a number of additional steps and on the allocation of an additional budget to eliminate barriers that the Arab population from finding employment (hereinafter the Arab Population Employment Plan).¹⁷ The overall cost of implementing this program was set at 730 million shekels .

13. [Resolution 1994](#), July 2010, was approved in the wake of the report of the Committee to Study Employment Policy in Israel, chaired by Prof. Zvi Eckstein. Its objectives refer to the Arab society, including the Druze and Circassians.

14. [Resolution 1539](#), March 2010, for 2010–2014.

15. [Resolution 2365](#), January 2014.

16. [Resolution 3708](#), September 2010, for 2012–2016. In keeping with Resolution 2025 (September 2014), for “A Multiyear Plan for Development of the South,” additional budgets were allocated to Bedouin localities in the South, intended in part to promote employment.

17. [Resolution 4193](#) (January 2012), for 2012–2016.

In December 2015, the Government approved a large program to revise certain discriminatory budget allocation mechanisms and promote economic development in the Arab society (hereinafter the December 2015 Government Resolution).¹⁸ This program's goal is to promote employment and the economic integration and development of Arab society, viewed as a key growth engine for the entire Israeli economy, and also to reduce disparities and social gaps. This program includes investments in education, employment, infrastructure, local authorities, housing, internal security, and other areas. The overall cost of this program, should it be implemented in full, would exceed 10 billion shekels over the next five years. Following the December 2015 resolution, the government has decided to allocate 5 billion shekels more to elementary schools in Arab villages and cities.

Between 2010 and 2016, billions of shekels were allocated to programs intended chiefly for occupational guidance, vocational training, higher education, and job-support infrastructure (such as public transportation and daycare facilities). In addition to these steps, an attempt was made to increase the demand for Arab workers by means of wage subsidies to employers.¹⁹ The Ministry of the Economy operates an assistance track for the absorption of workers from special population groups²⁰ and subsidizes the wages of Arab workers an average of 20% for 2½ years. In addition, the Ministry runs a program for Arab interns in high tech,²¹ which pays a subsidy equal to 50% of the intern's salary for the first year and 40%–50% during the second year. This program does indeed promote the hiring of Arab workers, but is understandably very costly, so it is doubtful that it can be significantly expanded. In 2009, only 831 positions were proved through it, at a cost of 39 million shekels; in 2010, 1,355 positions at a cost of 62 million shekels; and in 2011, 1,660 jobs at a cost of 85 million shekels.²²

18. [Resolution 922](#), December 2015.

19. These programs, too, are funded as well under the government resolutions mentioned here, but to negligible amounts.

20. Director General's Directive 4.17, "A Program to Assist the Absorption of Additional Workers in Israel" (Ministry of the Economy Programs to Assist Special Population), at the website of the Ministry of economy, <http://economy.gov.il> [Hebrew].

21. Director General's Directive 4.20, "An Assistance Track to Integrate Interns from Minority Sectors into High Tech Industry" (Ministry of the Economy Programs to Assist Special Population), at the website of the Ministry of economy, <http://economy.gov.il> [Hebrew].

22. The Authority for the Economic Development of the Arab society, [Annual Report 2011](#), at www.pmo.gov.il [Hebrew].

In addition, the Government launched campaigns to encourage appropriate representation and the employment of Arab university graduates, with the goal of surmounting the barrier posed by discrimination, but their effectiveness has yet to be demonstrated.

The Equitable Representation of Arab Workers in the Public Sector

The equitable representation of various population groups in the public sector is extremely important. The integration of diverse groups helps make the services provided suitable for special groups, enhances the feeling of belonging, helps create social cohesion, and increases the social mobility of marginalized populations and thereby reduces inequality.

Understanding the importance of the employment of Arab workers in the public sector, §15a of the Civil Service (Appointments) Law (1959) was amended in 2000 to require the equitable representation of Arabs in the civil service (the civil service numbers approximately 70,000 people, and covers government ministries, auxiliary units, and government hospitals). In 2007, an objective of 10% was set for 2012; ministries and auxiliary units were required to report to the Civil Service Commission each year about the situation of the group to which this section applies and their share of the ministry's or agency's workers. The Civil Service Commission is also required to submit an annual report to the Knesset Constitution, Law, and Justice Committee about the steps that have been taken under this section to increase the representation of the relevant population groups.

The Government decision was accompanied by an expansion of the support system for Arab workers in the public sector, such as increasing the rent subvention (which is intended to overcome the geographic obstacle), taking steps to increase awareness of the possibility of public-service employment, increasing the number of job slots in the ministries that comply with the work plan to increase Arab employment, and issuing closed tenders designated for Arab candidates only.

The Results of the Government's Efforts to Integrate Arab Citizens into the Civil Service

In the wake of the Government resolutions and the steps taken to move towards the equitable representation of Arab workers in the public sector, accompanied by effective regulations, in 2016 the Israeli government achieved the objective of 10% Arabs in the civil service, set in 2007.

As noted above, this objective was to have been met by 2012. What is more, the distribution among ministries is far from uniform and there are few Arabs in senior positions. Nevertheless, this is a good example of state efforts on the demand side, which in nine years raised the percentage of Arab employees in the civil service from 5.7% in 2007 to 10% in mid-2016—an increase of 75%.

By contrast, there are very few Arab employees in entities to which the law does not apply, such as public corporations and government companies. With regard to the public corporations examined in the State Comptroller's report for 2016, the percentage of Arab workers in the Securities Authority was 1.5%, in the Airports Authority 1.1%, and at the Bank of Israel 1%. With regard to senior management, some of the corporations do not have a single Arab executive.²³ The overall percentage of Arab workers in government companies is miniscule: only 1.35% in 2015 and 1.24% in 2014. By way of comparison, in 2015 the percentage of Arab workers in the Israeli economy as a whole was 11.4%.²⁴

The Results of the Government's Efforts to Increase the Employment of Arab Men and Women

The economic investment in the integration of Arabs into the workforce resulted in a rise in the proportion of men, and especially women, who are employed; in the six years from 2008 to 2015, the employment rate of Arab women aged

23. "Government Actions to Encourage the Integration of the Arab Population in Employment" (above. n. 5)

24. Government Companies' Authority, [Report on Wages and Personnel in Government Companies](#) (May 2016), at www.gca.gov.il [Hebrew]. It should be noticed that the government company report excludes Druze in their calculation of the Arab society.

25–64 rose by 10 percentage points, to 33.7% in 2015—which is still 46% lower than the rate for Jewish women.²⁵ Despite the government’s efforts and successes, the annual State Comptroller’s report, published in May 2016, which refers to the state’s activity to encourage the employment of Arabs, found that the scale of investment and rate of progress are inadequate to close the gap in the long term.²⁶

Sikkuy believes that there is another reason why government action has only a limited ability to effect a significant and long-term change: most of the government programs focus on improving the human capital and preparing Arab workers for employment, and not on influencing employers to hire Arabs. Consequently, they deal only with the supply side and not with the limited demand for Arab workers, which derives from discrimination on a national basis. As will be shown at length below, we believe that attention to the supply side alone cannot effect the desired change.

25. [Draft Budget for 2015–2016](http://mof.gov.il), at <http://mof.gov.il>; data from the [Labor Force Survey for December, 4th Quarter, and all 2015](http://www.cbs.gov.il), at www.cbs.gov.il [Hebrew].

26. [“Government Actions to Encourage the Integration of the Arab Population in Employment”](#) (above. n. 5)

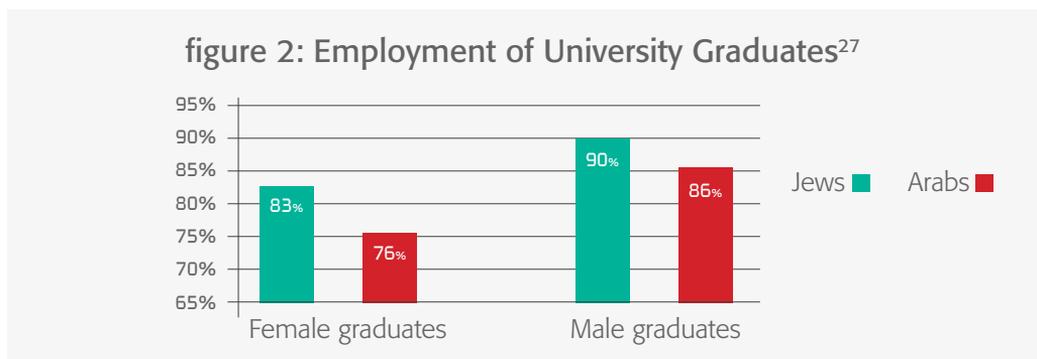
The Profile of Arab Workers in the Israeli Job Market

The Arab citizens of the country live in a situation in which they are discriminated against as Arabs. The inequality has been documented in many professional studies and surveys, it has been confirmed in court rulings and Government decisions, and also has been expressed in the reports of the State Comptroller and other official documents. (Or Commission report, p. 33)

One effect of the continuing lack of equality between the Jewish and Arab citizens of Israel, which is as old as the country itself, is its influence on the lack of equal opportunity for Arab women and men when they enter the Israeli job market. In this chapter we will survey the situation, focusing on the disparities between Arab and Jewish citizens, the profile of the current supply of Arab workers, and the barrier posed to them by discrimination on a national basis.

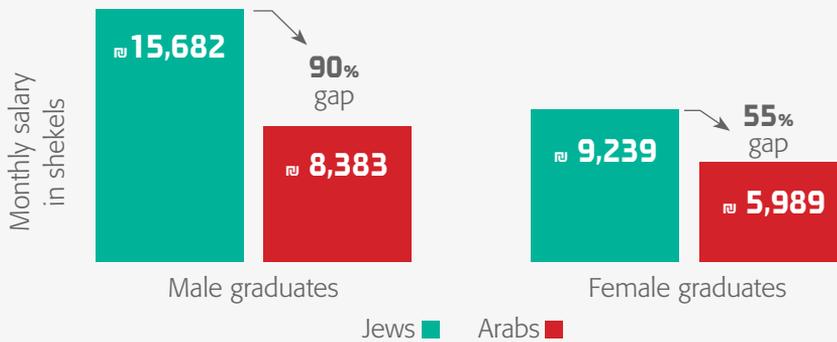
Arab University Graduates

Education is of prime importance for marginalized groups in multinational and multicultural societies. Higher education plays a key role in individuals' future earning capacity and their prospects for social and economic mobility. In Israel, the employment rate of Arab university graduates trails far behind that of their Jewish counterparts.



27. Research and Economics Administration, Ministry of Industry, Trade, and Employment, [20 Facts about Minority University Graduates in Israel](#) (2011) [Hebrew].

figure 3: Annual Gross Salary of University Graduates²⁸



A Ministry of the Economy survey that examined the integration of Arab university graduates into the job market found that they spend an average of 54 weeks looking for work—some 25 weeks longer than their Jewish peers.²⁹ In addition, 46% of all Arab university graduates do not bother to look for jobs with Jewish employers; another 16% reported that they did look for jobs with Jewish employers but had yet to find one. Only 37% were working for Jewish employers. Another finding of the survey: according to the Arab jobseekers, the main factor in their inability to find work with Jewish employers is racism and discrimination. Among the Arab university graduates who looked for jobs in the Jewish sector but were not hired, 40% claimed that racism and discrimination posed an obstacle to finding work; among Arab university graduates who did find a job, 29% claimed that racism and discrimination are an obstacle.³⁰

Another problem facing Arab university graduates is the frequency with which they cannot find jobs in the fields they studied. For example, a sample survey of roughly a thousand Arab university graduates conducted by the Ministry of the Economy,³¹ in which participants were asked about their current jobs and the subjects they had

28. Ibid.

29. Ministry of Industry, Trade, and Employment, "[The Employment Status of Arab University Graduates in Israel](http://www.economy.gov.il)," at www.economy.gov.il [Hebrew].

