

PROCUREMENT TRACKER NAMIBIA



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PPU moves to strengthen investigative capabilities

The unit is in the process of consulting around and designing investigation tools and guidelines for compliance probes

Over the years, in engagements around occurrences on the public procurement landscape, it has become clear that the Procurement Policy Unit (PPU) has serious shortcomings in terms of its investigative capacities and capabilities.

In fact, when questioned on whether certain procurement matters that had controversially surfaced in public – the recent construction of the new headquarters of the Namibia Students

Financial Assistance Fund (NSFAF) comes to mind here – would be investigated, the response has candidly been that there was no capacity at the moment to undertake comprehensive investigations into such matters.

That the growth and strengthening of such capabilities has become urgent is evident against the backdrop of increasing evidence of large-scale non-compliance across the public sector with the provisions of the Public Procurement Act of 2015 and its regulations.

According to Section 7 of the Public Procurement Act, among the functions of the PPU is “to investigate at its own accord or as instructed by the Minis-

ter for Finance any matter relating to procurement to establish whether the provisions of this Act have been complied with”.

Section 7(4) (b) of the law states: “If, in the discharge of its functions, the Procurement Policy Unit finds that there has been a non-compliance with any provision of this Act, directives, code of procedures or guidelines made under this Act, the Minister may – refer any matter of non-compliance to the Namibian Police, Anti-Corruption Commission or any other competent authority for investigation, when it thinks appropriate, and must inform the public entity concerned.”

Investigation tools

In mid-December 2022 the IPPR / Procurement Tracker Namibia was invited by the PPU to participate in consultations around the “Development of Investigation Tools for the Procurement Policy Unit”.

According to the invitation, a consultant had been appointed by the Ministry of Finance / PPU, with financial support from the African Development Bank (ADB), and the consultancy had commenced on 15 November 2022.

Further communication in February 2023 stated that the consultant who had been appointed was Charles Kaman-de, a Kenyan supply chain management consultant, and indicated that he would be in Namibia for two weeks in late February to interview stakeholders.

The information provided by the PPU also indicated that the outputs of the consultancy would be the following:

- Development of investigation tools;
- Investigation guidelines;
- Investigation reporting template;
- Compliance forms and templates;
- Templates of investigations forms (such as statement, procurement summary);
- Investigation tracking tool;
- A user guide; and
- Capacity building of PPU staff on the guidelines, templates and forms.

By the end of February 2023 it was unclear when this consultancy would be able to deliver the specified outputs.

Effective investigation

The literature on what effective public procurement investigation frameworks and practices look like points to various things.

In terms of such best practice recommendations, [an online discussion document](#) on investigating procurement corruption, by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), captures practices for consideration.

According to the document, the “prerequisites for an effective investigation” are:

- **Independence** – Procurement related corruption can involve very senior public officials and hence the investigation can be politically sensitive and embarrassing to the Government. The investigation can only be effective if it is truly independent and free from undue interference;
- **Adequate investigative power** – Because such corruption is so difficult to investigate, you need adequate investigative power;
- **Confidentiality** – It is crucial that all corruption investigations should be conducted covertly and confidentially so as to reduce the opportunities for compromise or interference;
- **Professionalism** – All the investigators must be prop-

erly trained and professional in their investigation;

- **An effective complaint system** – The system must be able to encourage quality complaints from members of the public or institutions, and at the same time, deter frivolous or malicious complaints.

The UNAFEI document also indicates that investigative authorities need to have real-time procurement monitoring, surveillance and intelligence gathering capabilities, which speaks to the implementation of an e-procurement system that would allow PPU investigators to observe at any given time what was happening on the public procurement landscape.

F. Investigation Techniques

To be competent in corruption investigation, an investigator should be professional in many investigation techniques and skills. The followings are the essential ones:

- Ability to identify and trace persons, companies and properties
- Interview techniques
- Document examination
- Financial Investigation
- Conducting a search & arrest operation
- Surveillance and observation
- Acting as an undercover agent
- Handling informers
- Conducting an entrapment operation

Source: Effective Measures To Investigate Procurement Related Corruption & Fraud, UNAFEI

IPPR / Procurement Tracker Namibia proposals

During the consultations around strengthening the PPU’s investigative powers, the IPPR / Procurement Tracker Namibia made specific proposals:

1. The PPU needs to be transformed into a stand-alone public procurement focused law enforcement agency, with the head of the agency employed at executive director level;
2. The law enforcement function of the agency should be considerably enhanced beyond just producing reports that are forwarded to the police or Anti-Corruption Commission, or the relevant public entity that was investigated. What this enhanced law enforcement function should or could look like is something that should be extensively explored;
3. A comprehensive framework of regularly declaring assets, interests and liabilities within the public sector should be devised and implemented, with an appropriate oversight mechanism, as proposed by the UN Convention Against Corruption (UNCAC);
4. The long-overdue and immediate operationalising of the Whistleblower Protection Act of 2017 and the Witness Protection Act of 2017.



