PROCUREMENT TRACKER NAMIBIA

Hanns Seidel Foundation

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1. KEY OBSERVATIONS

Namibia's public procurement system is in trouble and has been since the new system came into being on 1 April 2017.

The Public Procurement Act (15 of 2015) was supposed to have been a long overdue and drastic improvement on the old Tender Board system, which by its end had become so inefficient and dysfunctional, not to mention clouded by perceptions of widespread corruption, that even senior government officials and politicians were given to continually denouncing it publicly. However, the new law and institutional framework, which promised so much in terms of transparency, accountability and improved safeguards and integrity, have been bogged down from the start in the same dysfunctionalities and inefficiencies that plagued and eventually contributed to toppling the old system.

While the Public Procurement Act of 2015[1] should have heralded the coming of a new openness around arguably government's most critical function, it has fallen and failed to live up to what was put to paper and gazetted.

Against this backdrop, this paper takes a look across the public procurement landscape to prise open some of the corruption-related dangers and threats, by mapping to what extent 'red flags' are furiously fluttering over the public procurement practices that have been visibly elevated in 2020, including the practices that have been deployed during the COVID-19 state-of-emergency, from April through September 2020.

The aim of this paper is to once again spotlight the shortcomings of relevant Namibian authorities, including the Ministry of Finance, around the implementation and rollout of the Public Procurement Act of 2015 and its regulatory and institutional structures, and to continue to sound the warning on corruption clouds that have long been gathering and darkening over the public procurement sector and landscape.

It is in light of this, that this paper makes the following observations and recommendations.

1.1 Observations on the 'red flags':

During the COVID-19 state-of-emergency period the following 'red flags' were concerningly visible on the public procurement landscape:

- Short tender periods;
- Very few bidders, or just one bidder, invited to tender;
- Few or no contracts awarded competitively;
- Unclear or inaccessible company registration and/or ownership information.

With regard to identifying government contractors, the following was observed:

- A company search on the online company search portal of the Business and Intellectual Property Authority (BIPA) returns no registration results for too many government contractors, especially closed corporations. While it is possible that some of these companies might not be registered or a registration might have lapsed, the high number of company searches that come back with no results probably rather indicates that the companies register administered by BIPA is either not up-to-date or is incomplete. It is easy to see how this scenario complicates the task of a procurement official looking to verify the registration status of a potential government contractor or discourages such a due diligence exercise;
- It was only through repeated across-the-counter information requests at BIPA, involving the payment of fees, that the research team was able to gather much of the company registration and ownership information published here;
- Of the 40 randomly chosen companies for which information was sought, BIPA had no information or files, either electronically or paper-based, on 13 of the companies, while the files of six (6) of the companies were missing or misplaced, some for years, at the time the information was requested;

1 https://laws.parliament.na/annotated-laws-regulations/law-regulation.php?id=471

- Additional company searches, beyond those extracted for this project, to get a sense of how common the no-information returns were, also came up empty for many of the additional company searches;
- That almost 50% of company searches delivered no company registration information for a handful of current government contractors questions to what extent, if at all, companies are or have been vetted or verified by the relevant government procurement departments before being awarded contracts, many in non-competitive processes under the shroud of state-of-emergency procurement.

Our findings point to there probably being significant shortcomings with the maintenance of the companies register by the Business and Intellectual Property Authority (BIPA), and question whether government procuring authorities conduct adequate or any due diligence on companies before awarding them state contracts.

1.2 Recommendations:

- The Procurement Policy Unit (PPU) in the Ministry of Finance should investigate and publicly report on the use of the emergency procurement method during the COVID-19 state-of-emergency period;
- The PPU should adhere to and enforce the recommendations it made in its 2019 report on the widespread misuse of the emergency and direct procurement methods by state procuring entities;
- Given the already prevalent use and misuse of non-competitive procurement methods by state entities, relevant government authorities, such as the Ministry of Finance, need to step in and draw back, through strict and uncompromising regulatory oversight, a governance culture and procurement practices that are enabling of maladministration and corruption;
- The Business and Intellectual Property Authority (BIPA) should make every effort to maintain a complete and updated company registration database;
- Government procuring authorities should conduct comprehensive due diligence on companies before awarding them state contracts.

2. INTRODUCTION – WHAT ARE 'RED FLAGS'?

In anti-corruption literature in the context of public procurement, 'red flags' represent the warning signs to potential and real risks a system faces of being corrupted or infiltrated by corrupt practices or actors.

Identifying 'red flags' in public procurement has become central to combatting public sector corruption.