30. Ministry of Industry, Trade, and Employment, "[Integration of Israeli Arabs into the Employment Market and Economy in Israel](http://www.economy.gov.il)," at www.economy.gov.il [Hebrew].

31. Data from the Ministry of the Economy, Research and Economic Administration, *Employment of Arab University Graduates in Israel (2011)*, as processed by Sikkuy.

studied in university, found that many Arabs do not work in their field of study. The survey also found that only 20% of Arab university graduates with degrees in the exact sciences and engineering are working in their field, while 44% of them are teachers.

Disparities in Key Occupations

Arab men and women are grossly underrepresented in occupations and sectors that require advanced skills and pay higher salaries. As a result of the concentration of Arab workers in the secondary employment market,³² Arab workers' incomes are much lower than those earned by Jews.

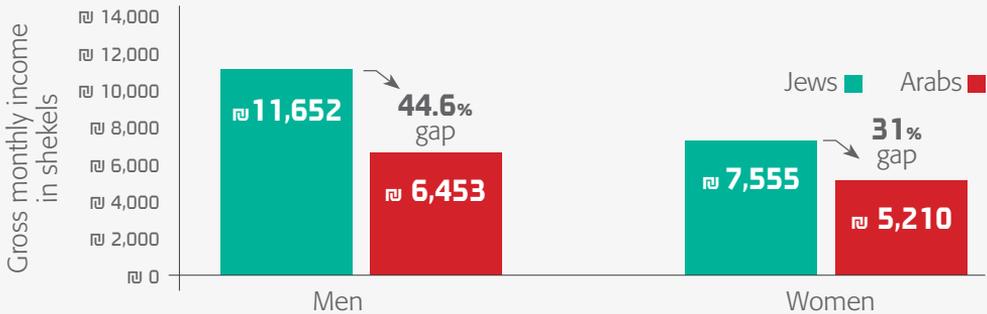
Figure 4 displays the occupations of Arabs and Jews as a proportion of each group. For example, one can see that 37.3% of all Arab workers are employed in industry and construction, as against 12.5% of all Jewish workers.



32. The secondary employment market consists of weak workers without higher education, employed in the form of outsourcing and contract workers, at low wages, with frequent violation of their rights to social benefits, a lack of employment continuity, and constant switching of jobs.

33. Central Bureau of Statistics, [Labor Force Survey](#) (2011), at www.cbs.gov.il [Hebrew].

figure 5: Wage Differentials between Arabs and Jews³⁴



The gross monthly wage differential between Arab and Jewish men is 44.6%; that between Arab and Jewish women is 31%.

The Supply of Arab Workers

Tens of thousands of Arab workers could find jobs in the Israeli labor market today. A study by Shaldor Consulting, conducted for the Collective Impact project,³⁵ found that 136,000 Arab workers and job candidates were in a problematic employment situation: unemployed but wanting to work, employed in a job that is not commensurate with their skills, or working only part-time. Shaldor checked this Arab labor force against various obstacles: age, gender, education and distance from urban centers of employment.

34. Central Bureau of Statistics, [Household Expenditures Survey](#) (2013), at www.cbs.gov.il [Hebrew].

35. Collective Impact – The Partnership for a Breakthrough in Arab Employment, was established to work towards appropriate employment in Arab society, by encouraging employers to modify their hiring practices. The project's fundamental axioms are that a prerequisite for achieving such a breakthrough is a change of mindset among employers and that creating awareness of the existence of a good business case is the best lever for working the change sought.

Of those 136,000 persons, the Shaldor study found that there are currently **70,000 Arab job candidates whose prospects for finding employment in the private sector are greater than the obstacles that affect them, including 27,000 Arab workers who could find jobs today in the core business sector (industry, professional and financial services, and high tech).**

Racism and Discrimination on National Grounds

Many diverse and powerful obstacles prevent the Arab population from being integrated into the Israeli job market. The most important of these are geographic distance from employment centers, poor transportation to workplaces, inferior education, and discrimination on a national basis.

The current efforts by the State of Israel are concentrated on creating a supply of qualified personnel in Arab society (such as investments in education and vocational training) and investments to increase Arabs' access to jobs (such as daycare centers and development of public transportation). **But none of these efforts have any impact on the low demand for Arab workers, which stems from discrimination on a national basis**, and is also fed by the ongoing Israeli-Palestinian conflict and the tensions that soar in times of escalation. **Without efforts to eliminate this major and powerful obstacle, Israel will find itself with an increasing supply of Arab workers who are interested in and wish to enter a job market that is not prepared to absorb them.** This situation will have a serious effect on the effectiveness of government attempts to promote Arab employment and will increase frustration in Arab society.

The Research Administration in the Ministry of the Economy conducted a number of surveys in 2009–2013 that examined the perception of discrimination by workers and jobseekers from various groups. Thus, for example, a Ministry of the Economy survey of employers' attitudes, conducted in 2014, found that 22% of the Jewish-owned businesses that do not have Arab workers believe it would be problematic to hire them because of the possible opposition by other employees, managers, or customers. This contrasts with 4% of the Jewish-owned businesses that do have Arab workers.

In the same survey, the Jewish employers were asked whether they believe that

were their firm to decide to diversify and hire workers from various sectors, they would find it difficult to do so because of the opposition of other employees, managers, or customers. Here too there were significant differences between businesses that currently employ Arabs and those that do not.

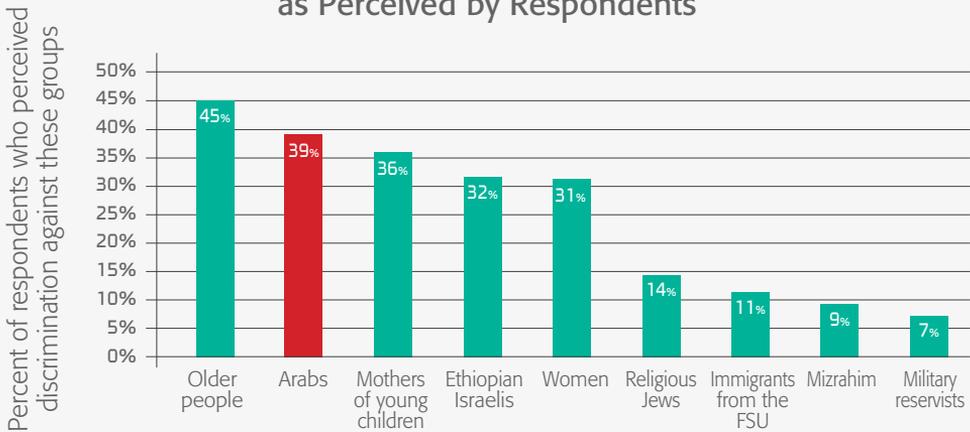
Among the firms that do not employ Arabs today, 35.9% believe there would be customer resistance to Arab workers; only 19.8% of those who do employ Arabs think so (a difference of 16.1 percentage points). Among firms that do not have Arab workers, 39.4% believe that managerial resistance would make it difficult to hire them; only 28% of those with Arab employees believe this (a difference of 11.4 percentage points). Among firms that do not employ Arabs, 38.3% believe that opposition by other workers would make it hard for them to hire Arabs; only 23.6% of those who currently employ Arabs see a problem here (a difference of 14.7 percentage points).

The findings of the survey show that the fact that there are businesses that do not employ Arabs and consequently believe that the environment would object to their hiring. On the other hand, firms that already have Arab workers show more openness to a diversified workforce and know that, in practice, the environment does not object.³⁶

Other surveys that looked at the positions of various groups in Israeli society had similar results and reflect the intensity of the barrier posed by ethnic discrimination, as displayed in Figures 6 and 7. The main findings of this survey, which reflect the intensity of the barrier posed by ethnic discrimination, are displayed in Figure 6.

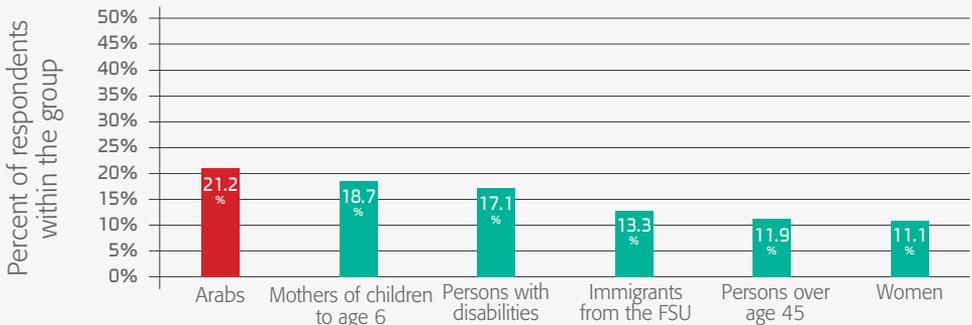
36. Research and Economic Administration: Arabs who Work in Jewish-Owned Businesses, and vice versa.

figure 6: Groups Discriminated against in the Job Market, as Perceived by Respondents



Source: Perceived Discrimination against Jobseekers and Workers and What the Public Thinks about This, February 2010

figure 7: Percentage of Respondents Who Perceived Discrimination by Employers



Source: Perceived Discrimination against Workers and Jobseekers and Occupational Diversity in Workplaces, 2013

The data in this chapter indicate the intensity of discrimination on national grounds and the significant disparities between Jews and Arabs with regard to wages, ability to find jobs, occupations, and employment rates. It has also shown that the present supply of Arab workers poses a significant opportunity for private-sector employers. Recruiting among this group would heighten the stability of the workforce in the private sector and permit long-term growth.

The Business Advantages of a Diversified Workforce

Not only is the integration of Arab workers into the private sector essential for the Israeli economy; it is also good for individual companies. A diversified workforce has many advantages that have a positive impact on private companies' resilience and permit above-average growth and expansion.³⁷

The Advantages of Diversity

■ **Personnel Management:** Hiring workers from sources that have not yet been tapped makes an organization more attractive to marginalized groups, increases their loyalty to the workplace, and reduces employee turnover.

■ **Market and Product Development:** The appropriate integration of Arab workers permits more effective marketing to marginalized groups, increased sales, and deeper penetration of the Arab market.

■ **Innovation:** Group decisions are improved, uniform thought patterns are broken, and problem-solving is more effective.

■ **Improved Image:** A diversified workforce broadcasts fairness and openness both to various customer sectors and to workers and job candidates.

■ **Link to the Global Market:** Multiculturalism is the basis of activity in the global market and can serve as a bridge to deals with new countries and new markets.³⁸

These advantages will be manifested only in workplaces in which there is substantial diversity and persons of different backgrounds are employed at

37. "[What is Diversity Hiring?](http://diversityisrael.org.il)" at the website of the Israeli Forum for Diversity Hiring <http://diversityisrael.org.il> [Hebrew].

