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- There appears to be considerable confusion around the existence and application of various legal and regulatory mechanisms;
- That government is not utilising available technologies very well in service delivery and existing limited e-procurement practices;
- That the private sector is not adequately consulted and integrated into system planning and design;
- There is acknowledgement that the private sector generally has little “confidence in the integrity, fairness, consistency, transparency and efficiency of the procurement system”;
- And generally, there appears to be a low level of confidence in government effectively rolling out an e-procurement system.

Some other key observations are that government is not mining available and historical procurement data for insights or lessons and that general record-keeping and reporting in the public procure-

ment space continues to be a big concern.

In a monitoring and evaluation document of the procurement system attached to the assessment, the PPU admits that it does not know what share of GDP public procurement contributes, that it does not have access to information about contracts awarded by public entities, and that government does not know how many contractors or potential contractors it has.

Kicking on

While it’s unclear what the status is of the e-government procurement assessment process to date, in late September 2019 the Ministry of Finance advertised for a consultant to assist the PPU in ironing out a wide range of issues within the public procurement system over an unspecified nine-month period.

Part of the consultant’s functions would include advising government on how to implement e-procurement. Procurement Tracker Namibia will keep an eye on this process.

e-Government Procurement assessment components

- **Component 1:** Government Leadership
- **Component 2:** Human Resource Management
- **Component 3:** Planning and management
- **Component 4:** Policy
- **Component 5:** Legislation & Regulation
- **Component 6:** Infrastructure & Web Services
- **Component 7:** Standards
- **Component 8:** Private Sector Integration
- **Component 9:** Systems (current e-procurement systems initiatives)

Revisiting the Hosea Kutako airport upgrades scandal

With the upgrades commencing in late September 2019 it should be remembered that no-one was held accountable for the exemption debacle of late 2018.

In mid-September 2019 the headlines were that the upgrading of the Hosea Kutako International Airport were to commence at the end of September as government had made available just over N\$250 million for the project.

In October 2018 the finance minister granted the Namibia Airports Company (NAC) an exemption for works around the upgrading of the Hosea Kutako International Airport.

However, in what was later established to be a substantially irregular process, NAC officials proceeded to incorporate the sourcing of consultancy services under the exemption.

An investigation by the Procurement Policy Unit (PPU) found that the consultancy procurement was riddled with violations of the Public Procurement Act of 2015 and recommended that the consultancy be struck.

Surprisingly, despite considerable evidence pointing to unlawful behaviour by NAC procurement officials, a detailed



Photo: Namibia Airports Company

report on the attempted abuse of the exemption appeared to have been shelved and none of the officials seem to have been held accountable for what in essence amounted to the corrupting of a procurement process.

The PPU report, which was submitted to the NAC chairperson in November 2018, recommended among others that the “NAC did not comply with the provisions of the Public Procurement Act 2015 in carrying out the procurement of consultancy services. The NAC must cancel the process and

reinvite bidders to participate”.

The NAC was also told to keep proper records of its procurement practices and actions and to comply with the procurement law.

A year later, Namibians have not been informed how this matter had been dealt with.

The Hosea Kutako International Airport upgrades continue to be plagued by perceptions of irregularity and the NAC is one of the public institutions that appears to have become a magnet for corruption since its inception.



Part of the first phase road works of the Windhoek-Hosea Kutako International Airport dual carriageway.

Courtesy of Nampa

Airport road tender – Under clouds of alleged irregularity

Neither the Central Procurement Board nor the Procurement Policy Unit appear to have a grasp on what is happening around the latest airport road tender

Procurement practices around major Namibian government infrastructure works continue to be of concern and attract critical public scrutiny.

One of the latest such public works to feature in the news over what appear to be questionable procurement practices was the tender for the second phase of the Windhoek-Hosea Kutako International Airport dual carriageway, the construction of which falls under the mandate of the state-owned Roads Authority (RA).

With the first phase of the project reportedly set for completion by the end of 2019, in September 2018 the pre-qualification process opened for the second phase of the road construction project, which is to be financed through an African Development Bank (AfDB) loan.

However, from the start the second phase of the road upgrade project has been mired in controversy, as shortly after the announcement of the commencing of the pre-qualification process the Construction Industries Federation (CIF) complained that Namibian construction companies would not be able to meet pre-qualification

requirements (See CIF Unhappiness).

In August 2019 it was reported that in July 2019 there had been a bid evaluation process and that two Chinese companies were in a run-off for the roughly billion dollar contract.

SIGNS OF TROUBLE

This is where the story becomes interesting. On 13 August 2019, The Namibian reported that there appeared to be some sort of stand-off between the RA board and the Namibian government over the choice of contractor.

