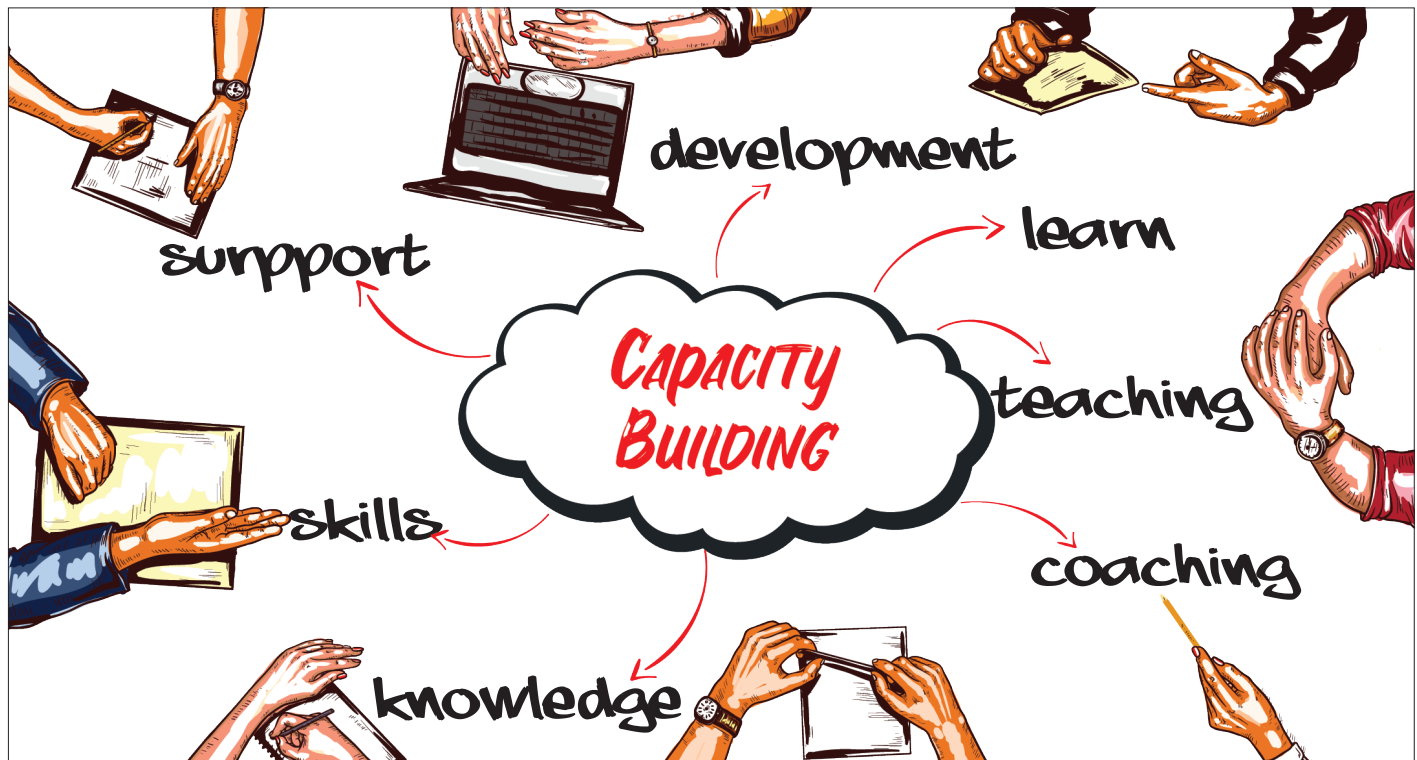


PROCUREMENT TRACKER NAMIBIA



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The continuing capacity conundrum

A system wide lack of competence and professionalism is clearly at the heart of why the public procurement system is underperforming and largely dysfunctional.

One issue that has consistently raised itself as concerning of and bedeviling effective implementation of the Public Procurement Act of 2015 to date, is capacity.

In other words, it has become increasingly clear since April 2017, when the law was operationalised, that the Namibian public sector severely lacks the necessary skills and expertise – basically competent and professional staff – across institutional arrangements, to run a modern and efficient public procurement system.