38. "[The Advantages of Diversity](#)," *ibid.*

all levels and occupations in the company and not segregated into particular departments, ranks, or occupations.³⁹

■ **Increased Revenues as a Direct Result of Diversification of Management:**

A study by the international consulting firm McKinsey and Company⁴⁰ found that firms with more diversified workforces achieve above-average financial results. The study found that companies in the upper quartile with regard to their ethnic diversity of their workforces are more likely to show financial results above the median in their sector. What is more, according to the study, diversity seems to be a competitive distinguishing factor, which over time diverts a larger market share to more companies with more diversified workforces.

In the United States, for example, the study found a linear correlation between racial and ethnic diversity and better financial performance. Every 10% increase in the racial and ethnic diversity of management raised revenues (before taxes and financing costs) by 0.8%. The study showed that companies that are committed to diverse leadership are more successful. More diverse companies are better able to attract skilled and talented workers and to improve their customer focus, their workers' satisfaction, and decision-making processes and this all leads to ever-expanding profits.

Despite the business advantages of a diversified workforce, there is still a need to raise awareness of them in many areas and companies in Israel.

Arab Employees are not integrated into all Economic Sectors

Ministry of the Economy figures indicate that Arabs are employed by Jewish-owned businesses, but that this workforce diversity is limited to certain sectors, whereas other sectors have yet to internalize the advantages of Arab employees. The main sectors in which Arabs are employed in Jewish-owned enterprises are nursing and healthcare (average of 10 Arab workers), education (average of 10 Arab workers), commerce (average of 9.7 Arab workers), and hospitality and

39. Vincent J. Roscigno, Dept. of Sociology, The Ohio State University, "[How Does One Achieve Real Diversity in an Organization](http://diversityisrael.org.il/wp-content/uploads/IsraeliDiversityForum_Share.pptx)," *ibid.* [Hebrew; English PowerPoint presentation at http://diversityisrael.org.il/wp-content/uploads/IsraeliDiversityForum_Share.pptx].

40. "[Why Diversity Matters](#)" (above, n. 4).

food services (average of 8.1 Arab employees). The average of Arab employees in other sectors is lower.⁴¹

Lack of Diversity Perpetuates and Reinforces the Segregation in the Labor Market

Workforce homogeneity influences employers' attitudes and further reinforces their tendency to homogeneity. Businesses that are not exposed to the employment of Arab workers display greater resistance to diversified employment and believe that their environment, too, would evince opposition to such a step. A survey conducted by the Ministry of the Economy found that 22.4% of businesses that do not employ Arabs believe that it would be difficult to employ Arabs because of possible opposition by other workers, managers, or customers, whereas only 4.1% of businesses that do employ Arabs believe so.

Because of the lack of familiarity with Arab workers they are also perceived as unqualified. The survey found the 21.1% of business owners who do not employ Arabs believe that Arab candidates would find it hard to fill many positions in the organization, as against 7.5% of employers who do have Arab workers.⁴²

Some organizations work in cooperation with the business community to promote diverse workforces and the hiring of Arabs, such as the Riyan centers, the Collective Impact project, Kav Mashve, Tsofen, the Israeli Forum for Diversified Employment, and Ma'aleh. Nonetheless despite the great importance of these initiatives, participation in these programs is voluntary, leaving them with a limited ability to effect broad change in the private sector.

For these reasons, offering companies that compete to win public tenders incentives to diversify their workforces could change employers' attitude about hiring Arabs and produce a breakthrough in their understanding of the inherent advantages of a diversified workforce in general and of hiring Arabs in particular.

41. In a study by Gali Liss-Ginsberg, "[Arabs Employed in Jewish-Owned Businesses, and Vice-Versa](http://www.economy.gov.il)," at www.economy.gov.il [Hebrew].

42. Ibid.

Public Tenders as Means of Encouraging the Employment of Arab Men and Women

This document has surveyed the reasons for why the government needs to find effective ways to integrate the country's Arab citizens into the job market, in light of the economic potential of such action. As noted above:

1. Many Arab citizens wish to enter the job market, but discrimination on national grounds reduces the demand for these workers.
2. A diversified workforce has a positive effect on profitability and competitiveness in the private sector.
3. The Government of Israel allocates large budgets to encourage the hiring of Arabs.
4. Demographic trends in Israel require proactive and aggressive steps to integrate the Arab population into the job market, without which the country's economy will suffer.

This policy paper proposes that the government's purchasing power be used to encourage the integration of Arab workers into the private sector, by means of public tenders, along with a set of regulatory instruments that represent various levels of commitment to the equitable representation of Arab workers, suited to the mix of their availability in the job market (occupation, geographic concentration, higher education, and the like). Such action would make a positive contribution to the Israeli economy, foster an integrated job market, and be a decisive factor in energizing the growth and robustness of the Israeli economy in general and of the private sector in particular. The regulatory tools should take account of the needs of private-sector employers and their capacity to adapt to such regulations. This approach is also reflected in the OECD's report on the Israeli labor market,⁴³ which recommends increasing the Arabs' presence

43. OECD Reviews of Labor Market and Social Policies: Israel (January 2010).

in the public sector in general, and making use of public outlays in order to make significant strides towards Arab workers' equitable representation in the private sector. **The OECD recommends that the government of Israel give preference in tenders to businesses that make efforts towards the appropriate integration of Arab workers.**

The Proposed Regulatory Options (which may be implemented in whole or in part):

- 1. An obligation to submit reports and draft a program to promote the hiring of Arab workers.** This means the collection and publication of information about the percentage of Arab workers on the payrolls of companies that bid on public tenders, their seniority with the company, and their salary levels. In addition, companies that submit bids will be required to devise and implement a program to hire more Arab workers. The program will include clear and concrete objectives to recruit and promote Arab workers, such as publishing help-wanted ads in the Arab media, tailoring the screening process to suit Arab candidates, and setting quantitative objectives for the hiring of Arab workers. Its implementation will be verified by the appropriate units of the Finance Ministry or the Ministry of the Economy.
- 2. A preference for bidders that have appropriate representation of Arab workers.** Firms that have an appropriate level of Arab workers at all levels will be given preference by being awarded bonus points in the tender-scoring process.
- 3. The proportion of Arab workers on the payroll as a threshold condition for participating in tenders.** It is possible to condition eligibility to bid on public tenders on an appropriate representation of Arab employees at all levels. What constitutes appropriate representation will be determined for each field and sector on the basis of the supply of Arab workers in it, in an incremental process until the appropriate representation threshold is achieved.

Sikkuy recommends that the first of these methods apply to all tenders. The second and third should apply separately and only to middle-sized and large tenders, starting at a certain threshold.

The Advantages of Using Public Tenders to Integrate Arab Workers into the Private Labor Market

- 1. Suitability to the characteristics of Arab society:** Arab society has a large supply of candidates who can and wish to find jobs immediately, both among the leadership and individuals. On the other hand, it is strongly impacted by discrimination on a national basis. This is why it is necessary to stimulate the demand for Arab workers in the private sector. The use of tenders to help the Arab population get ahead is an optimum method of encouragement that suits the characteristics of Arab society.
- 2. An Effective Tool:** Of all the marginalized sectors of Israeli society, the Arabs constitute the largest group (other than women). The need to integrate them into the workforce requires the use of tools suited to the dimensions of the challenge. According to the Government Procurement Administration, total purchases by government ministries, including the defense establishment and hospitals, comes to 54 billion Shekels. This figure does not include purchases by local authorities, government corporations, and the like. In any case this is a huge volume of public procurement that can be used to effect a significant change in the employment situation of the country's Arab citizens.
- 3. The Private Sector poses the greatest challenge:** The private sector is the largest employer in the economy, accounting for some 63% of all jobs. Without a meaningful program that requires firms to significantly increase their employment of Arab workers at all levels, the required change in the job market will not take place. A study by Shaldor Consulting, conducted for the Collective Impact project, found that there are currently around 27,000 Arab workers who could accept positions immediately in the core of the private sector (industry, professional services, financial services, and high tech).
- 4. Government action to increase public-sector demand is a proven method:** In the wake of the Government resolutions to promote the appropriate representation of Arab workers by raising the demand for them in the civil service, which were accompanied by effective regulatory measures, their percentage rose from 5.7% in 2007 to 10% in 2016—an increase of some 75%. This past experience indicates that effective action on the demand side can effect significant changes in the long term.

Approaches to Using Public Tenders to Encourage the Hiring of Arab Workers in Israel: Proposed Regulatory Changes⁴⁴

Sikkuy proposes to increase the employment of Arab workers in the private sector by means of public tenders. There are diverse regulatory instruments for doing so. These represent different and increasing levels of commitment to the equitable representation of Arabs in the work force, with sensitivity to the needs of private sector employers and their ability to adapt to the proposed regulations. (For Sikkuy's recommendations for the implementation of this proposal by means of primary legislation or amendments to current legislation, see Appendix A.)

The commitment required of companies that bid on public tenders must begin with a requirement that they report the profile of their workforce, with an emphasis on their Arab workers (number of Arab employees, their placement on the management ladder, wages, range of occupations within the company, and information about their gender breakdown). In addition, bidders would be required to devise a work plan to promote the hiring of Arabs by the organization in question.

The next stage should be a preference for companies with an appropriate representation of Arab workers, whether through outright preference for such companies, manifested in bonus points in the bidding competition, or through a requirement that firms that bid on tenders already have an appropriate representation of Arab workers, according to a threshold value that will be raised incrementally from year to year. This form of regulation, by means of bonus points or a threshold level of appropriate representation, is flexible, and the use of variable threshold conditions means that it can be applied gradually. The initial threshold condition will determine what tenders will be subject to the regulation. This threshold will be high at first, so that only a few tenders fall under the new regulation. Later, and as a function of the results of the regulation, the threshold

44. See Appendix D, Summary of the Legislative Methods by which Government Procurement Can be Used to Promote the Employment of Arabs.

can be lowered so that the regulation applies to additional tenders; in any case, small contracts should be exempted from the new regulations.

Another threshold will determine the size of the preference, by means of bonus points and/or a minimum number of Arab workers to satisfy the regulation. Here too it is possible to begin with a lower threshold and then raise it as a function of the results of the regulation. Thus means setting a threshold condition for appropriate representation, starting from a low level of representation and high threshold of value of the contract, and changing them over the years. This will make it possible for companies to adapt their workforce to the new requirements and allows the state to update the program in response to economic developments, employers' reaction to the program, and changes in the profile of the Arab labor force. Whether it is done through bonus points for appropriate representation or a threshold level of Arab workers, we believe that this policy should be applied only to large tenders, so as to avoid creating superfluous bureaucracy or harming small and medium-size businesses whose workforces are too small to allow for diverse and appropriate representation. In addition, the bidding process must be structured from the outset to suit the profile of the labor supply in Arab society and not require companies to hire workers who do not exist.

The Reporting Obligation and Implementation of the Plan to Hire Arab Workers

Setting the change process in motion begins with creating awareness of the situation that needs to be changed and disseminating information about the current situation. A key characteristic of the outsourcing of services and goods is that the identity of those employed on public projects is not known. **A first step, whose cost to the government and companies would be negligible, is to require companies that bid on public tenders to report the number of Arabs they employ**, as well as their placement on the management ladder, wage levels, range of occupations within the company, and the like.

