



## Plans and reports vacuum persists

**Executive level government departments are setting the tone in non-compliance with regard to transparency**

Six months into the 2022/23 financial year and most government ministries still have not published their annual procurement plans and summaries of procurement awards on their websites.

According to the Public Procurement Act of 2015, procuring public entities in all categories have to produce and

publish their annual procurement plans on their websites, even though it does not stipulate a timeline for when this should be done.

Section 8(1)(d) of the Public Procurement Act of 2015, states that a public entity has to produce an annual procurement plan, which, according to section 1.5 of the Public Procurement Guidelines, should be submitted to the Procurement Policy Unit (PPU) and posted or published on the website of a public entity.

Furthermore, according to regulation 39 (1) "a public entity must publish on its website and on any other print media widely circulated in Namibia a notice of every procurement together with the executive summary of the bid evaluation report within seven days of the procurement award".

In short, public entities have to publish their annual procurement plans on their websites as well as notices and summaries of every procurement award.

For this issue of *Procurement Tracker Namibia* we assessed to what extent 21 executive level offices and government ministries complied with these rules for the 2022/23 financial year.

Of the 21 public entities, only four (4) had their annual procurement plan for the current financial year up on their websites.

Even more concerning, only one (1) public entity had some summaries of procurement awards for the current financial year posted on its website. Some others had summaries of awards from previous years on their websites, but on the whole there's widespread non-compliance with regulation 39 (1).

With regard to the environment and tourism ministry, the fact was that the procurement section on its website was not accessible, suggesting issues with the website itself.

It remains highly concerning that more than five years after the operationalising of the Public Procurement Act of 2015, that the highest offices and government departments in the land continue to struggle to comply with the law and regulations.

The issue of non-compliance in terms of producing and publicly posting annual procurement plans also featured in public procurement compliance audits conducted by the PPU in the 2021/22 financial year.

Two of the six recommendations in the PPU audit report state that compliance could be achieved through "Preparation of APPs" (annual procurement plans) and "Constant publication of awards". (For more on this see page 3)

To view what our assessment found, see the accompanying table, which is self-explanatory.

**Table: Transparency compliance of executive offices and ministries**

Executive Department	Annual Procurement Plan 2022/23 on website	Executive summaries of procurement awards (2022/23) on website
Office of the President	No	No
Office of the Prime Minister	Yes	No
Ministry of Home Affairs, Immigration, Safety and Security	No	No
Ministry of International Relations and Cooperation	Yes	No
Ministry of Defence and Veterans Affairs	No	No
Ministry of Finance	No	No
Ministry of Education, Arts and Culture	No	No
Ministry of Health and Social Services	No	No
Ministry of Labour, Industrial Relations and Employment Creation	No	No
Ministry of Mines and Energy	No	No
Ministry of Justice	No	Yes
Ministry of Urban and Rural Development	No	No
Ministry of Environment, Forestry and Tourism	Website not accessible	Website not accessible
Ministry of Industrialisation, Trade and SME Development	No	No
Ministry of Fisheries and Marine Resources	Yes	No
Ministry of Works and Transport	No	No
Ministry of Sport, Youth and National Service	Yes	No
Ministry of Information, Communication and Technology	No	No
Ministry of Higher Education, Technology and Innovation	No	No
Ministry of Gender Equality, Poverty Eradication and Social Welfare	No	No
Ministry of Agriculture, Water and Land Reform	No	No

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# Compliance audits find non-compliance

**Public entities do not meet compliance threshold according to recently released report.**

In early October 2022 the Procurement Policy Unit (PPU) published a report dated 6 October 2022 on the e-procurement portal that detailed the findings of compliance audits conducted throughout the 2021/22 financial year.

The audits were done to assess to what extent public entities were compliant with the Public Procurement Act of 2015 in terms of their internal procurement structures and processes.