2.1 'Red flags' identified

The researchers of the Anti-Corruption Evidence (ACE) Research Programme, of international anti-corruption watchdog Global Integrity, state of the use of 'red flags': "The idea behind the 'red flags' approach is that public procurement is supposed to be an open, competitive process that follows a clear structure. That is the way to get value for public money and to encourage economic development. Any deviation from openness and competition, by contrast, may indicate that politicians or public officials are manipulating the process in order to steer contracts to cronies or political allies. By analysing big datasets of tenders and contracts, we can spot systematic deviations, or 'red flags', and thereby gather an evidence base with which to hold officeholders to account."[2]

The Global Integrity team has identified "eight 'red flags' indicators, associated with different ways of corrupting the public procurement process", which are:

1. Single-bidding, i.e., where only one bid is received;
2. Use of non-open procedures;
3. Spending on consultancy, which is more difficult to scrutinise;
4. Signature period longer than 14 days, which may signal negotiations over kickbacks;
5. Advertisement period less than 14 days, which can exclude bidders without advance warning;
6. Share of contract awards that are published, an indicator of transparency;
7. Cost over-runs: final spend higher than original budget;
8. Supplier being registered in a tax haven.

The Global Integrity researchers also state: "When one 'red flag' is associated with another, this increases the probability that the behaviour reflects corrupt manipulations, rather than just incompetence or lack of resources."

The Open Contracting Partnership (OCP) has also developed a 'red flags' system to assess the integrity of procurement systems. The OCP 'red flags' toolkit contains five 'risk indicators', specifically[3]:

- short tender periods;
- low number of bidders;
- low percentage of contracts awarded competitively;
- high percentage of contracts with amendments;
- large discrepancies between award value and final contract amount.

South African civil society anti-corruption watchdog, Corruption Watch, has also developed an extensive list of 'red flags' that can be used to identify risks throughout the state's tendering and contracting system.[4]

While the Global Integrity, OCP and Corruption Watch 'red flags' overlap, it is the OCP 'red flags' that form the basis for this paper, simply because they are more succinct.

In this regard, the 'red flags' that best speak to what will be discussed in this paper are the following:

- short tender periods;
- low number of bidders;
- low percentage of contracts awarded competitively.

2 https://ace.globalintegrity.org/redflag/
3 https://www.open-contracting.org/2019/06/27/examining-procurement-red-flags-in-latin-america-with-data/
4 https://www.corruptionwatch.org.za/wp-content/uploads/migrated/Signs_of_corruption_in_public_procurement.pdf

These 'red flags' have become especially prevalent and highly visible on the Namibian public procurement landscape in 2020.

To be clear, the focus of this paper is the widespread use of the emergency and direct procurement methods by Namibian government departments and entities during the six-month COVID-19 state-of-emergency, and the three 'red flags' highlighted above speak most appropriately to the discussion that will follow.

To these we add one other 'red flag', namely:

- unclear or inaccessible company registration and/or ownership information.

Concerning the emergency and/or direct procurement method, the Guide to Combatting Corruption and Fraud in Development Projects uses the term "sole source awards".

In this regard, the Guide identifies "'red flags' of unjustified sole source awards", which are:[5]

- Inadequate justification or documentation for sole source awards;
- Sole source awards in contravention to the provisions of the procurement plan;
- Split purchases to avoid competitive bidding requirements;
- Multiple sole source awards above or just below the sole source threshold;
- Pattern of such awards to one or a few bidders, approved by the same official;
- Awards below the competitive bid threshold followed by change orders that exceed such limits;
- Request for bids mailed to only one contractor;
- Repair or maintenance contracts tied to the original bid winner or a single supplier.

The use of the term "unjustified sole source awards" is apt for the practices that were visible during Namibia's COVID-19 state-of-emergency period.

2.2 Emergency and/or direct procurement in the Namibian context

The use or misuse of non-competitive procurement methods remains highly contentious and has been a concern on the public procurement landscape long before the Public Procurement Act of 2015 came into being and operation.

The Public Procurement Act of 2015 basically sets open competitive bidding as the default in the public sector, but the law does allow state entities to make use of a variety of procurement methods if and/or when required. Two of the methods are emergency procurement and direct procurement, both of which are non-competitive methods.

5 https://guide.iacrc.org/unjustified-sole-source-awards/

Image 1. *Emergency procurement in the Public Procurement Act of 2015*

Emergency procurement

33. (1) A public entity may procure goods, works or services using the direct procurement method in cases of emergency.

(2) The scope of the emergency procurement is, as far as possible, limited to the period of the emergency, so that appropriate competitive procurement methods may be utilised after the conclusion of the emergency period.

Image 2. *Direct procurement in the Public Procurement Act of 2015*

Direct procurement

36. (1) A direct procurement method allows a public entity to procure goods or services from a single source without competition.

To illustrate how problematic the use of the emergency and/or direct procurement methods have become, in June 2019 the Procurement Policy Unit (PPU) in the Ministry of Finance requested all category 1 state procuring entities, of which there were 46 at the time, to submit reports on their emergency procurement practices for the 2017/2018 and 2018/2019 financial years.

In July 2019 the PPU compiled a report from the information received from 30 category 1 public entities for the 2017/2018 financial year and 32 public entities for the 2018/2019 financial year.

The report makes for troubling reading. In 2017/2018, the 30 public entities that had submitted reports to the PPU had spent nearly N$80 million through emergency or direct procurement, and in 2018/2019 the 32 public entities that had reported had spent almost N$60 million through these non-competitive methods.