In addition, companies that bid on tenders should be required to submit and implement a program to hire more Arab workers. The program will include clear and concrete objectives, such as publishing help-wanted ads in the Arab media,

training interviewers, paying bonuses to employees who bring other Arabs aboard, and so on. Whether a company satisfies its commitments can be checked on a sample basis: for example, whether it has met its obligation to publish want ads for most positions in the Arab media. If a winning bidder has failed to satisfy its obligations it can be warned, and in the case of repeated violations barred from bidding on public tenders in the future.

The reporting requirement and the obligation to implement a plan to hire Arab workers are effective ways to get companies to increase their employment of Arabs.

Publication of this information would redouble the effectiveness of this policy tool.

This is a simple regulatory step that is easy to implement, and in the initial stage does not impose an onerous burden on companies that win government tenders. Nevertheless, experience throughout the world shows that the very reporting process, collection of data by the government, and especially their publication, triggers a process of change in the economy.

The combination of reporting with collection and publication of data, along with the drafting of a program to raise the percentage of Arab workers, whose non-implementation would disqualify a firm from bidding on tenders in the future, will effect a change in the private companies that bid on contracts and increase the chances of promoting a significant change in the employment of Arab workers by the private sector.

Because of the benefits of this mild regulatory step, we propose that it apply to all contracts between private organizations and the state, and not only those awarded by means of competitive bidding. (For Sikkuy's recommendations on implementation of the reporting and work plan requirements by statute, see Appendix B.)

Sample Report Form and Work Plan for the Employment of Arabs

The report and work plan form will be sent to prospective bidders as part of the paperwork they must fill out in order to participate in a tender. In order to verify that the information collected is complete and reliable, filling in all items on the form will be mandatory. In order to reduce the cost of the oversight process to a negligible level, there will be occasional random audits of bidders with regard to the accuracy of the figures they submitted. A bidder who fails to submit the

required data will be disqualified from tenders for the coming year. Bidder who have won a public tender in the past will submit a written declaration that they have satisfied the plan for promoting the appropriate representation of Arab workers they submitted in the past, including its results. For example, bidders will affirm that they published want ads in the Arab media or held special training courses for their personnel who conduct job interviews. The formal statements will be published on the website of the Accountant General.

The form has two goals. The first is to obtain a report on the current level of Arab workers in the organization—at various wage levels, various management rank, and in various occupations, The first relates to the organization’s current and planned actions to recruit Arab workers, hold onto current Arab employees, and promote them to higher-ranking positions.

1. EMPLOYER DATA

Employer Data			
Name		Corporation No.	
Liaison details			

2. ARAB REPRESENTATION IN THE WORKFORCE

Representation in the Workforce (include only those employed directly by the organization)	
A1	Number of workers in the organization
A2	Number of Arab workers
A3	Number of Arab workers as proportion of all workers
B1	Average FTE (Full-time equivalent) of all workers
B2	Average FTE (Full-time equivalent) of all Arab workers
C1	Number of new hires in the last year
C2	Number of new Arab hires in the last year
C3	Percentage of Arab hires among all new hires in the last year
D1	Number of managers in the organization (team leader and up)
D2	Number of Arab managers in the organization (team leader and up)
D3	Arab managers as a percentage of all managers in the organization

3. REPRESENTATION AT VARIOUS SALARY LEVELS

Representation of Arab workers at the various salary levels					
Gross salary, normalized to a full-time position	Number of employees	Number of Arab male employees	Number of Arab female employees	Percentage of Arab male employees	Percentage of Arab female employees
Up to the median wage in the economy (according to current CBS data)					
Between the median wage and the average wage in the economy (according to current CBS data)					
Above the average wage in the economy (according to current CBS data)					

4. ACTIVITIES TO RECRUIT AND RETAIN ARAB WORKERS: CURRENT SITUATION AND ACTION PLAN

The table that follows describes actions intended to recruit Arab workers, retain them, and promote them. For each category, please indicate what actions have been taken by your organization in the last year and what you are planning for the coming year:

	In the past year	Program for coming year (please relate to questions as covered by the future program)
Does the organization have a workforce diversity manager? If so, has he/she had appropriate training and where?		
Have help-wanted ads been published in Arabic? (yes/no in the appropriate box) If so, what percentage of published want ads? (percent)		
Have help-wanted ads been published in the Arab media? (yes/no in the appropriate box) If so, in what quantity and frequency? (e.g., twice a month)		
Have employees been offered a bonus for bringing new Arab workers aboard?		
Are there Arab interns in the organization?		
Have steps been taken to adapt the screening process to Arab candidates? (yes/no in the appropriate box) If so what actions?		
Have courses been given to integrate Arab workers? (yes/no in the appropriate box) If so, for what target groups? (e.g. management, human resources)		
Does the organization have a program to encourage the promotion of Arab workers? (yes/no in the appropriate box) If so, what does it involve?		
Is a mentor appointed for new Arab workers in the organization? (yes/no in the appropriate box)		
Have quantitative objectives been set for hiring Arab workers? (yes/no in the appropriate box) If so, please state these objectives and what person in the organization is responsible for meeting them.		
If you are taking other steps to recruit Arab workers, retain them, and promote them, please describe these measures and how they are implemented.		

Comments: _____

Preference for Bidders who Make Progress towards the Appropriate Representation of Arab Workers

In addition to price-based tenders, in which the financial outlay is the main element considered in the selection of the winning bid, it is also possible to hold quality-based tenders, which award points for the quality of the proposal and the extent to which it promotes certain issues associated with policy goals favored by the authors of the tender.

A preference for bidders who have an appropriate representation of Arab employees at all levels, expressed by the award of a significant number of bonus points, would be an important incentive for those competing for public tenders and motivate them to hire and promote Arab workers. This would effect a significant change in the employment of Arab citizens and in the Israeli economy, at a negligible or low cost.

As noted above, the size of the preference (that is, the number of bonus points awarded to companies that employ a greater number of Arab workers) is a key and flexible parameter. Over time, and as the regulations prove themselves, it would be possible to increase the weight of the preference and number of bonus points. (For Sikkuy's recommendation as to the mode of implementing the preference for bidders who have an appropriate representation of Arab workers, by means of legislation and regulations, see Appendix C.)

Appropriate Representation of Arab Workers as a Threshold Condition for Participating in Government Tenders

In order to require those who bid on public contracts to fulfill their obligation of an appropriate level of Arab workers, the eligibility to bid can be conditioned on meeting a threshold level. We reiterate that this threshold would apply only to tenders above a certain value, and propose beginning with a low threshold and raising it gradually. In any case, we are talking about regulations that would require a real change in employers' behavior and that might provoke opposition by companies that bid on government contracts. Nevertheless, as shown by the experience of other countries (see below) and by Israel's own experience with

analogous regulatory requirements, the motivation to win the tender induces employers to adapt themselves to satisfy these requirements. It should be remembered that this is precisely the goal of the regulations, that is, to work a fundamental and lasting change in the Israeli job market that will guarantee an open employment market for the country's Arab citizens and enhance both the private sector and the Israeli economy as a whole.

Sikkuy proposes defining a threshold condition in an attempt to respond to the needs of the market and to tailor the requirement to the supply of workers. For each branch, what constitutes appropriate representation would be stipulated as a function of the supply of Arab workers in it. For this definition, too, there would be a gradual inching up to an appropriate threshold. (For Sikkuy's recommendations as to the mode of implementation of preference for bidders who demonstrate an appropriate representation of Arab in their workforce, by means of legislation and regulations, see Appendix C.)

Pilot Tenders

At the present time, pursuant to the relevant directives of the Financial and Economic Regulations,⁴⁵ government agencies can decide that some tenders will include criteria to raise the percentage of Arab workers at all levels. In order to study and fine-tune the policy of promoting the appropriate representation of Arab workers by means of government tenders, pilot programs can and should be instituted, which include an initial study and processes that will contribute to its success, such as a study of its impact and efficiency, its influence on the cost of the tender, the possibility of revising the threshold conditions, and more.

Selecting the Domain Covered by the Tender

The pilot should be conducted in a domain where there is known to be a significant supply of Arab workers who lack appropriate employment options.

45. Financial and Economic Regulations are the set of working procedures followed by Israeli government ministries in financial and economic matters, first published by the Accountant General in 1978. These directives were promulgated pursuant to the State Assets Law, and every agency or unit in the government sector must comply with them. The Financial and Economic Regulations are managed and maintained by the Office of the Accountant General.

With regard to the supply, one must also look at the geographic distribution of the workforce when selecting the district in which the pilot will be run. For this, one can rely on outside studies as well as those conducted by government ministries, such as the Ministry of the Economy, and CBS data.

The Professional Organization that Oversees the Pilot Tender

The Government Procurement Administration (GPA), a staff unit in the Property, Procurement, and Logistics division of the Office of the Accountant General, devises and implements state procurement and logistics policy. The GPA deals with centralized purchasing and the definition of procurement policy for government sector and helps government agencies carry out and apply the procurement policies. Its main goal is to exploit the government's purchasing power to the fullest by running centralized bidding competitions for all government ministries and agencies.

This makes the GPA the unit with the professional knowledge and regulatory capacity to implement the criteria included in the tender documents, to assist those who run the program for hiring and promoting Arab workers, and to implement effective regulation.

Questions and Answers about the Use of Public Tenders to Promote the Employment of Arabs

Over the last two years, Sikkuy has presented this proposal to use public tenders as a mechanism to promote the employment of Arabs to many individuals and agencies. Alongside their appreciation of the inherent advantages of this instrument, there was also criticism of its use to encourage the employment of Arabs. In this chapter we summarize the objections that were expressed, and our responses to each one of them.

The claim: Government procurement must operate according to a market model.

The assertion is that the competitive bidding process has only one goal, which is to obtain the goods or services needed within the required time frame at an appropriate price and in a manner that is fair to both the government and the vendor. Consequently, the public sector must not make use of procurement to promote some general socioeconomic policy and behave as if it were a player in the private market.

Our answer: The market model of government procurement has limits.

Unlike private companies, the public sector has a responsibility to correct market distortions. Consequently, the government tender process must take the public good into account, and weigh considerations that go beyond the lowest cost for a specific contract. The use of the government's purchasing power to solve economic problems and promote a general socioeconomic policy is not an innovation and already exists in Israel in various contexts (with regard to businesses owned by women, for example).

The proposed regulations provide an answer to an acute economic need—the employment of Arabs—and also promote a social policy solution that addresses the main obstacle to their integration into the labor market, which is discrimination on a national basis. Note that discrimination against Arabs in hiring creates a market failure that other government tools find it hard to cope with. The use of public tenders creates a significant pressure point on employers to hire more Arab workers.

In addition, a policy promulgated by the state shapes norms, worldviews, and values. Government action that emphasizes the importance of employing Arabs would encourage larger segments of the private market to adopt practices to diversify their workforces for the benefit of the entire Israeli economy.

The claim: Socially responsible procurement has associated costs.

The assertion is that attaching social responsibility requirements to procurement would increase the cost and burden the public budget with unnecessary expenses, and in practice reduce the share of the budget that can be invested in social goals. It would be better to leave procurement and socioeconomic policy as separate arenas.

Our answer: Socially responsible procurement can help repair market failures and actually increase market efficiency.