The significance of the compliance audits is sketched by the PPU early in the report, stating: “The Government of the Republic of Namibia recognise the need to maintain faith and confidence of the general public in the operations of the procurement system by instituting compliance audits to determine compliance by public entities and provide reports for public consumption and institute measures to improve the status quo, where necessary.”

During the year under review 15 public entities were audited by the PPU, according to the report.

The audit consisted, first, of a general compliance assessment, which looked at whether internal procurement structures and procurement plan development and reporting complied with the law. Second was a specific compliance assessment of specific procurement actions undertaken and whether they were compliant with the law, regulations and guidelines.

The general compliance and specific compliance scores were then used to “compute” an overall compliance score (see Table 1).

If a public entity scored 80% in terms of overall compliance then it was adjudged to be compliant with the law and regulations.

## Findings

None of the public entities audited scored 80%, thus not one was found compliant.

Three public entities – Ministry of Works and Transport (76%), Transnamib (76%) and Road Fund Administration (75%) – came close to compliance.

The Ministry of International Relations and Cooperation and the Social Security Commission scored the lowest, both scoring just 18% in overall compliance.

Namibia’s higher education institutions, the University of Namibia and the Namibia University of Science and Technology, scored 38% and 37%, respectively, in overall compliance.

The Namibia Students Financial Assistance Fund, which has been in the news recently for having constructed its head office allegedly without necessary approvals and by reportedly by-passing normal procurement processes, attained an overall compliance score of 54%.

On the whole, with the exception of the works ministry, government ministries scored very low on overall compliance.

Audit Period	Public Entity Audited	General Score (out of 100%)	Specific Score (out of 100%)	Overall Score (out of 100%)
Quarter 1	Ministry of Agriculture, Water and Land Reform			
	Ministry of Works and Transport			76
	TransNamib			76
Quarter 2	Agribank	100	28	42
	Ministry of Public Enterprises	83	16	29
	National Housing Enterprise (NHE)	100	52	62
	Namibia Students Financial Assistance Fund (NSFAF)	100	42	54
Quarter 3	Namibia Institute for Public Administration and Management	83	40	49
	Namibia Institute of Pathology Limited (NIP)	83	49	56
	Ministry of International Relations and Cooperation	50	10	18
	University of Namibia (UNAM)	50	35	38
	Social Security Commission (SSC)	50	10	18
Quarter 4	Namibia University of Science and Technology (NUST)	67	30	37
	Roads Fund Administrator (RFA)	83	73	75
	Ministry of Mines and Energy	17	39	34
	Ministry Of Labour, Industrial Relations and Employment Creation	50	16	23

**Table 1: Public entities’ compliance audit scores**

The public enterprises ministry (29%), the international relations ministry (18%), the mines ministry (34%) and the labour ministry (23%) all ranked among the lowest overall compliance scores.

## Remedies and recommendation

The report states: “The poor compliance levels observed may not be condoned and is to be addressed with the urgency it deserves.”

In this vein, the PPU proposes some remedies to enable compliance with law and regulations.

These remedies are listed as follows: “(i) Continuous and targeted capacity building in key areas of challenge; and (ii) Implore proper procurement planning in public entities to improve efficiency. (iii) Introduce targeted remedial measures for administrative non-compliance in order to restore faith in the procurement system and promote the objectives of the Act. (iv) Enhance professionalization and considerations for development of a procurement cadre to enhance career development of procurement officers. (v) Capacity building for accounting officers.”

The report states that each public entity was provided with a compliance audit report and that a follow-up audit would be conducted “in a period of 12 months from the date of the audit”.

The report concludes by recommending the following: “On the basis of section 25(1)(b) “An Accounting Officer - is accountable for the full compliance with this Act and directives and instructions made under this Act”, it is therefore key to ensure that the possible remedial measures are implemented to ensure that capacity building is enhanced, and that remedial actions are taken against those who commit administrative non-compliance.”

# Public procurement in the news

Reports of public procurement matters and actions that have been reported on by the media.