The PPU report, while not using the term, clearly identified the excessive use of the emergency and/or direct procurement methods as a 'red flag'.

The PPU found that: "Judging from the reasons given for the choice of method utilized (see Annexure 1&2), the majority of public entities have procured using the emergency procurement method on mere grounds of the urgency to obtain the goods, works and services. Most of such procurements cannot be justified in terms of section 33 of the Act and therefore could have been undertaken through other competitive means. On close inspection, the subject of procurement undertaken includes: purchase of air tickets, stationaries, catering services, replacement parts, service parts, legal services, repair and maintenance etc.. Most of such items are procured to satisfy regular operations and therefore could be purchased competitively by establishing contracts under competitive conditions through which such goods, works or service could be delivered whenever they are required."[6]

What the PPU was describing here clearly fit the bill of "unjustified sole source awards".

The PPU further stated: "In order to reduce use of the direct procurement method under the pretext of executing procurements in terms of section 33 of the Act, more training should be provided to the public entities with specific attention to the modalities for establishing long-term contracts for the procurement of frequent procurement items."

6 http://bit.ly/PPUemergencyprocurementreport

It was recommended: "PPU should enhance its monitoring oversight with intention to detect timely, the prevalent misuse of procurements under the emergency procurement method and make recommendations on the appropriate methods of procurement. Proposal has been made to the regulation to include a reporting template for each individual emergency procurement conducted, as part of monitoring the use of emergency procurement method."

2.3 Emergency / direct procurement during the COVID-19 state-of-emergency

Section 33 (3) of the Public Procurement Act of 2015 defines 'emergencies' as follows:

> *(3) For the purposes of this section, "emergency", includes a situation where –*
>
> *(a) the country is either seriously threatened by or actually confronted with a natural disaster, catastrophe, or war;*
> *(b) life or the quality of life or environment may be seriously compromised; or*
> *(c) the condition or quality of goods, equipment, building or publicly owned capital goods may seriously deteriorate, unless action is urgently and necessarily taken to maintain them in their actual value or usefulness.*

On 17 March 2020, Namibian president Hage Geingob declared COVID-19 in Namibia a state-of-emergency, for a period of six months, under Article 26 (1) of the Namibian Constitution.[7] The state-of-emergency lapsed on 17 September 2020.

On 27 March 2020, as Namibia was entering its COVID-19 lockdown period, which lasted until 4 May 2020, finance minister Ipumbu Shiimi issued a directive to all state entities instructing them that all procurement except for procurement of essential goods, works and services was to be put on hold for the duration of the lockdown period.[8]

In response to a question from *Procurement Tracker Namibia* about what method of procurement would be used under the directive of 27 March 2020, finance ministry spokesperson Tonateni Shidhudhu indicated on 7 April 2020 that emergency (direct) procurement would be used.

On 6 May 2020, following the lapse of the lockdown on 4 May and thus the directive of 27 March 2020, Shiimi issued a new directive stating that procurement practices were reverting back to normal, with the exception of open international bidding, which remained suspended.[9]

It is against this backdrop that the discussion takes place.

7 http://bit.ly/stateofemergencydeclaration
8 https://mof.gov.na/documents/35641/36670/DIRECTIVE+ON+COVID-19.pdf/92d3f700-27a7-7636-23a9-e7e175a1c3fd
9 https://mof.gov.na/documents/35641/36730/200506+COVID-19+STAGE+TWO+PROCUREMENT+DIRECTIVE.pdf/1d6e2ebc-d6fe-07f0-2372-2be4cde0796a

3. UNPACKING THE 'RED FLAGS'

As indicated earlier, for the purposes of this paper, the following 'red flags' have been identified and adopted to guide the discussion:

- Short tender periods;
- Very few bidders, or just one bidder, invited to tender;
- Few or no contracts awarded competitively;
- Unclear or inaccessible company registration and/or ownership information.

NOTE: The examples used and discussed in the following section do not represent corrupt actions, but are merely presented to illustrate where the 'red flags' signalling potential corruption threats are located on the Namibian public procurement landscape.

3.1 Short tender periods

Short tender periods could be an indication that a procurement action, using a non-competitive method, is being manipulated to favour one supplier. In such a scenario only the preferred bidder or contractor is able, having been alerted beforehand, to respond with a service or supply quotation at short notice.

