



Into the Void – Exemptions Erode Good Governance and Public Trust



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The proposed widespread use of exemptions is a step backward and opens up the system to abuse and corruption

The proposals to enable the extensive use of the ministerial exemption in order to fast-track development delivery looms as a threat not only to the integrity of the public procurement system as a whole, but also to effective service delivery and public trust in government.

The looming widespread use of exemptions to by-pass competitive bidding processes is primarily politically driven, as the Swapo Party Manifesto Implementation Plan (SMIP) calls for what effectively amounts to the overuse of exemptions to achieve the envisaged outcomes articulated in the developmental framework of the Nandi-Ndaitwah administration for the period to 2030.

The [SMIP states](#): “Implementation of SMIP will require such exemptions for the speedy approval of the appointment of the project professional team and contractors to work in the implementation of SMIP. All lead implementing agents will be expected to apply for exemption from the Procurement Act, using Article (4) (2) of the Procurement Act of 2015.”

It is clearly foreseen and proposed that in order for the outcomes of the SMIP to be realised “swift approval of all procurement contracts” is necessary, thus, “all Lead Implementing Agents (Government Ministries) must seek exemption from the Procurement Act using Clause 4 (1) & (2) of Public Procurement Act 15 of 2015 as amended by Public Procurement Amendment Act 3 of 2022”.

The political prioritising of the ministerial exemption in the implementation of SMIP is also finding expression in the [Public Procurement Amendment Bill, 2025](#), which was in circulation for consultation at the time of compiling this publication in September-October 2025.

The issue of ministerial exemptions relates not only to the implementation of the SMIP, but is also topical against the back-drop of healthcare related procurement through the Namibian health ministry, which is now looking to use non-competitive or direct procurement methods to purchase pharmaceutical, medicinal and clinical supplies directly from manufacturers under the guise of emergency procurement. The use of the ministerial exemption would also have bearing on such procurement processes and transactions, as it speaks to exempting specific procurement matters from default procedures and good practices.



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Clear risks

In practical terms, both the use of ministerial exemptions and emergency procurement effectively amount to specific procurement purchases or contracting bypassing both competitive bidding and established bid adjudication processes, in other words bypassing normal, fair processes and best practices.

Such methods rely overwhelmingly on discretionary decision-making about which suppliers or consultants to approach and contract directly to provide goods or services.

Section 5 of the Public Procurement Amendment Bill, 2025 deals with ministerial exemptions and allows for any public entity to apply to be exempted from the provisions of the proposed law.

Section 6 of the Bill would empower the finance minister with broad discretionary powers to make public procurement policy, including around the issuing of exemptions.

In terms of procurements related to the SMIP, this would mean that various government departments would be enabled to directly contract probably hundreds, if not thousands, of SMEs or other local entities and even individuals, or even communities, to supply goods or services over several years, up to 2030, without having to call for and adjudicate bids openly and fairly. This would ostensibly be done in order to stimulate both economic activity and job creation across the country.

On the face of it this would appear to be clearly in the public interest and the SMIP frames the use of ministerial exemptions to get “swift approval” of purchases or services as critical to the success of the overall ramped up service delivery ambitions of the entire plan.

However, the threats posed by both exempted and emergency procurement processes and transactions are known, many and similar.

In the first instance, exemptions can be used for personal gratification where integrity systems are weak and transparency and accountability mechanisms are underdeveloped. Second, discretionary decision-making powers in the hands of political actors open up avenues for questionable and politicised channeling of procurement opportunities.

Third, ministerial exemptions are fertile soils for all sorts of conflicts of interest.

To be clear, the literature on case studies of how ministerial exemptions or exceptions have been abused for political and corrupt purposes in other parts of the world should be carefully reviewed by Namibian authorities.



To be clear, the world abounds with case studies of how ministerial exemptions have been abused for political and corrupt purposes.