Photo: The Namibian

Finance Minister Ipumbu Shiimi

Public procurement in Shiimi’s budget speech

Honourable Speaker, Honourable Members,

“On 31 January 2023, we launched the Code of Good Practices to grant preferential treatment, to local suppliers especially specified categories such as youth, women, Micro, Small and Medium Enterprises (MSMEs) and manufacturers, in terms of Part 11 of the Public Procurement Act, 2015.”

“Honourable Speaker, we have been following with keen interest the public debate regarding the procurement of

pharmaceuticals through the Central Procurement Board of Namibia (CPBN). The procurement of lifesaving drugs as well as health supplies is critical for the functioning of our health system. Nonetheless, we do not condone inflation and overpricing of services and supplies. We always advocate for optimal utilisation of public funds. On our end, we will undertake the necessary reviews to confirm compliance with the Public Procurement Act and take the necessary action as may be necessary within the confines of the law.”

Public procurement management in the 2023/24 budget

Public procurement system management and administration has been substantially provisioned for in the 2023/24 National Budget that was tabled in the National Assembly in late February 2023 by finance minister Ipumbu Shiimi. Public procurement system management and administration falls primarily to three units or entities, all of them under the Ministry of Finance.

These three entities or units are:

- Procurement Policy Unit (PPU);
- Central Procurement Board of Namibia (CPBN);
- Review Panel.

The budgetary allocations for 2023/24 for the three entities are as follows:

Public Procurement Management

Entity	Planned expenditure
Procurement Policy Unit (PPU)	N\$11,148,000
Central Procurement Board of Namibia (CPBN)	N\$41,200,000
Review Panel	N\$4,188,000

Source: Final Estimates 2023/24 – 2025/26, MoF

Snippets from the Code of Good Practice on Preferences

On 31 January 2023 the Ministry of Finance gazetted the Code of Good Practice on Preferences in compliance with sections 71 and 72 of the Public Procurement Act of 2015.

Aims of code

2. This code of good practice aims to –
- (a) promote, facilitate and strengthen measures to implement the empowerment and industrialisation policies of the Government by providing a framework for the application of preferences and reservations under the Act without compromising standards of goods, works and services and value for money;
 - (b) grant exclusive preferences to categories of local suppliers through reservation of certain procurement of goods, works and services;
 - (c) to grant national preference to Namibian suppliers;

Categories of local suppliers for exclusive preference

4. For purposes of achieving the objectives of the Government contemplated in section 2(b) and section 72(1) of the Act, the Board or public entities must give exclusive preference when procuring goods, works and services referred to in paragraph 6 and when evaluating bids within the amounts referred in paragraph 5 to all of the following categories of local suppliers:
- (a) manufacturers;
 - (b) micro, small and medium enterprises;
 - (c) previously disadvantaged persons;
 - (d) women owned enterprise;
 - (e) youth owned enterprises;
 - (f) suppliers promoting the environmental protection; and
 - (g) suppliers providing employment to Namibians.

Qualification criteria for exclusive preference to local suppliers

7. The Board or public entity must give exclusive preference to a bidder who –
- (a) qualifies as a Namibian bidder in terms of section 71(3) of the Act;
 - (b) demonstrates that the bidder meets the local content; and
 - (c) meets any or more of the criteria specified in Annexure 5.

Qualification criteria for national preference

8. The Board or public entity must give national preference to a bidder who –
- (a) qualifies as a Namibian bidder in terms of section 71(3) of the Act;
 - (b) demonstrates that the bidder meets the local content; and
 - (c) complies with the Act.

Monitoring and evaluation

12. (1) The Policy Unit must monitor the application of preferences and reservations by the Board and public entities.
- (2) The Policy Unit must conduct an assessment between the annual procurement plan and the progress report to determine the value of awards to the categories of local suppliers.
- (3) The monitoring under subparagraph (1) and the evaluation under subparagraph (2) must be conducted to assess the impact of this code of good practice on preferences on the socio-economic objectives of the Government in line with the Monitoring and Evaluation Framework Policy of the Policy Unit.

Procurement plan

14. (1) A public entity must submit to the Procurement Policy Unit the part in the procurement plan of that public entity demonstrating application of preferences and reservations in relation to the procurement budget at least three months before the commencement of the Public entity's financial year.
- (2) The public entity must include in its market research a breakdown of cost estimates to ensure that value for money is achieved without compromising the quality and intended outcomes of the procurement.

Report to Policy Unit

15. All procurement awards by either the Board or a public entity, including where the Board or public entity applied preferences or reservations, must be reported by that Board or public entity to the Policy Unit on a quarterly basis.

For more information access the [Code of Good Practice on Preferences](#).