Very short turnaround periods became a feature of state procurement practices during the COVID-19 state-of-emergency period. Such short turnaround times – some just 24 hours long – between bid issue and bid closing on a variety of procurement actions are viewable across the publicly available first quarter procurement reports of a number of state entities, including the Office of the President (Image 3), located in a Dropbox folder on the web page of the Procurement Policy Unit (PPU) .[10]

Image 3: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Office of the President.*

OFFICE OF THE PRESIDENT.xlsx

PUBLIC ENTITY: A1 **OFFICE OF THE PRESIDENT**

QUARTERLY RETURN ON PROCUREMENT ACTIVITIES

(a) Procurement Reference No.[1]	(b) Procurement Description[2]	(c) Category[3	(d) Updated Estimated Cost (N$)[4]	(e) Procurement Method (OAB, RB, RFQ, RFP etc..)[5]	(f) Date Bidding Document Issued[6]	(g) Closing Date of Bids[7]	(h) No. of Bidder Invited [8]	(i) No of SMEs Invited[9]	(i) No of Disadvant Women Invited[10]	(i) No of Disadvantaged Youths Invited[11]	(j) No. of Bids Received[12]	(k) No of Bids Received from SMEs[13]	(l) No of bids received from Disadvantaged Women	(m) No. Bids receive from Disadvan Youth
G/RFQ/01-134/2019	Medical & hygiene supplies	G	69,574.15	DP	29-Mar-20	3-Apr-20	1	0	0	0	1	0	0	
G/RFQ/01-137/2019	Washable masks	G	23,000.00	DP	8-Apr-20	9-Apr-20	1	0	0	0	1	0	0	
G/RFQ/01-135/2019	Medical supplier for COVID-19	G	56,005.00	DP	13-Apr-20	14-Apr-20	1	1	0	1	1	1	0	
G/RFQ/01-141/2019	Drinks for H.E. family Guests	G	82,078.50	RFQ	24-Mar-20	26-Mar-20	3	0	0	0	3	0	0	
G/IQ/01-161/2019	Refill of gas cylinder 48kg	S	6,844.80	DP	14-Apr-20	16-Apr-20	1	0	0	1	1	0	0	
G/IQ/01-162/2019	Groceries	G	6,047.60	INF QUO	15-Apr-20	17-Apr-20	3	0	0	0	3	0	0	
G/IQ/01-163/2019	Meat	G	2,130.00	INF QUO	15-Apr-20	17-Apr-20	3	0	0	1	3	0	0	
	Stationeries													

Template

10 https://mof.gov.na/PPU

Image 4: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Ministry of Public Enterprises.*

MINISTRY OF PUBLIC ENTERPRISE.xlsx

SC/DP/34-01/2020	Fees for professional legal services in respect of aircraft leases	CS	200,000.00	DP	17-Apr-20	20-Apr-20	1	0	0	0	1	0	0	0	1
G/IQ/34-01/2020	Supply of refreshments	G	1,906.08	INF QUO	28-Apr-20	29-Apr-20	2	0	0	0	2	0	0	0	2
NCS/DP /34-04/2020	Washing of ministerial fleet	N	795.00	DP	7-May-20	8-May-20	1	0	0	0	0	0	0	0	1
G/RFQ/34-01/2020	Disposable masks and infrared thermometers	G	27,000.00	RFQ	5-May-20	6-May-20	6	3	0	0	3	3	0	0	3
G/IQ/34-53/2019	Supply of backup software and harddrive	G	10,350.00	INF QUO	23-Jan-20	29-Jan-20	5	2	0	0	2	2	0	0	2
G/IQ/34-06/2020	Supply of stationeries	G	4,709.75	INF QUO	20-May-20	26-May-20	6	2	0	0	3	2	0	0	3
G/IQ/34-05/2020	Supply of cartridges	G	10,816.90	INF QUO	20-May-20	26-May-20	5	2	0	0	3	2	0	0	3
G/IQ/34-09/2020	Supply of refreshments	G	2,760.00	INF QUO	27-May-20	28-May-20	3	1	0	0	1	1	0	0	1

Template

The two examples in images 3 and 4 show the use of very short tender periods for the procurement all sorts of goods and services by government departments.

3.2 Very few bidders, or just one bidder, invited to tender

A low number of bidders in a procurement action can also point to an attempt to manipulate the award to favour a specific bidder or contractor, especially in a situation where tender periods are very short, because of an emergency, and larger or more established suppliers might not be quick to respond or the contract amounts involved do not entice established suppliers or service providers.

Images 5 and 6 below show how in many instances only one bidder was invited to respond to a bid request. The reports referenced in this section do not provide details as to why just one specific bidder was invited to respond to a particular tender invitation. Such practices are the definition of "unjustified sole source awards", as no explanations are provided for why specific suppliers have been preferred and chosen, repeatedly in some instances, for some government supply or service contracts.