This issue was in fact articulated and highlighted once again at the July 2019 high level “Workshop on the Challenges Facing Public Entities in the Implementation of the Public Procurement Act”.

At the start of the event, prime minister Saara Kuugongelwa-Amadhila said: “I am disturbed by reports that some public entities do not have internal organisational structures in place ...”.

She continued that: “For us to make progress in the implementation of the law, we need to strengthen our capacity at all levels of our institutions. I am glad to note that the Ministry of Finance through the Procurement Policy Unit hosted training of stakeholders on the implementation of the Public Procurement Act and is engaging institutions of higher learning to create a field of study on

public procurement management. I urge stakeholders to finalise this consultative process for the training to commence at our public institutions.”

And finance minister Calle Schlettwein, at the same event, lamented that “having the best law is only one side of the coin, the capacity to efficiently implement the law and realise its intended benefits are the other most important aspects”.

He added that “the management and administrative structures, particularly the Central Procurement Board and Policy Unit continue to face inadequate staffing, with a cascade effect on their capacity for timely deliverables and delays in evaluation, assessment and contract awards, and similarly, procuring entities consistently cite the need for capacity building to understand their obligations and the new procurement process”.

Central Procurement Board of Namibia (CPBN) chairperson Patrick Swartz has over the years also numerously spoken about a lack of capacity hampering the operations of the CPBN.

Future statement

According to the Public Procurement Act, the Procurement Policy Unit (PPU) is responsible for providing or guiding training and ensuring professional standards within the system.

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However, it is clear that the PPU itself is severely under capacitated. That said, its legal mandate is clear, specifically: “To prepare and conduct training programmes and approve training curriculum on public procurement; To set mandatory training standards, capacity building and competence levels, certification requirements and professional development paths for procurement practitioners in Namibia.”

In light of this, around the time that the Public Procurement Act was operationalised the PPU developed a Capacity Building Strategy and in early 2018 the PPU sought input to the draft strategy from across the government system.

It should be noted that according to the PPU there are 178 public sector procuring entities.

In its assessment of the existing capacity situation, the draft strategy document finds that while “technical staff have at least a degree in a professional field (Engineering, QS, etc.), on the whole “public procurement staff have not followed a formal course in purchasing and supply management and most of them have as qualifications Grade 10 or 12”.

It continues that “there exists a large capacity gap among procurement practitioners. The new legislation requires a professional approach in public procurement proceedings. There is therefore a need for a new breed of procurement professionals”.

The document also candidly states: “It is estimated that about 1000 officers of Offices, Ministries and Agencies (O/M/As), State Owned Enterprises (SOEs) and Local Authorities” needed to be trained.

And it concludes that a “much more realistic approach is necessary and it has to be conceded that it may not be possible to achieve professionalism among all the existing procurement staff”.

The strategy document also makes clear that, if all envisaged training measures were to be introduced and functioning optimally, it would take about 10 years to adequately professionalise the public procurement system. The document proposes various interventions to appropriately capacitate officials working in the system and those still to enter the system.

However, as the political statements from earlier this year illustrate, this strategy has yet to take substantial effect, suggesting that, all things being considered and implemented, the public procurement system could only really reach optimum capacity levels at some point shortly beyond 2030.

Why this matters

This is a serious concern for how the system functions into the future, as significant capacity shortfalls at all levels of state could lead to the entrenching of highly questionable non-compliance practices and cultures, and even the substantial corrupting of the system, practices which would be very difficult to dislodge once they’ve become rooted in the system.

Professionalising the system

Short Term Capacity Development Strategy

A short term strategy was developed to fill the gap. Specific actions taken were as follows:

- Awareness sessions and Training workshops for procurement officials on the new system from 2014 to present date;
- An awareness session for permanent secretaries and chief executives in 2015;
- A proposal for certification programme in Public Procurement through local universities (to be re-initiated);
- Training sessions for public officials and bidders on the implementation of the Public Procurement Act, 2015 during 2017 (to be conducted by the Procurement Policy Unit when required); and
- Face-to-face consultations between the Public Entities and Procurement Policy Unit.