Anti-corruption literature

The carving out of exemptions to side-step open, competitive and objective procurement processes and practices has long been an area of scrutiny in the anti-corruption field, as such practices have been shown to be prone to misuse and corruption.

In fact, the UN Convention Against Corruption (UNCAC), to which Namibia is a party, clearly calls on states to enact and implement [transparent, competitive and objective](#) public procurement practices.

The [UNCAC Resolution on Public Procurement](#), adopted in December 2023, further strengthens the case against the use of exemptions or exceptions.

The resolution calls with point 6 “upon States parties to take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective in, inter alia, preventing corruption in accordance with article 9, paragraph 1, of the Convention against Corruption;”.

And it is with point 7 that it emphasises “the need for States parties to ensure open, equitable and fair competitive tendering processes by publishing clear selection criteria and methods for awards, and recommends that strict and limited criteria be established to delineate exceptions to competitive tendering processes and that such exceptions be publicly disclosed;”.

Furthermore, with point 21 it encourages “States parties to adopt procurement policies which, in accordance with their legal systems, promote fair competition in particular regarding the award of public contracts to micro, small and medium enterprises and businesses owned by women and persons in vulnerable situations.”

Against this backdrop, [Transparency International underscores](#) that ministerial exemptions or exceptions in public procurement create serious corruption risks, warning that exemptions undermine transparency, accountability, and public trust.

To reiterate, according to the literature, the key risk concerns are: Reduced competition; opaque decision-making; potential political favouritism; and, weak oversight and accountability.



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MAPS guidance

From September 2023 to April 2024 the public procurement framework and system were reviewed using the Methodology for Assessing Procurement Systems (MAPS), with [a final report](#) issued in early 2025.

The MAPS review also flagged the issue of the use of ministerial exemptions as a threat to the integrity of the procurement system. The MAPS review called for the introduction of “more robust standards for use of less competitive and non-competitive procedures”.

It continued that Namibian authorities needed to “consider putting measures into place to ensure that discretion to use less competitive and non-competitive procurement methods is exercised with caution”.

“For example, it may be appropriate to specifically state in primary legislation that non-competitive methods should be used only in highly exceptional and limited circumstances and to emphasize the importance of seeking to maximise competition.” Furthermore, “advance public notice of direct procurement in the case of a single supplier may also be considered as a safeguard. It may also be advisable to make it clear in the legal framework that the poor planning on the part of a public entity shall not be a justifiable reason for use of non-competitive methods.”

The MAPS review also recommends assessing “the impact of use of ministerial exemptions from application of designated provisions of the PPA and consider measures to restrict use and improve clarity of coverage: Assess the impact of the repeated use of the ministerial exemption in relation to disposal of assets, acquisition or granting of rights and letting and hiring, in particular the impact on procurement of goods which may otherwise be subject to the PPA and consider whether this exemption should still apply to those procurements.”

“It is also recommended to assess the impact of wider use of ministerial exemptions on the level of compliance with basic procedural requirements and consider whether more stringent measures are required to ensure that this exemption is used only in exceptional cases.”

The review goes further, stating: “As part of this assessment and to ensure clarity of coverage it may also be appropriate to consider introducing provisions in the legal framework, ideally the PPA, to address the issue of whether the PPA applies to contracts arising from international agreements, international treaty or concluded under provisions financed by multilateral financing institutions.”

The MAPS review’s numerous criticisms of the existence and legal vagueness of ministerial exemptions in law and practice has however not dissuaded Namibian authorities from continuing to use exemptions, but seemingly rather to seek to expand the use of exemptions, as indicated by the enhancing of relevant sections of the framework via the Public Procurement Amendment Bill, 2025.

Historical concerns

This is highly concerning given how such non-competitive methods have been deployed on the public procurement landscape.

Given data and information access gaps, it is hard to accurately depict what Namibia's history has been with regard to ministerial exemptions in public procurement, but it is worth noting that in the pre-Public Procurement Act of 2015 period [exemptions had become standard or default practice](#) and the entire system had become shrouded by clouds of waste and corruption.