Image 5: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Ministry of Information and Communication Technology.*

MINISTRY OF INFORMATION AND TECHNOLOGY.xlsx

PUBLIC ENTITY: *MINISTRY OF INFORMATION AND COMMUNICATION TECHN*

QUARTERLY RETURN ON PROCUREMENT A

(a) Procurement Reference No.[1]	(b) Procurement Description[2]	(c) Category[3	(d) Updated Estimated Cost (N$)[4]	(e) Procurement Method (OAB, RB, RFQ, RFP etc.,)[5]	(f) Date Bidding Document Issued[6]	(g) Closing Date of Bids[7]	(h) No. of Bidder Invited [8]	(i) No of SMEs Invited[9]	(i) No of Disadvant Women Invited[10]	(i) No of Disadvant Youths Invited[11]	(j) No. of Bids Received[12]	(k) Rec fr SME
G/DP/29-01/2020	Data Cards Catridges	G	9,000.02	DP	01/04/2020	01/04/2020	1	0	0	0	1	
G/DP/29-02/2020	Plumbing materials	G	965.07	DP	17/04/200	17/17/2020	1	0	0	0	1	
G/DP/29-03/2020	ID Cards	G	7,000.00	DP	17/04/200	17/04/200	1	0	0	0	1	
G/DP/29-04/2020	Web- Presenter	G	12,362.27	DP	17/04/200	17/04/200	1		0	0	1	
G/DP/29-06/2020	Face Masks	G	17,250.00	DP	06/05/020	6-May-20	1	1	0	0	1	
G/DP/29-07/2020	Bulbs	G	7,408.30	DP	07/05/020	11/05/200	1	0	0	0	0	
G/DP/29-08/2020	Minister and Deputy Minister 's Portrait	G	9,200.00	INF QUO	07/05/2020	12-May-20	3	1	0	0	2	
NCS/DP/29-01/2020	Advert company profile	CS	24,955.00	DP	07/05/2020	7-Apr-20	1	0	0	0	1	
NCS/EPE/29-02/2020	Advert company profile	CS	10,350.00	EPE	07/05/2020	7-May-20	1	0	0	0	1	
NCS/EPE/29-03/2020	Placement Workers & Cassinga day	CS	36,225.00	EPE	07/05/2020	29-Apr-20	1	0	0	0	1	
NCS/DP/29-04/2020	Placement Workers & Cassinga day	CS	33,275.25	DP	29-Apr-20	29-Apr-20	1	0	0	0	1	
NCS/EPE/29-05/2020	Placement birthday Founding Father	CS	12,075.00	EPE	11/05/2020	12-May-20	1	0	0	0	1	
NCS/DP/29-06/2020	Placement birthday Founding Father	CS	12,006.58	DP	11/05/2020	12-May-20	1	0	0	0	1	
NCS/DP/29-07/2020	Placement birthday Founding Father	CS	6,729.80	DP	11/05/2020	12-May-20	1	0	0	0	1	

Quoter 1 2020

Image 6: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Office of the President.*

OFFICE OF THE PRESIDENT.xlsx

PUBLIC ENTITY: *OFFICE OF THE PRESIDENT*

QUARTERLY RETURN ON PROCUREMENT ACTIVITIES

(a) Procurement Reference No.[1]	(b) Procurement Description[2]	(c) Category[3	(d) Updated Estimated Cost (N$)[4]	(e) Procurement Method (OAB, RB, RFQ, RFP etc.,)[5]	(f) Date Bidding Document Issued[6]	(g) Closing Date of Bids[7]	(h) No. of Bidder Invited [8]	(i) No of SMEs Invited[9]	(i) No of Disadvant Women Invited[10]	(i) No of Disadvant Youths Invited[11]	(j) No. of Bids Received[12]	(k) No of Bids Received from SMEs[13]	(l) No of bids received from Disadvantaged Women	(m) No. Bids receive from Disadvan Youth
G/RFQ/01-134/2019	Medical & hygiene supplies	G	69,574.15	DP	29-Mar-20	3-Apr-20	1	0	0	0	1	0	0	
G/RFQ/01-137/2019	Washable masks	G	23,000.00	DP	8-Apr-20	9-Apr-20	1	0	0	0	1	0	0	
G/RFQ/01-135/2019	Medical supplier for COVID-19	G	56,005.00	DP	13-Apr-20	14-Apr-20	1	1	0	1	1	1	0	
G/RFQ/01-141/2019	Drinks for H.E. Daily Guests	G	82,078.50	RFQ	24-Mar-20	26-Mar-20	3	0	0	0	3	0	0	
G/IQ/01-161/2019	Refill of gas cylinder 48kg	S	6,844.80	DP	14-Apr-20	16-Apr-20	1	0	0	1	1	0	0	
G/IQ/01-162/2019	Groceries	G	6,047.60	INF QUO	15-Apr-20	17-Apr-20	3	0	0	0	3	0	0	
G/IQ/01-163/2019	Meat	G	2,130.00	INF QUO	15-Apr-20	17-Apr-20	3	0	0	1	3	0	0	
	Stationeries													

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3.3 Few or no contracts awarded competitively

Between 7 April 2020 and 27 June 2020, according to a quarterly procurement report, the Ministry of Health and Social Services (MoHSS) engaged in almost 400 procurement actions.

Of the nearly 400 procurement actions, over 180 were direct procurement (DP) transactions while about 80 were emergency procurement transactions. The rest of the procurement actions were 'executed by public entity' (EPE), informal quotations (IQ) or requests for quotations (RFQ).

None of the actions were conducted through open and competitive bidding processes, and the report does not indicate how many bids were received per procurement action or why a specific company was chosen to provide the goods or services.