Arguments that socially responsible tenders increase procurement costs may relate to the direct cost of a specific tender or to the indirect costs created by the added regulations, such as lengthening the duration of the bidding process and of project implementation.

The direct cost of a specific bidding competition is generally a one-time expense related to that tender. In practice one should look

at this additional cost, if there is one, as a long-term investment in the realization of the government's overall socioeconomic policy. As such, the return on investment can be measured as the benefit to the economy of the expanded employment of Arabs. Given the immense cost to the economy of the non-employment of Arabs and the expected effectiveness of this regulation, it can be shown that the return to the economy provided by this step would be much greater than the additional cost of specific tenders, and greater than any anticipated indirect costs. In other words, the focus on additional costs ignores the high cost of non-intervention in the market: a market characterized by inequality that excludes some sectors of the population has an inbuilt failure, is less efficient, and less competitive.

The claim: The use of primary legislation to encourage equitable employment throughout the economy, such as the Equal Opportunities in Employment Law, is a better way to achieve socioeconomic goals than a socially responsible procurement policy

The assertion is that socioeconomic policy must be set only by legislation that applies to society as a whole. The imposition of the social demand of direct employment on vendors is not an efficient way to implement the desired policy, because it influences only those vendors who work with the government and only those areas in which the government is a major consumer. The policy has only a partial impact and creates a dual job market

Our answer: The use of the public purchasing power is an important element in the promotion of socioeconomic policy,

Despite the importance equal opportunity and labor legislation, such laws have a limited ability to prevent discrimination in the job market against marginalized groups. In addition, as can be seen from the case of the Equal Opportunities in Employment Law, the actual enforcement of such laws is problematic and incomplete. Disadvantaged populations tend to be employed in the secondary

market of weak and temporary workers, with no protection or rights, in generally poor conditions, and subject to consistent violation of their rights. These groups are also less inclined to report violations of their rights, and the state finds it difficult to enforce the labor laws and guarantee appropriate employment standards.

The use of purchasing power does not require enforcement activity and relies on market forces to effect change. Consequently, it can promote equality in the job market and incorporate groups that are excluded from the employment market in a way that other policy measures cannot.

Given the large volume and diversity of government procurement, public tenders have an immense impact on the private market. In addition, triggering change by means of government procurement will influence other private firms to increase their hiring of Arab workers. Taking into account that many companies that bid on government contracts do so again, and that companies are not quick to dismiss good workers, one may assume that their Arab hires would become permanent employees.

The claim: Regulations and bureaucracy are a trap.

Some of those opposed to a socioeconomic procurement policy fear that the application of the proposed criteria for the employment of Arabs would complicate the tender process. It would lead to high indirect costs, the process would take longer, and losing bidders would file many more court challenges.

In addition, our initial policy proposal, which requires companies that submit bids to report how many Arabs they employ and devise a plan to hire more Arabs, would require a regulatory agency to collect the data and track implementation of these plans. This new agency would require government job positions and budgets.

Our answer: The bureaucratic complexity can be reduced by relying on existing regulatory mechanisms and agencies. In any case, the economic benefit of the step exceeds its cost.

Any stipulations placed on companies that bid on public contracts and the introduction of considerations other than lowest price complicate the tender process and may incur additional indirect costs. Nevertheless, today too firms that bid on public contracts are required to meet conditions of economic stability, respect of employee rights, and so on. It is possible to incorporate the policy for appropriate representation of Arab workers into tenders in the simplest possible fashion with regard to bureaucracy and rely on existing regulatory mechanisms and agencies.

The claim of additional costs of the tender, such as a longer duration because of appeals to the courts, ignores the high cost of failing to intervene in the market: a market characterized by inequality and from which segments of the population are excluded has an inbuilt failure and is less efficient and less competitive. In our case, the cost that the Israeli economy pays for the failure to integrate Arabs into the job market is immense.

In regard to Sikkuy's recommendation that bidders be required to submit a report on the structure of their workforce and a plan to achieve appropriate representation of Arab workers, vendors could be checked by an existing agency, such as the Equal Employment Opportunities Commission, based in the Ministry of the Economy, with some added personnel. In addition, in order to reduce the cost of regulation, the audit of the implementation of the plans submitted could be done on a sample basis, as is done by the income tax authorities and the Registrar of NPOs.

Sikkuy's policy recommendations include the awarding of bonus points for appropriate representation of Arab workers, as well as setting such appropriate representation as a threshold condition for eligibility to bid in the first place. The bonus-point method is more flexible, but it is also possible to set a threshold level of employment

that starts at a low level and increases over the years (thus allowing companies to adjust their workforce to the requirements). The threshold condition would be simpler from the bureaucratic perspective and permit an incremental check of the success of the program, along with modifications and updates should such be necessary. In both cases—bonus points for appropriate representation and a threshold level of employment—we believe that this policy should be applied in large tenders, so that small and medium-sized firms with workforces too small to guarantee diversity would not be adversely affected. In addition, the tender process should be structured as a function of the labor supply in Arab society and not force companies to hire workers who do not exist.

The claim: This approach would open the door to the addition of other socioeconomic requirements to tenders.

Opening the door to the promotion of socioeconomic policy by means of government tenders could result in additional demands that are not directly associated with procurement, some of them perhaps even contradictory. These demands would complicate the process and prevent a clear, transparent, and equitable metric for selecting winning bidders.

In regard to the specific focus on the employment of Arab workers, the assertion is that this would lead to demands to provide a similar response to help other excluded sectors—women, persons with disabilities, Ethiopian Israelis, and the ultraorthodox—that are underrepresented in the workforce.

Our answer: Arabs face unique problems in finding jobs.

There are groups other than Arab society that are not equitably integrated into the workforce. It is customary to mention women, persons with disabilities, Arabs, Ethiopian Israelis, and recently also the ultra-Orthodox as target groups for government policy to promote employment among them.

All these groups require effective action by the State to increase their

employment, but a number of cumulative factors make intervention on the demand side particularly relevant in the case of Arab workers. First and foremost is the size of the Arab population, which currently constitutes 21% of the Israeli population—a segment that cannot be compared to any other subgroup. This group offers significant potential for addressing the shortage of labor in the economy. In other words, investments in Arab society would produce the highest return in terms of the labor-force participation rate.

In addition, there is a fit between the profile of Arab society and the use of tenders as a policy tool to increase the employment of Arab workers. At present, there is a large supply of Arab workers willing to enter the workforce among the leadership and among individuals. However, the national conflict causes severe discrimination that deters firms from hiring them, so that even in sectors where there is a shortage of workers and Arabs are available to fill those jobs, there is no genuine demand. Steps are required to encourage demand in the private market. Doing so by means of government procurement is the only means that can be truly effective.

Summary

The danger of higher direct costs of tenders and even some indirect costs is outweighed by the much greater economic benefit of the Arabs' integration into the workforce, which in the long term would produce savings in government outlays on the many programs to encourage their employment. As noted in previous chapters, the hiring of Arab workers and diversification of workforces would make a major contribution to improving bottom lines and competitiveness in the private sector.

The next chapter looks at how various countries make use of socially conscious procurement in order to promote socioeconomic objectives.

International Examples of the Use of Public Tenders to Promote Socioeconomic Goals

Many countries make use of their purchasing power to promote social and economic goals and influence the private sector. In government tenders, preference for the lowest bid is frequently replaced by selection of the Most Economically Advantageous Tender (MEAT), which places the accent on the bid's long-term socioeconomic value, alongside considerations of the immediate cost of the job, product, or service.⁴⁶

Many countries follow a strategy of Socially Responsible Public Procurement (SRPP) and employ their vast purchasing power to influence the market. By means of efficient socially responsible procurement, countries are able to promote job opportunities, fair employment, social inclusion, access to resources, sustainability, and compliance with social norms.⁴⁷ In this chapter we will look at the models employed in various countries.

International Agreements and Socially Responsible Procurement

The government procurement market constitutes 15%–20% of the GNP of both developed and developing countries, and is subject to the bilateral, multilateral, and international agreements to which these countries are signatories.

The Government Procurement Agreement (GPA) circulated by the World Trade Organization (WTO) regulates access to government tenders by its signatory

46. Craig Fumeaux and Joe Barraket, "Purchasing LV Social Good(s): A Definition and Typology of Social Procurement," *Public Money and Management* 34(4) (June 2014).

47. European Commission, *Buying Social: A Guide to Taking Account of Social Consideration in Public Procurement* (October 2010).

countries. As of today, 42 members of the WTO have signed this agreement, including the European Union and its 27 member states. Israel signed the agreement in 1983. The goal of the Government Procurement Agreement is to encourage competition in government procurement and promote the principles of nondiscrimination (chiefly between local and international vendors), transparency of the procurement process, and fairness towards potential suppliers.

A new version of the Government Procurement Agreement came into effect in April 2014. Even though it reflects to some extent the expanding consensus on the promotion of social and environmental policy by means of government procurement contracts, it continues to restrict its signatories' ability to accord major weight to such considerations.

Common Practices of Socioeconomic Procurement

The considerations and criteria for promoting socioeconomic policy can be incorporated into various stages of the lifecycle of a bidding competition.⁴⁸ Every stage of a tender can relate to the desired socioeconomic policy, in various ways and with different limitations.

48. Northern Ireland Assembly, *The Integration of Social Issues in Public Procurement* (May 2009).

Before publication of the tender

■ **Defining the subject and terms of the tender:** Incorporating broad social-policy considerations into the decision about what is purchased and how, based on consultation with the relevant agencies in order to understand their needs and with potential suppliers in order to understand what the market can provide

■ **Criteria for implementation:** Precise and measurable definition of the requirements to be satisfied by the vendor, including attention to specific elements of social policy, in a form that allows equal access by all vendors.

■ There can be a secondary tender with more stringent criteria for implementation of the desired policy if the bids received are equal in cost to those received in the primary tender.

■ **Criteria for participation in the tender:** Management and social standards that bidders must satisfy.

The requirements of the tender

■ **Selection criteria:** The selection criterion can be the lowest bid or can take the socioeconomic policy being promoted into consideration.

Selection of the winning bid

■ The contract itself can include requirements that promote social policy, as long as they were specified in the tender documents.

■ Conditions for evaluating performance and sanctions for sub-par performance must be specified in the contract.

■ The winning bidder's social responsibility can be promoted outside the official contract framework by means of training courses and the supply of information.

Contract terms, assessment of performance, and management of relations

Canada

There are two Canadian programs that encourage the employment of disadvantaged groups by means of government procurement: the Federal Contractors Program and the Employment Equity Act.

The Employment Equity Act applies to all companies regulated by the federal government (banks, telecommunications, airlines, and so on); the Federal Contractors Program applies to firms that bid on federal contracts.

The Federal Contractors Program

The Federal Contractors Program,⁴⁹ which dates from 1986, focuses on four groups—women, the First Nations, persons with disabilities, and visible minorities—and applies to contractors who are not under direct federal government regulation and meet these criteria:

1. Firms with 100 or more permanent employees, full or part-time, or temporary employees who work 12 weeks or more
2. Firms that bid on contracts to supply goods or services with a value of at least one million Canadian dollars

Contractors who are submitting their first bid are required to sign an agreement to operate an affirmative action program. This agreement requires them to work in tandem with [ESDC \(Employment and Social Development Canada\)](#), which is part of the Canadian Ministry of Labor.