The newspaper reported that: “The Roads Authority’s board stopped a recommendation to award a N\$950 million tender to a Chinese company to construct the second phase of the Windhoek to Hosea Kutako International Airport highway because it was too cheap. The road agency’s board has instead recommended that the tender be awarded to a seventh-ranked Chinese state-owned company called Zhong Mei Engineering Group for N\$1,2 billion.”

The report stated that an unnamed “government committee” had recommended another Chinese firm – Aviation Industry Corporation of China (Avic International) – for the job.

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CIF Unhappiness

Shortly after the pre-qualification phase opened for the procurement processes for the construction of the second phase of the Windhoek-Hosea Kutako International Airport dual carriageway, the Construction Industries Federation (CIF) issued a statement criticising the process.

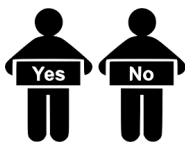
The CIF argued that the pre-qualification requirements effectively excluded Namibian bidders.

The CIF stated that “if procurement and tender requirements remain as they are now, it is highly unlikely that the approved loan from the African Development Bank, as well as the proposed grants and loans from China to largely finance infrastructure developments with the intention to stimulate the economy, can achieve [the revival of the Namibian construction sector].”

It added: “On the contrary, as it stands now, it appears that the local industry is being technically excluded from lucrative tenders. The tender requirements (historical financial performance and financial resources, average annual construction turnover) are of such a nature that they automatically preclude all Namibian contractors.

“This becomes very apparent in the recent African Development Bank/Roads Authority Invitation for Pre-qualification (No. RA/DC-CR/06-2014/2A) for the Construction of Trunk Road 9/1 from Windhoek to Hosea Kutako International Airport to Dual-Carriage Freeway Standards: Phase 2A – Sam Nujoma Interchange to Dordabis Interchange (19.5km), that was issued on 3 September 2018.”

CPBN decisions in August & September 2019



40

decisions made

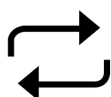
12

in September 2019*

(*Up to 25 September 2019)

28

in August 2019



7

referred back

22

approved

6

conditionally approved



1

cancelled



1

declined

1

decision reserved



2

upheld

9

contracts awarded

Source: <http://www.cpb.org.na/index.php/board-decisions>

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What was telling about the newspaper's description of the procurement procedures involved, was the apparent lack of involvement of the Central Procurement Board of Namibia in these processes.

WHERE'S THE CPBN AND PPU?

According to the Public Procurement Act of 2015, unless exempted from procurement rules and procedures by the finance minister, all public works and services above a certain threshold have to be adjudicated by the CPBN.

According to the public procurement regulations, the RA is a category 2 state entity and thus all works contracts estimated to cost over N\$30 million should be adjudicated by the CPBN.

The tender for the second phase of the Windhoek-Hosea Kutako International Airport dual carriageway does not appear to have been handled by the CPBN, for when approached for comment on this procurement action by the RA, the CPBN refused to comment and referred Procurement Tracker Namibia to the Procurement Policy Unit (PPU) in the finance ministry.

When contacted for comment (on whether an exemption from normal procurement processes had been granted to the RA), acting head of the PPU, Phineas Nsundano, indicated that he was unaware of an exemption, but would investigate and respond with information once such was available.

At the time of writing, over a month-and-a-half after requesting information from the PPU, still no information had been received to clarify why the CPBN had been sidelined or whether the road construction project was exempted from normal procurement processes.

Procurement plans still mostly missing

The procurement plans of most state entities are still not publicly available

According to the Public Procurement Act of 2015 all public entities are supposed to submit annual procurement plans to the Procurement Policy Unit (PPU) in the finance ministry within the first quarter of every financial year, as well as posting the plans on their websites.

However, since the law has come into force in the 2017/18 financial year, most public entities – ministries, state-owned enterprises, regulatory bodies and agencies, regions and towns, etc. – have failed to comply with the law

and regulations on making their plans public.

As of end September 2019, only 55 annual procurement plans for the 2019/20 financial year appear to have been submitted to the PPU by a mix of ministries, SOEs, agencies, councils and municipalities, representing less than half of public entities.

However, even some of the plans with the PPU are not publicly available, but only a cover letter. These documents are viewable in a Dropbox file accessible through the Ministry of Finance website.

In short, transparency is still largely lacking in public procurement.



Procurement Tracker Namibia is compiled by IPPR research associate Frederico Links (fredericolinks@gmail.com) and is financially supported by the British High Commission. Procurement Tracker Namibia can be downloaded from www.ippr.org.na and printed copies are available from the IPPR.