According to the Open Contracting Partnership (OCP), the widespread use of non-competitive procurement methods strongly correlates with contract cost over-runs and over-pricing by contractors.

Images 7 and 8 are meant to illustrate how direct procurement (DP) and emergency procurement (EP) were extensively and predominantly used to procure all manner of goods and services by the health ministry for the 2020/2021 first quarter, which also covered the COVID-19 state-of-emergency lockdown period that stretched through April into early May 2020.

Image 7: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Ministry of Health and Social Services.*

MINISTRY OF HEALTH AND SOCIAL SERVICES.xlsx

QUARTERLY RETURN ON PROCUREMENT ACTIVITIES

(a) Procurement Reference No.[1]	(b) Procurement Description[2]	(c) Category[3]	(d) Updated Estimated Cost (N$)[4]	(e) Procurement Method (RB, RFQ and RFP)[5]	(p) Date C Awarde
G/DP/1303WS-1/2020	Consumables for Cardiac Unit - WCH	Goods	144,876.08	DP	07.04
NCS/DP/1302EO-2/2020	Photocopy hire for the Executive office, Internal Audit & RCS	Service	112,310.40	DP	07.04
NCS/DP/1302EO-2/2020	Photocopy hire for the Executive office, Internal Audit & RCS	Service	24,000.00	DP	07.04
G/DP/1306SO-3/2020	Cartridges for Social Welfare Services	Goods	53,811.00	DP	08.04
NCS/DP/1307TO-4/2020	Blood transfusion services for 2020/2021	Service	100,000,000.00	DP - CPB	08.04
NCS/DP/1302HO-5/2020	Volunteer services for Cubans and Chinese	Service	56,206,292.00	DP - CPB	08.04
G/DP/1303KR-6/2020	Accessories for a defibrillator for Katutura	Goods	19,747.78	DP	14.04
NCS/DP/1304GO-7/2020	Service of Incinerator for Omaruru	Service	28,276.09	DP	14.04
NCS/DP/1304GO-8/2020	Service of Autoclaves for Erongo	Service	138,293.00	DP	14.04
NCS/DP/1304AO-9/2020	Salaries for St Mary Rehoboth for 2020/2021	Service	36,300,000.00	DP - CPB	08.04
NCS/DP/1304GO-10/2020	Maintenance, repair and service of Autoclave machines for Erongo	Service	384,096.00	DP	16.06
NCS/DP/1304SO-11/2020	Salaries for Okatana hospital for 2020/2021	Service	15,000,000.00	DP	08.04
G/DP/1303WS-12/2020	Percut sheath introducer for WCH	Goods	47,624.70	DP	22.04
G/DP/1303OR-13/2020	Heating elements for drager resuscitaire for Oshakati	Goods	27,133.26	DP	24.04
G/DP/1303KR-14/2020	Extension of medical gas for Katutura	Goods	9,564.00	DP	21.04

Q1 report 2020

Image 8: *Screenshot of a section of the 2020/2021 financial year first quarter procurement report of the Ministry of Health and Social Services.*

MINISTRY OF HEALTH AND SOCIAL SERVICES.xlsx

G/EP/1313MS-16/2020	Emergency procurement of Clinical items (cancelled orders) E1-BO-2020-24	Goods	120,000.00	EP
G/EP/1313MS-17/2020	Male condoms	Goods	5,785,550.40	EP
G/EP/1303OR-18/2020	Clinical supples needed by Kriat Kamanya (Patient) admitted	Goods	34,618.45	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	1,039,972.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	2,285,273.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	2,009,390.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	19,672.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	1,501,500.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	147,000.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	676,000.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	1,965,455.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	2,887,472.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	10,320.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	1,093,648.00	EP
G/EP/1313MS-19/2020	Emergency procuremnet of clinical items(test strips, dressing abd babdages)	Goods	553,690.00	EP
G/EP/1313MS-20/2020	Emergency procurement of pharmaceutical products(syrups, powders & eyes drops)	Goods	1,278,473.00	EP
G/EP/1313MS-20/2020	Emergency procurement of pharmaceutical products(syrups, powders & eyes drops)	Goods	5,260,900.00	EP
G/EP/1313MS-20/2020	Emergency procurement of pharmaceutical products(syrups, powders & eyes drops)	Goods	4,302,509.00	EP
G/EP/1313MS-20/2020	Emergency procurement of pharmaceutical products(syrups, powders & eyes drops)	Goods	198,375.00	EP

3.4 Unclear or inaccessible company registration and/or ownership information

Looking through the procurement reports on the PPU webpage it becomes obvious that many of the suppliers or service providers used by government procurement departments are small and medium enterprises (SMEs), as many appear to be registered as closed corporations (cc).

In order to qualify for government contracts, companies have to be properly registered with various state departments – companies registry, tax authorities, social security – and the company registration data should be up-to-date. In Namibia, all sorts of companies, firms and entities have to be registered with the Business and Intellectual Property Authority (BIPA), and the BIPA company registration database is open to and searchable by the public.