Since the introduction of the Public Procurement Act of 2015 framework the issue of ministerial exemptions has continued to be a highly sensitive and concerning one.

In fact, studies conducted by the Procurement Policy Unit (PPU) and the IPPR over the last half-decade or so have shown that the use of non-competitive procurement methods under ministerial exemptions and the invoking of an emergency has become a serious governance problem.

These studies, from 2019 and 2020, provide an indication of the pitfalls that could come to characterise the procurement system through extensive use of ministerial exemptions in the future, as envisaged in the SMIP.

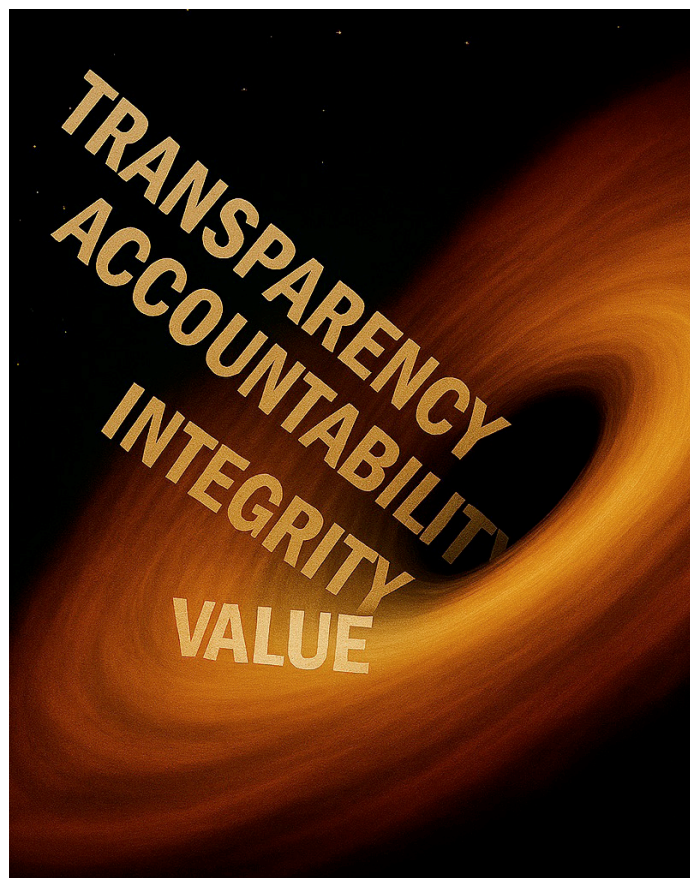
To recap, [a 2019 PPU review](#) of the use of non-competitive procurement methods during the 2017-2018 and 2018-2019 financial years by central government departments by invoking an emergency found extensive abuse of the direct procurement method tied to probable waste of state resources.

Similarly, [a 2020 study](#) by the IPPR of the use of non-competitive procurement methods by public entities under conditions of exempted and emergency procurement in the context of the raging Covid-19 pandemic alleged that waste and corruption had attached to pandemic-related public procurement across the state sector.

These studies and reviews paint a picture of a state mishandling and mismanaging its use of non-competitive procurement methods in various contexts.

It is these experiences and this knowledge, and the warnings of experts, that should give Namibian authorities pause on the extensive use of ministerial exemptions going forward.

Unfortunately, this does not appear to be the case, given the



SMIP and recent political rhetoric around the favouring of ministerial exemptions as a tool to fast-track the developmental agenda of the Nandi-Ndaitwah administration.



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What can be done?