Employers' Obligations under the Federal Contractors Program

1. Creating a database about their workforce. Employer are required to create an up-to-date database about their workforce, including information about the date of hiring, social-group affiliation, occupational classification, date of promotions, and last date of employment.
2. Analyzing the workforce: Employers are required to analyze their workforce at least once every three years, in order to identify any under-representation by comparing the proportion in each sector of the company with the labor supply for each occupation.
3. Setting short-term and long-term objectives: Contractors are required to set reasonable objectives for a three-year timeframe, taking into account the level of under-representation in the firm, the availability of skilled workers from specific population groups at the workplace and in the Canadian labor market, the expected growth or contraction of the company's workforce during the period covered by the objectives, and the expected turnover of workers in that period. The contractor must also set long-term objectives for eliminating representation gaps that are not closed in the short term. The plan is submitted for examination by ESDC.

49. Federal Contractors Program, at www.esdc.gc.ca.

4. Investing reasonable efforts and making reasonable progress: Contractors are required to show that they have made reasonable efforts (ongoing support by their senior echelons for the implementation of affirmative action, formal mechanisms of responsibility for achieving the short-term objectives, investment of appropriate financial and human resources, implementation of a strategy to create a workplace free of obstacles, steps to increase representation in areas where under-representation has been demonstrated) and made reasonable progress (achieving at least 80% of the objectives for hiring and promoting workers, or 80% of the overall objectives and progress towards closing gaps of representation as a function of the timeframe defined).

ESDC reviews the company's compliance with the plan it submitted, taking account of the need for risk management. Its evaluations are based on the results of the action to promote appropriate representation and compared to the requirements of the Federal Contractors Program (FCP). Contractors who have not met the FCP's requirements for implementation of an affirmative action plan cannot be awarded federal contracts in the future; their names are published on the list of contractors who failed to comply with the appropriate representation demand. A finding of noncompliance may lead to the cancellation of the contract.

The Regulations implemented by ESDC

Implementation is evaluated, in a way that takes account of risks, in order to determine the firm's compliance or noncompliance with the program.

1. Evaluation after the first year: After the first year, the following items are examined: the collection of information about the workforce, analysis of the workforce, and setting of measurable short- and long-term objectives.
2. Evaluation after three years: This is done in random fashion. Some contractors are selected for an evaluation that examines their reasonable progress towards creating a workplace that practices affirmative action and has appropriate representation, and reasonable efforts to implement affirmative action.

Evaluation of the Performance of those Covered by the Federal Contractors Program

Contractors who satisfy the requirements remain on the list of those eligible to

bid on federal contracts. A determination of a failure to satisfy the requirements is made if a contractor does not display willingness to meet its undertaking with regard to affirmative action. Before the determination of noncompliance is made, the contractor is informed and given a chance to make the required changes or to appeal the decision to outside evaluator.

In the event of a final determination of noncompliance, the contractor's name is placed on the list of those deemed ineligible to bid on federal contracts; in certain cases this may even lead to the cancellation of the contract with it. In order to be readmitted to the list of approved contractors, the contractor must implement affirmative action in the workplace, report on implementation of the measures for affirmative action to the Labor Ministry, and undergo a reassessment of its compliance with the requirements of the FCP.

The Employment Equity Act

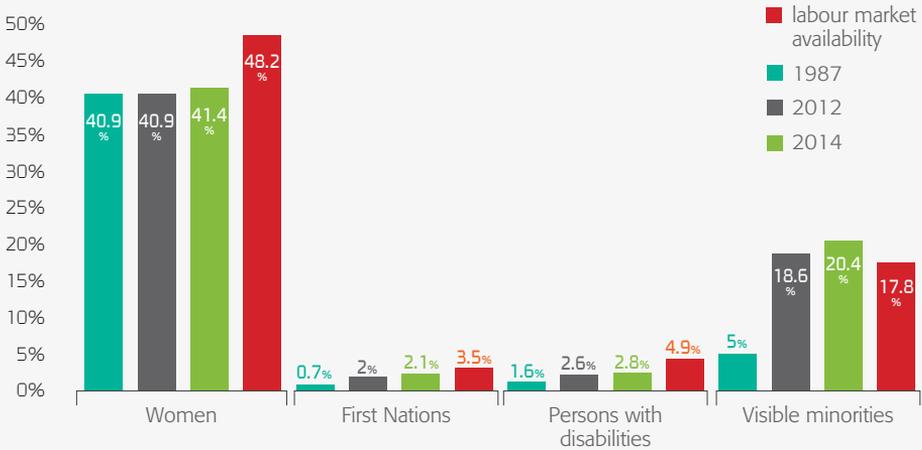
The Employment Equity Act, passed in 1986, applies to all companies subject to regulation by the federal government (banks, telecommunications, airlines, and so on). The law requires these companies to adopt a proactive policy to increase the percentage of four groups in their workforce: women, First Nations, persons with disabilities, and visible minorities. The law also requires that they remove obstacles to the employment of members of these groups, such as by providing wheelchair access. Employers are further required to have an active policy for hiring, training, retaining, and promoting members of these groups.

The Employment Equity Act requires the Ministry of Labor to submit an annual report to Parliament with data on appropriate representation in the workforce for firms that employ 100 persons or more. The report includes data on the level of representation of each of these groups, as well as the quality of their employment, such as wage level, hiring, promotion, and termination.

The [report for 2015](#)⁵⁰ contains information about 501 companies and organizations that employ 740,740 workers, or about 4% of the Canadian labor force.

50. [Employment Equity Act: Annual Report 2015](#)

figure 8: Progress in the Representation of Minority Groups in the Workforce of Companies subject to Federal Regulation under the Employment Equity Act, 1987–2014



As can be seen in figure 8, between 1987 and 2014 the representation of visible minorities increased by more than 300%, from 5% to 20.4%. That of the First Nations rose by 20%, from 0.7% to 2.1%; of persons with disabilities by 75%, from 1.6% to 2.8%; and of women by less than one percentage point, from 40.9% to 41.4%

The data indicate that the influence of the program to increase labor-force representation has a significant impact chiefly for groups that have particular difficulty in finding jobs and where there is a significant disparity between the supply of workers and their actual employment.

The great success of the Canadian program was presented by Ms. Gay Stinson, a senior official of the Canadian Labor Ministry, at a meeting with Sikkuy in Israel. **The Canadian programs combine a call for deep change, government support, and effective regulation, and have led to impressive results, chiefly among the most marginalized populations,** where the disparity between their labor supply and representation in the job market was greatest.

United States

The Civil Rights Act of 1964 imposes a reporting obligation on firms that employ more than 100 workers or those with more than 50 workers that win federal contracts. The reporting form⁵¹ refers to the gender and ethnic origin of workers in nine difference occupational categories (technicians, service providers, etc.). Federal contractors are also required to report about their employment of military veterans and persons with disabilities.

■ **Evaluation and enforcement:** Pursuant to Executive Order 11246, “Equal Employment Opportunity,” Part II, “Nondiscrimination in Employment by Government Contractors and Subcontractors,” issued in 1965, firms that win federal government contracts must engage in affirmative action in addition to filing reporting requirements.

As part of this obligation, employers are required to devise an affirmative action plan that includes an analysis of the labor force, identification of under-represented sectors, and an outline of steps and time-tables to increase the employment opportunities of groups that have been the victim of discrimination.⁵²

The Office of Federal Contract Compliance Programs monitors federal contractors. If they fail to meet the regulatory requirements, and as may be necessary, it reports to the Equal Employment Opportunity Commission, which can take steps against offenders, ranging from cancellation of the contract through disqualification to bid on federal contracts in the future.⁵³

Studies that examined the effectiveness of the programs to enhance employment diversity, conducted in 2006 and 2016, found that such programs are especially valuable in the case of federal contractors. The researchers attribute the difference to the government regulatory requirements, which provide employers with an incentive to diversify their workforce.

The researchers also found that this policy has a positive impact on firms that have never won federal contracts but adopt a policy of diversified employment in order to comply with the bidding requirements.⁵⁴

51. For a sample of the compliance report form, see file:///C:/Users/roi_grufi/Desktop/eeo1-2.pdf

52. <https://www.dol.gov/ofccp/TAGuides/sbguide.htm>

53. <https://www.dol.gov/ofccp/regs/statutes/eo11246.htm>

54. Alexandra Kalev, Frank Dobbin and Erin Kelly: [Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies](#); Alexandra Kalev, Frank Dobbin and Erin Kelly: [Rage against the Iron Cage - The Varied Effects of Bureaucratic Personnel Reforms on Diversity](#)

The European Union

In February 2014, new European Union directives about the government procurement process came into effect. They represent a dramatic change in the approach to public procurement as promoting socioeconomic policy. Some of their provisions facilitate socially responsible public procurement (SRPP).⁵⁵ These directives were to be applied by the member states through legislation by April 2016.

The EU Directives

1. General social clause: Under this clause, EU member states are required to verify compliance with their labor laws, environmental laws, and social laws in the tenders they publish and can disqualify companies that do not satisfy these conditions. In addition, the EU member states are required to reject lower bids if their price advantage stems from a failure to comply with social and environmental legislation, labor laws, relevant labor contracts, and international law.
2. Methods to include social criteria in tenders: The new directives permit consideration of the manufacturing process of the goods to be purchased and preference for companies that undertake to employ members of marginalized groups. It is also permitted to take account of specific working conditions of the workers employed on the contract, going beyond the statutory requirements.
3. Encouragement of social inclusion. According to the new directives, EU member states may direct tenders of every type to social organizations and firms in which 30% of the workers are from marginalized groups, and may also restrict certain tenders to NPOs for a period of three years.
4. Application of the regulations to subcontractors. Agencies that let contracts are required to verify that the subcontractors, too, comply with environmental and social laws and labor laws, labor contracts, and international law. In addition, when a tender is published, bidders may be required to specify what percentage of the work they are planning to subcontract; in certain cases they may be required to provide full details of all subcontractors in their supply chain. EU member states can also pay the subcontractors directly.

55. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement.

The elimination of the sweeping directive that the social policy incorporated into a tender must be directly relevant to the subject of the tender is recognition of the fact that it is impossible to promote optimum socioeconomic policy and inappropriate to impair the production and working conditions of those who supply public needs. In addition, the attention to the supply chain tells both contractors and governments that responsibility for the nature of procurement and for the conditions of the workers who provide it remains with the entity that orders the goods or services—the state. These changes reflect recognition that governments should try to use their purchasing power to influence the market. We recommend that the Government of Israel adopt these directives in all matters relevant to the employment of Arab workers.

Prevalent Practices of Socioeconomic of Procurement in the European Union

The range of socially responsible policies that can be promoted through procurement tenders is broad; countries that seek to promote socioeconomic objectives tend to incorporate them in public tenders in a variety of ways. Research conducted among the member states of the European Union⁵⁶ indicates that among those that promote socioeconomic policies through tenders, 21% promote the inclusion of small and medium-size businesses, 43% promote fair trade, 26% use tenders to encourage the hiring of disadvantaged populations, 32% do so to promote fair employment practices, and 32% use public tenders to promote employment opportunities for the jobless.