Medium Term Plan

While the Certification Programme addresses the short term requirements to ensure a smooth take off for the implementation of procurement reforms undertaken by the Government, the professionalisation of the procurement and supply functions requires that officers should receive training on the professional aspects at tertiary level.

Long Term Plan

The local universities which will start the Diploma and BSc courses in Procurement and Supply Management may start a Master Degree programme in Procurement and Supply Management with focus on strategy, policy, leadership and managerial skills, and innovative practices.

Taken from: CAPACITY BUILDING STRATEGY (Issued in terms of section 7(1)(h) of the Public Procurement Act, 2015)

Major issues confronting the public procurement system

By the end of October 2019, more than two-and-a-half years since the operationalising of the Public Procurement Act of 2015, the public procurement system still faced some significant implementation challenges. These can be summarised as follows:

- Significant non-compliance with sections of the law;
- Under capacitated Procurement Policy Unit;
- Under capacitated Central Procurement Board of Namibia;
- General lack of procurement expertise and capacity at organisation level throughout the state;
- Generally weak oversight of procurement processes at organisational and central government levels;
- Unclear and confusing legal provisions in the law;
- Delays in crafting and implementing regulations;
- Widespread non-compliance on production and publishing of annual and individual procurement plans;
- Large-scale lack of accountability for mismanaging or mal-administering procurement processes;
- Significant lack of understanding and misapplication of the law;
- Corruption in procurement processes, transactions and contracts;
- Lapses in integrity
- Some entities still do not have the required internal organisational procurement structures in place;
- Absence of a public procurement performance assessment mechanism;
- Absence of consolidated public procurement data;

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Public procurement in the news



Photo courtesy of: Ministry of Justice

Justice ministry in corruption spotlight

The ministry at the heart of ensuring the rule of law sees its image tarnished by a string of suspicious procurement transactions in 2019

Questionable office space deal

In June 2019 it was reported that the finance ministry had refused to approve the purchase of a Windhoek property by the justice ministry, citing an over inflated valuation.

According to the report in The Namibian, the justice ministry earlier in the year had agreed to pay N\$26.3 million for a building – which has housed the Office of the Ombudsman for over a decade – in Windhoek’s Ausspannplatz area.

The finance ministry refused to sign off on the

property purchase because the price tag was more than double the government valuation of N\$12.2 million and because procedures had allegedly not been followed.

Irregular procurement payments

In July 2019 The Namibian reported that a combined N\$750 000 was irregularly paid into the accounts of three senior justice ministry officials, with the money allegedly routed to a foreign service provider from these accounts.

The matter was reported to the Anti-Corruption Commission (ACC) by a whistleblower earlier in the year and an investigation had been launched.

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Bizarre ...

In a statement following the investigation of this matter, ACC director general Paulus Noa issued a statement that read: “Though the ACC is satisfied that there was no intention to siphon the funds, the practice of paying suppliers through personal bank accounts of public officials is unprocedural, unlawful and must be discontinued by public institutions. The practice creates potential chances for corruption”. Ultimately, the ACC decided not to take the matter further, labelling it an administrative matter to be dealt with by other government authorities.

Following this, finance minister Calle Schlettwein criticised the ACC for not taking action and cautioned: “If I am a whistleblower about corrupt practices in government and nothing is done, do you think I will continue to report them? Something needs to be done.”

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- Slow and non-compliance with ministerial directives and requests;
- Delays in processing procurement approvals and procurement bids;
- Absence of key bidding documents and standard contracts;
- General lack of transparency throughout the public procurement system, especially concerning exemptions and emergency procurement transactions.

Why this matters:

Moving on three years since implementation and almost five years since enactment, the Public Procurement Act (2015) remains a problematic framework for government to adapt to, and the risk is run that the mal-implementation of the law and its regulations could significantly undermine or permanently weaken the efficiency, transparency, accountability, integrity and value for money aspects of the framework.