Corporate ownership transparency watchdog Open Ownership points out that transparency around company ownerships "helps tackle corruption, reduce investment risk and improve global governance".[11]

Not knowing or not checking whether a company bidding for government contracts is properly registered or who its operators or owners are is a corruption threat. Over the last decade the issue of ultimate beneficial ownership (UBO) of companies has become a prominent topic on the global anti-corruption research and advocacy landscape.

In Namibia a 'tenderpreneur' class has risen around state contracts, making use of off-the-shelf closed corporations to become suppliers and service providers to government, often at the expense of taxpayers, as most do not manufacture goods or provide the actual services, but very often have tended to sub-contract the real service provider. This middlemen class has traditionally overcharged the state, often delivered poor quality services or products, or didn't deliver at all, with public officials not being held accountable for bad procurement practices and decision-making that has favoured this rent-seeking cohort.

In some instances the middlemen, many of whom are politically connected or exposed, have probably acted as proxies for politicians or senior government officials.

3.4.1 Concern around the companies register

In August-September 2020 the Procurement Tracker Namibia research team randomly extracted 40 companies from among various lists of companies that have benefitted from Namibian government contracts during the six-month state-of-emergency period that lasted from late March to late September 2020, as well as from lists of companies that have been awarded emergency procurement contracts from 2017 through 2019, as detailed in the previously discussed Ministry of Finance / Procurement Policy Unit document on the misuse of the emergency procurement method by various government departments.

Our findings point to there probably being significant shortcomings with the maintenance of the companies register by the Business and Intellectual Property Authority (BIPA), and question whether government procuring authorities conduct adequate or any due diligence on companies before awarding them state contracts.

3.4.2 Findings

- A company search on the online company search portal of the Business and Intellectual Property Authority (BIPA) returns no registration results for too many government contractors, especially closed corporations. While it is possible that some of these companies might not be registered or a registration might have lapsed, the high number of company searches that come back with no results probably rather indicates that the companies register administered by BIPA is either not up-to-date or is incomplete. It is easy to see how this scenario complicates the task of a procurement official looking to verify the registration status of a potential government contractor or discourages such a due diligence exercise;
- It was only through repeated across-the-counter information requests at BIPA, involving the payment of fees, that the research team was able to gather much of the company registration and ownership information published here;

11 https://www.openownership.org/

- Of the 40 randomly chosen companies for which information was sought, BIPA had no information or files, either electronically or paper-based, on 13 of the companies, while the files of six (6) of the companies were missing or misplaced, some for years, at the time the information was requested;
- Additional company searches, beyond those extracted for this project, to get a sense of how common the no-information returns were, also came up empty for many of the additional company searches;
- That almost 50% of company searches delivered no company registration information for a handful of current government contractors questions to what extent, if at all, companies are or have been vetted or verified by the relevant government procurement departments before being awarded contracts, many in non-competitive processes under the shroud of state-of-emergency procurement.

Table 1 below shows which companies the *Procurement Tracker Namibia* team sought information on and what the outcomes of the information searches / requests were.

Table 1. *Results of company registration information requests to BIPA*

Company names	Date of registration	Registration #	Owner/s	Directors
ALGen Trading cc	12-Oct-12	CC/2012/8476	Frans David	
Centre for Manufacturing cc	16-Feb-15	CC/2015/01794	Lukas Nghuuhange	
Specialized Software Distribution cc	No records found on BIPA website/Not registered with BIPA			
F.I. Trading Cc	No records found on BIPA database/Not registered with BIPA			
Shikumweni Trading Enterprises	No records found on BIPA database/Not registered with BIPA			
Kamumu Investment cc	17-Jan-20	CC/2020/00168	Dominic Mukendwa Mukendwa	
Colosseum Investments	31-Oct-16	CC/2016/14326	Tyson Tonata Kantene	
Genmed Enterprises cc	12-Jul-05	CC/96/517	Charl Alwyn Marais	
Afrimed Investments cc	18-Nov-11	CC/2011/6649	Sara Ndapewa Mutaleni Katiti	
Akomani Trading cc	26-Jun-19	CC/2019/04543	Philippus Kondjashili Kapofi	
Pharmicx Trading Enterprises cc	25-Nov-15	CC/2015/14642	Landine Shitima & Batsirai Murinda	
Newmed	No record found on BIPA database/Not registered with BIPA			
RKS Investment Group cc	25-Apr-14	CC/2014/04587	Files at Document Warehouse	
Taal Investment cc	29-Mar-18	CC/2018/02682	File taken on 18 April 2018 and never returned	
Version Investment cc	06-Oct-17	CC/2017/10298	Waiting for the file. File still in circulation	
Strategic Partners cc	10-Jun-97	CC/1997/0617	Tobias Sean Loth Shorid, Tobias Shiraz Bhashkar Mathew & Tobias Mdevulana Thando	Kathleen Deolinda Tobias
MM Seven Nine Trading	No records found on BIPA database/Not registered with BIPA.			
Cereal Investments	24-Feb-10	CC/2010/0901	File taken on 30 May 2017 and never returned	
Radio Electronic cc	No record found on BIPA website/Information only available through physical request	CK/1991/25051/23		G.B. Heitmann, R Rothkegel, J Wormsbacher, H Schrader & F du Toit
RCJ's Pumbing Solution cc	No record found on BIPA database/Not registered with BIPA			