Common Monitoring and Evaluation Practices in the European Union

Only 16.3% of the EU member states that promote social responsibility in procurement also have built-in monitoring of the performance of winning bidders, due both to a shortage of resources and political support and to the lack of knowledge required for effective regulation. The monitoring and evaluation methods are implemented before and during the tender process and are based on reports by contractors and outside audits.

■ **Bidders' statement and submission of proof.** Bidders submit formal statements of their past compliance with the social responsibility criteria. Additional documentation may be requested as well.

56. [Strategic Use of Public Procurement in Europe, European Union \(2011\)](#)

■ **Follow-up questionnaires.** Winning bidders may be required to fill out follow-up questionnaires about their progress in implementing social responsibility programs, as long as this condition was included in the tender.

■ **Outside audit.** Outside audits may be conducted, both of bidders before the contract is awarded and of the actual performance of the contract. The cost of the outside audit can be imposed on the contracting agency or on the contractor.

Denmark⁵⁷

The government of Denmark publishes guidelines for socially responsible policy in public tenders, and these must be incorporated into the performance criteria of all public tenders, with the accent on employment opportunities and social integration. These directives are not anchored in law, however.

■ **Promotion of employment opportunities.** In tenders for jobs and services that require local personnel, at least in part, the terms of the tenders require that 5%–10% of the workforce be recruited from five categories of unemployed person. Between 50% and 75% of these workers' wages are paid by the contractor; the rest is covered by a government subsidy. Even though this program is not anchored in legislation, local authorities are required to submit four-year plans in this domain.

■ **Fair employment:** Denmark has ratified the International Labor Organization's agreements on fair employment and incorporated them into tenders. It is obligated to them by law.

■ **Encouragement of small and medium-sized businesses:** Efforts are made to encourage firms that employ fewer than 250 workers to bid on government tenders. It is common practice to split up large contracts by geographic areas, so as to permit small and medium-sized firms to take part.

Evaluation and enforcement: Government tenders fall under the supervision of the Danish Competition Authority, which is authorized to verify compliance with the terms of the tender. Noncompliance may lead to cancellation of the contract

57. [Legal and Policy Review of SRPP frameworks in selected EU Member States.](#)

and even to the closure of the company. In practice, evaluation and enforcement are difficult because of a lack of standard systems for reporting and monitoring.

Northern Ireland

The current public procurement policy in Northern Ireland dates from 2002, when the government of Northern Ireland decided to take advantage of its very large budget for purchasing goods and services to promote job opportunities for the long-term unemployed. The Northern Ireland government launched a pilot that incorporated criteria for hiring unemployed persons in twenty government tenders in the fields of cleaning services, catering services, security, and construction, in amounts ranging from £700,000 to £8.5 million.

In their bidding documents, vendors were required to include a social policy statement and a work plan for hiring the unemployed, with details of how persons no longer actively looking for work would be hired. The winning bidder was required to implement its plan and government officials monitored its implementation. Over a two-year period, they conducted face-to-face interviews with the contractors and collected and studied the bidding documents and work plans. The work plan was the decisive factor in the selection of the contractor only when two bidders were effectively tied. This was defined as a gap of up to 2% for the criterion of “most economically advantageous” and 1% for the criterion of “lowest price.”⁵⁸

The pilot was deemed a success. For the government, the project proved more worthwhile than others, and the administrative costs were low. Among the vendors, only two (10.5%) reported that the project had increased their costs. Three (15.8%) reported that it had increased their workload. Many contractors, especially in construction, made the plan they submitted to the government part of company policy.

58. “Most economically advantageous bid” combines the quality and price criteria in the scoring of a bid. Quality can include aesthetic and environmental considerations, delivery dates, after-sale service, and more. By contrast, “Lowest Price” means just that and awards the contract to the bidder who submits the lowest proposal.

In the wake of the pilot, the government of Northern Ireland gradually introduced changes in its procurement policy, with the goal of encouraging sustainable development and achieving economic, social, and environmental objectives. In 2011 it redefined the term “Best Value for Money” that guides the selection of vendors and added social and environmental objectives to the considerations of cost and quality. In practice, the government plan for 2011–2015 incorporated social clauses (such as the hiring of the unemployed) in all public tenders for goods, services, and construction.

France

In France, social responsibility in public procurement is not anchored in legislation. The French legal system is adamant in its rejection of preference among competitors for reasons that have nothing to do with price, but the national and local political systems tend to adopt a positive attitude towards socially responsible procurement.⁵⁹ Social-action organizations are involved in the process from the early stage of publishing a tender to that of monitoring compliance with the sections that relate to social responsibility. The authorities run courses to increase vendors’ awareness of socially responsible policy.

■ **Integration of persons with disabilities:** Contractors are required to include a certain percentage of persons with disabilities in tenders. Winning bidders can realize this obligation by subcontracting part of the job to sheltered workshops. Noncompliance engenders a fine that is paid into a special fund for the integration of persons with disabilities into the civil service.

■ **Promoting employment opportunities:** Many tenders issued by local authorities include clauses that require hiring the unemployed and young people without advanced education. Winning bidders can realize this obligation by subcontracting part of the job to organizations that specialize in this form of integration.

59. Ibid.

■ **Promotion of small and medium-size businesses:** There is no legal way for tenders to give preference to small and medium-size businesses, but in practice large contracts may be split up and vendors may be required to subcontract a percentage of the job to small and medium-size businesses.

The countries in this survey and many others make use of public procurement in order to promote policy goals and to shape the private job market. Promoting socioeconomic policy by means of tenders can be done in diverse ways, statutory and others, accompanied by a broad spectrum of regulatory mechanisms.

60. Ministry of Industry, Trade and Labor, "Progress Report on the Implementation of the OECD Recommendations in OECD Reviews of Labor Market and Social Policies: Israel" (June 2012).

61. The ministry of finance, the prime minister office and the ministry of social equality: "A comprehensive plan to promote economic development in Arab society by revising certain discriminatory budget allocation mechanisms"

Precedents for the Incorporation of Social Goals into Israel's tenders law

In Israel, government contracts with vendors for goods and services fall under the purview of the Mandatory Tenders Law (1992), which stipulates that every government agency, government corporation, health maintenance organization, and religious council must conduct a bidding competition if they wish to receive services from private entities or to purchase some asset from them for more than a certain sum.

The goal of the law is to enforce equality and sound administration, in part by providing equal opportunities to all bidders and ensuring the efficient use of public funds by selecting the lowest or most worthwhile bid.

The Israeli government is profoundly suspicious of the inclusion of social goals in the Mandatory Tenders Law, as a representative of the country explained to the OECD.⁶⁰ Some government officials assert that expanding the scope of the Mandatory Tenders Law to include appropriate employment representation might lead to distortions. Its expansion to cover other goals, even those that are compatible with the government's objectives, might stimulate demands to include other matters as well, with the danger of impairing the economic efficiency of the tender process. There is also a fear that the inclusion of social goals in the law would contravene the WTO Government Procurement Agreement, to which Israel is a signatory. Under that agreement, Israel is obligated to permit international companies to bid on the supply of services. According to the ministry of finance a commitment to appropriate employment representation of all sectors might make it more difficult for foreign companies to compete to supply services. We refuted these arguments in detail in Chapter 7, "Questions and Answers about the Use of Public Tenders to Promote the Employment of Arabs." It should however be noticed that the Israeli government has shown a certain change in this approach. A report that was issued as part of the December 2015 Government Resolution stated that there is a place to examine an appropriate representation of Arab representation as A threshold condition for participating in government tenders.⁶¹

Despite to the reservations of some government officials, we assert that the

integration of Arab workers into the economy by means of government tenders is the cheapest method, because it does not require special and costly programs; and the most effective method, because it will have a broad and long-term impact on increasing the employment of Arabs in the private sector.

In addition, and contrary to the position of those who are opposed to promoting the employment of Arabs by means of tenders, the Mandatory Tenders Law and its regulations already serve as an instrument for promoting social and other goals that are considered to be economically worthwhile in the long term, as follows:

■ **Preference for domestic products:** In 1993, the law was amended by the insertion of §1a(a), which permits preference for domestic products in tenders. An ad-hoc order, issued in 2010, permits the government to enact regulations to favor the purchase of domestic textiles for the defense establishment and the Internal Security Ministry.

■ **Preference in contracts because of international cooperation obligations:** In 1994, the law was amended to include §3(a)2a, which permits preference for bids because of a government commitment to international cooperation or reciprocal international procurement.

■ **Encouragement of women in business:** In 2012, the law was amended to include §2(b)b, which states that in the case of identical bids, preference will be given to those submitted by a business managed by a woman.

Encouragement of small and medium-sized businesses: In 2013, the Government Procurement Administration in the Office of the Accountant General issued an ad-hoc order on the inclusion of small and medium-size businesses in government tenders. According to this document, tenders will be reviewed before publication and can be modified with regard to their volume and preconditions in order to make it possible for small and medium-sized businesses to take part. The ad-hoc order also includes a requirement for reporting the extent to which small and medium-sized businesses are included in procurement tenders.

These examples show that a broader perspective on the economic benefit of promoting a desirable policy by means of tenders has already been accepted as part of Israeli procurement policy, and that the inclusion of policy goals in the tender process does not contradict current policy.

Summary

Arabs constitute approximately one-fifth of the working-age population in Israel. But the quality of their jobs and their income from labor are significantly lower than that of the population as a whole, while their poverty rate is much higher than that of Israeli society in general. To this we must add the demographic projections of the Central Bureau of Statistics and the Finance Ministry, namely, that should the current trend continue the Israeli economy will be severely harmed, with a decline in the employment rate and per capita product and increase in the budget deficit.

Starting in 2010, the state has been taking steps to reduce the disparities between its Arab and Jewish citizens by means of several multiyear programs. Nevertheless, the State Comptroller's report published in May 2016, which examined government efforts to encourage the employment of Arabs, found that these are deficient and that the volume of investment and rate of progress are inadequate for closing the gaps in the long term.⁶²

The obstacles to the employment of Arabs in the Israeli labor market are many, diverse, and powerful. Taken together they are a dangerous combination that requires attention proportional to the magnitude of the challenge. Israel currently invests vast sums to increase the supply of Arab workers, chiefly by improving their physical access to jobs and their occupational training. For example, a recent Government resolution, approved in December 2015, calls for a dramatic revision of the mechanisms for budget allocations to Arab citizens. As a result, large sums are being directed to Arab society as part of a policy whose chief goal is to promote integration in the job market: the construction of daycare centers and expansion of public transportation in Arab localities, increased allocations for education, and more.

But as excellent and important as these government measures to encourage Arab employment may be, **in the absence of serious attention to the low demand for Arab workers, which is a result of discrimination on a national basis, Israel**

62. ["Government Actions to Encourage the Integration of the Arab Population in Employment](#) (above, n. 5).

finds itself with an increasing supply of Arabs who are ready and willing to take jobs in a market that is not willing to absorb them. This situation increases the frustration in Arab society and undercuts the effectiveness of government action. A focus on increasing the demand for Arab workers is critical, both given the anticipated development of the labor force in Israel and because it complements other government activity. The failure to address the problem of demand will jeopardize the success of the government's efforts. Today, Israel has an efficient and inexpensive way to deal with the demand side for Arab workers as a way to increase their employment: exploiting its purchasing power. Many countries, including Canada, the United States, and members of the European Union, increase the demand for workers from disempowered groups by incorporating the requirement that they be represented in the workforce into government tenders to the private market, and have thereby managed to effect a significant change in the employment patterns of the groups.