Considering that the Namibian government is set on expanding the use of ministerial exemptions in public procurement practice in order to achieve optimal implementation of the Swapo Party Manifesto Implementation Plan (SMIP), civil society, the media and other civic watchdogs should do the following:

- Monitor and track the use of exemptions by public entities;
- Demand access to relevant data and information concerning the use of ministerial exemptions;
- Advocate for law reform to narrowly define the circumstances and justifications that could be used to rationalise the use of ministerial exemptions by public entities;
- Regularly publicly communicate findings on the tracking of the use of non-competitive methods under exempted procurement conditions;
- Collaborate to raise awareness of the corruption risks and threats attached to the widespread use of exemptions on the public procurement landscape.

Wholesale changes on cards for PPA

Ten years into a challenging dispensation and a new bill seeks to fix everything all at once, but could just make things more complicated



Republic of Namibia
Annotated Statutes

Public Procurement Amendment Bill, 2025

To regulate the procurement of goods, works and services, the letting or hiring of anything or the acquisition or granting of rights for or on behalf of, and the disposal of assets of, public entities; to establish the Public Procurement Regulatory Authority, Procurement Policy Unit and the Central Procurement Board of Namibia and provide for their powers and functions; to provide for the procurement committees and procurement management units and their powers and functions; to provide for the appointment of bid evaluation committees and their functions; to provide for procurement methods; to provide for bidding process, bidding challenge and review; to establish a Public Procurement Court to adjudicate matters relating to public procurement; to provide for preferences to categories of persons, goods manufactured, mined, extracted, produced or grown in Namibia, to Namibian registered small and medium enterprises, joint venture businesses, local suppliers, contractors and service providers; and to provide for incidental matters.

At the start of October 2025 a round of consultations were held in Windhoek around the latest draft of the [Public Procurement Amendment Bill, 2025](#), which has undergone significant change since a draft bill was tabled in parliament in early 2025 by then finance minister Iipumbu Shiimi.

The version from earlier in the year primarily sought to create a Procurement Court within the Public Procurement Act of 2015 framework. This latest draft seeks to do a whole lot more than that.

The draft amendment bill in circulation for comment in early October 2025, if adopted into law as is, will in some respects effectively re-engineer an almost entirely rearranged public procurement system.

The proposed re-engineering follows in the wake of the release of two significant documents in early 2025: First, the [Swapo Party Manifesto Implementation Plan](#) (SMIP); and, second, the [2025 MAPS Assessment of Namibia's Public Procurement System](#) report.

A reading of the latest version of the Public Procurement



It has been clear for a long time that a regulatory vacuum existed on the landscape somewhere between the PPU and the CPBN. This body now fills that gap, and relieves the PPU of much of its mandate and powers.

Amendment Bill, 2025 indicates that the two documents have been clearly influential, especially the MAPS report, as many of the proposed changes to the framework align with the recommendations of the report.

However, the impact of the SMIP cannot be downplayed, as the preceding discussion in this bulletin extensively lays out.

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Institutional reforms

The most significant changes in the draft bill concern the sweeping changes to the institutional setup on the public procurement landscape.

In the first instance, under the amended framework a new apex regulatory authority would be created, namely the Public Procurement Regulatory Authority.

The other significant institutional creations proposed in the bill are the Administrative Review Committee and the Procurement Court.

With this new institutional make-up, the Central Procurement Board of Namibia (CPBN) is effectively dislodged as the centre-piece of the public procurement system and the Procurement Policy Unit is relegated to a mere advisory role to the finance minister.

Procurement policy and regulation formulation, implementation and enforcement will primarily fall to the Public Procurement Regulatory Authority, which is proposed to be an independent entity. However, this independence is questionable given that the text states that the finance minister will appoint the head of the entity and that other matters related to the mandate of the entity will also be subject to the approval of the minister. Given that the bill is still just a draft for consultation it is foreseen that this confusion or contradiction will have been ironed out in the final substantive draft of the bill.

The creation of the Public Procurement Regulatory Authority is in line with recommendations of the MAPS report that call for an effective, independent oversight body on the public procurement landscape.