Company names	Date of registration	Registration #	Owner/s	Directors
Drivers Investment cc	No record found on BIPA website/Information only available through physical request	CC/2015/14788	Emmanuel Ekumo (Ugandan)	
D&M Rail Construction (Pty) Ltd	03-Jun-10	PTY/2010/0263	File was with BIPA legal department	Francis Anton, Robinson Adrian Arthur, Hatuikulipi James Nependa, Moller David Izak, Schoeman Juliana Alida Maria, John Walenga & Taylor Desmond Hugh
Shivute Construction cc	06-Nov-03	CC/2003/2344	Loini Shivute & Elphas Kwashi Kambuta Shivute	
On Time Plumbing	No record found on BIPA website/Information only available through physical request	CC/2011/3754	Lazarus Nalukaku & Ambrosius Mulongeni	
Nahweka Construction	10-Apr-19	D/2019/0925	It is a defensive name and no actual file can be found.	
SRCT Shiwa Renovation	No record found on BIPA database/Not registered with BIPA			
Shipateko Trading	21-Feb-13	CC/2013/01409	Sarah Dorothea Fuller, Hilma Ndamona Mupetami, Hanna Mupetami, Stacie Kiarah Fuller & Swartbooi Franzina	
Kai Engineering and Fabrication cc	05-Nov-15	CC/2015/13921	Ndeshipanda Titus Kaapangelwa	
Elgin Brown & Hammer	23-Aug-02	CY/2002/0376	Nkuna Christopher, Pretorius Anton, Deane Robert Fitzmaurise, Strauss Marisa	
NT Okawa Trading	No record found on BIPA database/Not registered with BIPA			
Mshasho Clothing	No record found on BIPA database/Not registered with BIPA			
Didis Trading Enterprises	No record found on BIPA database/Not registered with BIPA			
Jormos Investment cc	07-Feb-13	CC/2013/00936	File taken on 12 March 2020 and never returned	
Inansa Investment cc	30-May-13	CC/2013/04797	Ingo Ruben Ndalikokule Shanyenge	
Kliffmen Investments PTY Ltd	15-May-19	2019/0556	Nadiema Izolda Eberenz	
Salshi	No record found on BIPA database/Not registered with BIPA			
New Version Consultancy	No record found on BIPA database/Not registered with BIPA			
Kahili Boutique	No record found on BIPA database/Not registered with BIPA			
Naupe Trading cc	No record found on BIPA website/Information only available through physical request	CC/2018/09714	Petrus Shivute Nauyala	
Redgate Investment cc	No record found on BIPA website/Information only available through physical request	CC/2019/07914	Elizabeth Mweneni Lusia, Ndelineekela Shakujungua & Mubanga Phili (Zambian)	

4. CONCLUSION

Corruption around public contracting has become a major and contentious political issue in Namibia over the years.

While in many respects Namibia has made headway in reducing the avenues for corruption, equally though it seems that many other avenues that enable corruption remain wide open, and the public procurement sector continues to be the trough from which the corrupt-minded and intentioned want to drink.

Despite the rollout of a new, ostensibly more transparent, accountable and responsive public procurement system under the Public Procurement Act of 2015 since 2017, the implementation of the law and regulatory framework has been severely flawed, and the extenuating maladministration of complementary or related frameworks, such as the Business and Intellectual Property Authority (BIPA), appears to be significantly contributing to an enabling environment for corrupt or mis-governance practices to flourish.

'Red flags' have long been fluttering furiously on the Namibian public procurement landscape, and widespread use of emergency procurement methods under the COVID-19 state-of-emergency of 2020 has once again underscored the weaknesses in systems and process that are supposed to contribute to safeguarding the public interest on the public procurement landscape.

It is clear that efforts to combat corruption in public procurement cannot narrowly focus on mending or transforming procurement processes and systems alone, but such efforts need to be accompanied by the fixing or transforming of important related institutions and systems, such as the administration of the companies registry by the Business and Intellectual Property Authority (BIPA), in order for state-led anti-corruption efforts to be effective and impactful.

Unless the public procurement practices that raise the 'red flags' are addressed earnestly, comprehensively and decisively, the Namibian government's oft claimed commitment to combatting corruption will continue to be viewed with widespread suspicion and derision.

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About the Hanns Seidel Foundation (HSF)

Present in more than 60 countries world-wide, the Hanns Seidel Foundation Namibia (HSF) is a German non-profit organisation promoting democracy, good governance and the rule of law across the African continent. Cooperating with its Namibian partners, such as IPPR, HSF also seeks to contribute to sustainable development by strengthening peace, human security and environmental protection.

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