Using tenders to encourage the employment of Arabs is a solution that Israel can implement in an inexpensive and effective manner.

We are not unaware of the costs and difficulties inherent in this approach. But as we have asserted in this document, the benefit to the economy far exceeds the cost. We have proposed incremental regulations and a gradual path to implementation.

Under our program, which draws on the tens of billions of shekels that are directed to the private sector each year through government contracts, the private sector will have a strong motivation to increase the employment of Arabs and enjoy the benefits obtained from the diversification of the workforce.

Channeling the state's purchasing power to expand the employment of Arabs in Israel will complement the government's efforts to increase the supply of Arab workers and create a breakthrough in their integration into the labor market, to the benefit of all Israeli society and the Israeli economy.

Appendices

Appendix A

Primary Legislation or Regulations? Methods for Implementing the Regulatory Process

The requirement of appropriate representation of Arab employees can be incorporated at three different levels:

1. In primary legislation aimed at the Mandatory Tenders Law;
2. In the regulations promulgated under the Mandatory Tenders Law, which would then apply to all public tenders
3. In specific tenders, through the provisions of the Financial and Economic Regulations.

The various tools mentioned above can be applied at each of these levels:

- a. The requirement to report on the current workforce and implement a plan to hire more Arab workers and increase awareness of the importance of their appropriate representation can be incremented through legislation (1) or through regulations (2).
- b. Preference for bidders that currently have or move towards appropriate representation of Arab workers can be incorporated into legislation (1),

reports and
a plan to
increase Arab
employment

Through legislation or
regulations

Preference
for bidders
who promote
appropriate
representation

Through legislation
or regulations or
the Financial and
Economic Regulations

Threshold
requirement
for bidders

Through laws
or the Financial
and Economic
Regulations

into regulations (2), or into the provisions of the Financial and Economic Regulations (3).

- c. A threshold requirement—preference for bidders who guarantee appropriate representation—can be incorporated into legislation (1) or into the Financial and Economic Regulations (3).

Each of these regulatory mechanisms can be applied in specific tenders on a pilot basis even before the Mandatory Tenders Law and its regulations are amended.

Appendix B

Promoting a Plan to Encourage Winning Bidders to Hire Arab Workers and Raising Awareness by Means of the Mandatory Tenders Law and Its Regulations

AMENDMENT OF §6(A)

Section 6(a) of the Mandatory Tenders Law regulations stipulates conditions for participating in a tender, which include possession of a business license and a formal statement that employees' rights are respected.

Recommendation: Insert subsection 6(a)(5), to require bidders to submit a form that reports on the firm's employment of Arab workers, with details of their positions, and a plan that includes objectives for increasing the representation of Arab workers in order to reach an appropriate level.

Bidders that have won a public tender in the past will submit a written formal statement that they have implemented the plan filed then to increase their employment of Arab workers. The statement will be published on the website of the Accountant General.

ADDITION TO §42B(A)

Section 42b(a) of the Mandatory Tenders Law regulations deals with the qualifications of those who sit on tender panels.

Recommendation: Insert subsection (3), requiring members of tender panels to be familiar with the topic of diversification of the labor market and appropriate representation of Arab workers.

INSTITUTING A REPORTING REQUIREMENT BY MEANS OF AN AMENDMENT TO THE MANDATORY TENDERS LAW (1992).

Section 2a(a) of the Mandatory Tenders Law deals with the requirements for participating in the tender. It stipulates that "the agency publishing the tender will

not set conditions for bidders' participation in a tender unless this condition is required by the nature or substance of the tender.” The aforesaid notwithstanding, the addition to §2(a)(b) enumerates several preconditions for eligibility to bid, related to years in business, prior experience, financial turnover, and volume of production or supply. Subsection 2(a)(c) authorizes the Finance Minister, with the approval of the Knesset Constitution, Law, and Justice Committee, to modify this clause by decree.

Recommendation: Expand §2(a)(b) to require bidders to collect and submit information about the percentage of Arab employees, their occupations and wage levels. The same section can incorporate a requirement that bidders create a work plan to increase the number of Arab employees and commit themselves to implementing it.

Appendix C

Preference for Bidders with Appropriate Representation of Arab Workers, by Means of Legislation and Regulations

ADDITION TO §3A

Section 3a of the Mandatory Tenders Law stipulates that with the approval of the Knesset Constitution, Law, Justice Committee, the government may enact regulations to require that certain tenders give preference to domestic and regional products, or to bids without an obligation to international commercial cooperation.

Recommendation: Insert subsection 3a(3), to allow preference for bidders who demonstrate an appropriate representation of Arab workers at all levels of employment.

ADDITION TO §22A

Section 22a of the Mandatory Tenders Law regulations enumerates the criteria for selecting the bid that is most advantageous to the agency letting the contract, including price, quality of the product or service, the bidder's reliability, recommendations about it, and its respect of workers' rights, as well as requirements specific to the agency conducting the tender.

Recommendation: Insert subsection §22(a)(7), to allow the criteria for selecting the winning bid to include the extent to which the bidder demonstrates appropriate representation of Arab workers at all levels of employment.

Insert subsection (8), to allow taking account of whether bidders that have won a public tender in the past complied with the objectives of the plan they submitted to promote appropriate representation of Arabs in their workforce.

ADDITION TO §24A(A)

Section 24a(a) of the Mandatory Tenders Law regulations stipulates that the Accountant General may include provisions in the Financial and Economic Regulations related to implementation of the Mandatory Tenders Law and

its attendant regulations. Among other things, the Accountant General may publish directives about evaluation of the performance of bidders who have won government contracts in the past and directives about their respect of their workers' rights. It may also define areas in which vendors who have not respected their workers' rights and complied with labor law are ineligible to compete, and publish directives to encourage contracts with corporations that have ISO environmental quality certification.

Recommendation: Insert subsection 24a(a)(12), to authorize the Accountant General to publish directives concerning the appropriate representation of Arab workers in companies that participate in government tenders.

§6(B)

Section 6(b) of the Financial and Economic Regulations stipulates that relevant conditions can be set for participation in tenders, such as the bidder's experience, qualifications, turnover, place of business, and compliance with an unofficial Israeli standard.

Recommendation: Amend §6(b) to include a requirement that firms that wish to bid on government contracts satisfy the requirement for appropriate representation of Arab workers, as this may be defined from time to time.

FINANCIAL AND ECONOMIC REGULATION 7.4.7

Financial and Economic Regulation 7.4.7, "Definition of Criteria and their Weight," permits agencies that publish tenders to define criteria for evaluating bids and the weight to be given to each criterion, pursuant to its own discretion.

According to §4.5.1 of Financial and Economic Regulation 7.4.7, tenders can specify the criteria that the tender committee will take into account when it selects the winning bid, such as price, quality of the goods or services offered, the bidder's reliability, and recommendations about it. Section 4.5.1.7 states that "the tenders committee is entitled to define additional criteria as may be required." This clause allows the tenders committee for a specific contract to include appropriate representation of Arab workers among the criteria for selecting the winning bid. Appropriate representation of Arab workers can be set across the board as a threshold condition for eligibility to bids, by means of

modification of the regulations of the Mandatory Tenders Law, or for specific tenders, through the Financial and Economic Regulations.

FINANCIAL AND ECONOMIC REGULATION 7.4.6

Financial and Economic Regulation 7.4.6 enumerates conditions for taking part in a tender. Pursuant to §4.3, when it sets threshold conditions the agency holding the tender may take account of the inclusion of small and medium-sized businesses and encouragement of the employment of Israeli workers.

Recommendation: Participation in a tender can be conditioned on appropriate representation of Arab workers by means of the addition of subsection 4.3.3, which would make it possible to take account of the extent to which bidders comply with the condition of appropriate representation of Arab workers when the threshold conditions for the tender are set. For small and medium-sized businesses, the definition of “appropriate representation” will be adjusted as a function of their size.

Appendix D

Summary of the Legislative Methods by which Government Procurement Can B Used to Promote the Employment of Arabs

Legislation		
	Type of change	Legislation affected
All tenders	Primary legislation: Mandatory Tenders Law	§2(a)(b)
	Primary legislation: Mandatory Tenders Law	§3(a) Provisions relating to certain preferences
	Secondary legislation: Mandatory Tenders Law regulations	§6
	Secondary legislation: Mandatory Tenders Law regulations	§ 22 (a)
	Secondary legislation: Mandatory Tenders Law regulations	§24a
	Secondary legislation: Mandatory Tenders Law regulations	§42(b)
	Secondary legislation – Financial and Economic Regulations	Financial and Economic Regulation 7.4.7: Definition of criteria and their weight
	Secondary legislation – Financial and Economic Regulations	Financial and Economic Regulation 7.4.6: Definition of conditions for participating in a tender
Specific tenders		

Legislation

Proposal to achieve the desired change by legislative amendment

New requirement to collect and submit information about the percentage of Arab workers and their positions in the company

New subsection 3 to permit preference for firms that demonstrate appropriate representation of Arabs in their workforce

New subsection 6(a)5, to require bidders to submit a formal statement of their compliance with the requirement of appropriate representation of Arab workers and submit a plan for such representation

New requirement of appropriate representation, as §6(b): Stipulation that bidders must comply with the appropriate representation requirement

All tenders

New subsection 7: adding to the criteria for selection of the winning bid the bidder’s demonstration of appropriate representation of Arab works at all job levels

New subsection (8) to permit consideration of whether firms that have won public contracts in the past met the objectives of the plan for appropriate representation of Arab workers they submitted then

§24a: Financial and Economic Regulations

New subsection 12 to show preference for corporations that promote appropriate representation of Arab workers

§42(b): Qualifications of tender committee members):

New subsection (3), to require members of tender committees to be familiar with the topic of diversification of the labor market and appropriate representation of Arab workers

Use of §4.5.1.7, which permits tenders committees to define additional criteria for selecting the winning bidder in order to give preference to companies with appropriate representation of Arab workers.

Specific tenders

New subsection 4.3.3, to permit tender committees to take account of the extent to which bidders comply with the condition of appropriate representation of Arab workers when they set the threshold conditions for the tender.

Government Tenders:

The Key to a Breakthrough in the Employment of Arabs in the Private Sector

This document presents detailed policy recommendations for the use of government tenders to the private sector as an instrument to effect a breakthrough and increase the employment of the country's Arab citizens. Its thesis is that the State's current approach to promoting the employment of Arab men and women suffers from a structural problem, because it focuses on the supply side and not on the demand for of Arab workers. To address this, it proposes that criteria to encourage the employment of Arabs be included in government tenders, as a tool to promote Arab employment in the private sector.

Sikkuy has submitted this document to government ministries, the leaders of Arab society, research institutes and academia, and civil-society organizations, as well as to representatives of the private sector. We will continue to work with all these parties until the recommendations have been implemented.

Sikkuy, the Association for the Advancement of Civic Equality, is a civil society organization of the Arab and Jewish citizens of Israel. Its mission is to promote substantive change in the status of the Arab citizens of Israel. Sikkuy works to achieve full equality in all fields and on all levels between the Arab-Palestinian citizens of Israel and the Jewish citizens. Its agenda and activities are based on an ongoing and frank dialogue between the Arab and Jewish members of its professional staff and board, who are affiliated with the mainstream of each sector.