CORRECTION

In Procurement Tracker Namibia no. 6, as part of the front page feature, titled ‘Trying to fix the system’, we published an information box on page 2 with the title ‘Interesting note’. The following was stated in the box: “In the combined 12 pages of their statements at the NIPAM workshop, the word ‘corruption’ was not mentioned once by either the prime minister or the finance minister.

This is incorrect, for the finance minister did make one (1) mention of the word ‘corruption’ in his eight page statement – on page 3, paragraph 6, bullet-point 6, where he stated: “deterrence of the risk of fraud and corruption in the execution of the procurement function”.

We apologise for the mistake.

Procurement in the mid-year budget review statement

“The economic recovery and stimulus package entails:-
Accelerating the turnaround time for public procurement project adjudication and award, particularly for high-value projects across economic sectors, specifically the roll-out of energy investment projects by Nampower.”

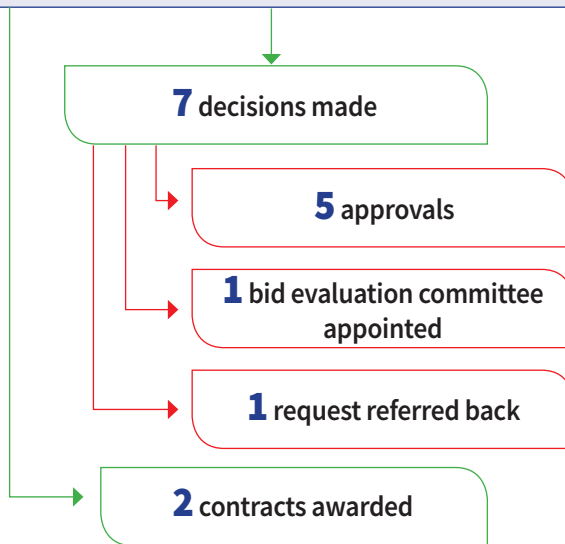


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According to the official account, the money – destined for a Singaporean supplier – was reportedly channeled through the accounts of the three senior officials in order to avoid the transaction rolling over into the new financial year.

It was reported that the entire procurement process had been sidestepped in the purchase of software from the Singaporean supplier and that state finance rules had been flouted in the processing of the payment. The three officials named in the reports were Danny van Rooyen, Marian Groenemeyer and Simon Elifas.

CPBN decisions & awards – From 1 - 22 October 2019



* All Central Procurement Board of Namibia activities can be viewed on its website at www.cpb.org.na

N\$9 million procurement scandal surfaces

In October 2019 The Namibian reported that one of the officials implicated in the irregular payments was also a central figure in another procurement corruption investigation.

Marian Groenemeyer and justice ministry accountant Jeremiah Baisako were implicated in the irregular procurement of security systems and equipment in March this year from a local supplier to the tune of over N\$9 million – with the goods apparently not having been delivered.

Baisako was arrested and appeared in court in September 2019 for allegedly defrauding the ministry of about N\$300 000 in early 2018. Baisako resigned from the ministry in mid-October 2019.

According to reports, the N\$9 million security systems purchase totally side-stepped ministerial procurement processes and the State Finance Act, concerning payment procedures.

This matter appears to still be under investigation.

Accountability?

The Namibian reported that Cabinet secretary George Simataa had ordered an investigation into justice executive director Isaskar Ndjoze’s handling of the Singapore irregular payment affair, and that a report would be compiled by 23 September 2019. A month later, it still was not clear what had been found.

The finance ministry was reportedly also looking into the justice ministry over these matters.

However, by end October 2019, aside from Baisako appearing in court, none of the implicated officials appeared to have so far been censured or disciplined over any of these apparently irregular procurement practices.

Annual procurement plans

By October 2019, more than half-way through the 2019/20 financial year ...

...out of 178

government procuring entities ...

... only 54

appear to have submitted annual procurement plans to the Procurement Policy Unit (PPU) ...

... meaning just 30%

of government entities are compliant with the law ...

... however, 12

of the submitted procurement plans are not accessible via the PPU website ...

... which means transparency and accountability remain serious challenges in the public procurement system.