## NSFAF's 'unapproved' building

In mid-September 2022 it was reported by state-owned *New Era* newspaper that the new head office building of the Namibia Students Financial Assistance Fund (NSFAF) in Windhoek was effectively constructed without the necessary approvals.

While the report leaves many unanswered questions, it states that the building was constructed "without a green light from treasury" and that "the building cost taxpayers an estimated N\$300 million".

The article also quotes a City of Windhoek spokesperson saying that no building permit had been applied for or granted before construction of the building had commenced.

The report also states that sources within the NSFAF have said that the construction tender had not been awarded in line with the Public Procurement Act and that the contractor for the job had allegedly been "hand-picked".

Based on the reporting, the NSFAF building affair has all the hallmarks of grand scale infrastructure corruption – by-passing normal procurement rules in order to favour a certain contractor on an overpriced infrastructure tender.

Following this reporting, in early October 2022, *Procurement Tracker Namibia* approached the Procurement Policy Unit (PPU) in the Ministry of Finance about whether a forensic audit of this procurement matter would be or has been conducted in order to find out how systems failed to prevent what appears to be gross non-compliance with the public procurement law and rules. By the time of going to print the PPU had still not responded, despite acknowledging receipt of the request.

*Procurement Tracker Namibia* will monitor this story.

## 'Irregularities' cloud Nampower tender

Another infrastructure tender that has made news recently is a N\$1,2 billion tender to supply renewable energy to the national power utility from along the southern coast of the country, in the vicinity of Luderitz.

In late September 2022, *The Namibian* reported that the procurement process for the preferred supplier for renewable energy

over a period of 25 years was mired in "irregularities", as alleged by a disqualified bidder.

The newspaper stated that some "companies were allegedly eliminated to give one company a chance to scoop the deal".

Although the report does not make clear which companies were involved in the bidding process or which company was alleged to be favoured for the contract, it stated that the alleged "irregularities" involved "two top Nampower executives" favouring a "questionable company" for the contract, and mentions that bribery might have been involved.

The report stated that the disqualified bidder had approached the Review Panel to look at the procurement process and that the matter was, at the time, being considered by the Review Panel.

The allegations of "irregularities" are denied by a Nampower spokesperson in the article.

This is an ongoing story that *Procurement Tracker Namibia* will keep an eye on and report once more details emerge.

## Amupanda claims corruption in NYC tender

Academic and Affirmative Repositioning leader Job Amupanda recently accused another state entity of corruptly awarding a tender.

In this instance the former Windhoek mayor accused the National Youth Council of Namibia (NYC) of corruptly awarding a tender to develop its new five-year strategic plan to a consultant.

Amupanda broadcast the allegations via his social media pages in early October 2022 in a series of posts that attracted considerable engagement from his many online followers.

In a social media post published on 6 October 2022, Amupanda stated: "On top of HALF A MILLION N\$ 500 000, in terms of Clause 6.3 of the CORRUPT CONTRACT, the CORRUPT KIDS still have to pay all travel, flights (international benchmarks), Three-Course-Meals, Hotels and "ANY OTHER EXPENSES". Seems the CORRUPT DEAL is in MILLIONS!"

While Amupanda never clearly stated what was corrupt about the tender awarded for the development of the NYC strategic plan, he appears to allege that the consultant was hand-picked.

On the same day he published the above expenses-related post, he also published a letter he'd received from the company awarded the contract to develop the NYC strategic plan. The post stated: "I have RECEIVED a letter from the company that received a TENDER from the CORRUPT Kids. They confirmed the N\$ 100 000 payment but ASSURED me that they were NOT AWARE or INVOLVED in the internal CORRUPT activities of NYC CORRUPT KIDS. Over to you CORRUPT KIDS!"

At the time of writing it was unclear where this matter would end up, however *Procurement Tracker Namibia* will keep an eye on it and report once more details emerge.