The creation of this body is also in line with longstanding calls of the IPPR for an independent oversight mechanism on the public procurement landscape.

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Interestingly, and also in line with repeated calls over the years on these pages, among its powers the new Public Procurement Regulatory Authority will have investigative and law enforcement powers, giving the body the necessary teeth to engage in compliance enforcement across the landscape.

The other significant institutional reform is the creation of the Procurement Court, which was extensively critiqued in [Issue 27](#) of *Procurement Tracker* Namibia.

Ultimately, what the bill clearly seems to be aimed at achieving is the enhancement and strengthening of regulatory institution mechanisms on the public procurement landscape.



The use of a broad ministerial exemption runs counter to the guidance provided by the MAPS review, which basically calls for the narrow defining, tightly restricted and short period use of exemptions under any circumstances.

Other significant proposals

Other than the new institutional arrangement, the bill also proposes significant enhancements in the following areas: Procurement processes and methods; internal governance and oversight; offences and penalties for non-compliance; local empowerment and preferential procurement; and, asset disposal and contract management.

In terms of procurement processes and methods, the bill proposes new methods, such as community-based procurement and unsolicited proposals, among others.

Probably most significantly, the new framework seeks to formalise the finance minister's discretionary power to regulate and impose the direct procurement method for medicines purchases for the public health sector. This power seems an excessive overreaction to occurrences within healthcare procurement over recent years and will become an area of immense governance concern if enacted into law, given that the proposal is to by-pass competitive bidding processes.

The use of a broad ministerial exemption runs counter to the guidance provided by the MAPS review, which basically calls for the narrow defining, tightly restricted and short period use of exemptions under any circumstances. This is a recommendation that IPPR fully supports, in the absence of completely doing away with exemptions of any sort.

Another enhancement worth noting, with specific regard to internal governance and oversight, concerns the expansion of asset declaration provisions and restrictions on staff involvement in procurement. The building out of integrity-inducing measures is always a welcome development.

The strengthened role of internal procurement committees and management units is also long overdue.

Regarding offences and penalties, the introduction of stricter consequences for misconduct, corruption, and non-compliance is similarly a move in the right direction and long in coming.

Serious doubts

That said, the sweeping proposed amendments and innovations articulated in the Public Procurement Amendment Bill, 2025 raise doubts about the practicalities of it all.

Namibia's public procurement framework is legally and practically complicated and the country has struggled since the start to implement what has been there since 2015.

This new proposed institutional environment and regulatory enhancements just make the landscape more complicated and complex.

On a very practical level, the public procurement system is already hamstrung by capacity constraints across the board and at all levels. This new-look system, which on the face of it appears expertise and resource intensive, would just deepen the capacity shortfalls.

On paper, the proposals are highly welcome and ambitious, but in practical terms almost unrealisable and even far-fetched. It makes one wonder whether this is more about ticking the boxes with regard to MAPS and other international instruments alignment and compliance, such as with the UNCAC, and less about actually having a functional, effective system in place in real terms.

How the proposed new system will be practically imposed on the dysfunctional old one is hard to see, given all the existing shortcomings plaguing the optimal working of the public procurement system as envisaged by the Public Procurement Act of 2015.

Aligning with MAPS recommendations

The drafters of the latest version of the Public Procurement Amendment Bill, 2025 have sought to align its proposed provisions closely with the findings and strategic recommendations of the MAPS Assessment of Namibia's Public Procurement System (Volume I) report. Following is a structured comparison of the MAPS findings and the responses captured in the draft bill.

Pillar I: Legal, Regulatory, and Policy Framework

MAPS Findings	Amendment Bill Responses
<ul style="list-style-type: none">Overuse of non-competitive methods without safeguardsVague ministerial exemptionsWeak legal support for e-Government Procurement (e-GP)Poor contract management definitions	<ul style="list-style-type: none">Introduces clearer procurement methods (e.g., reverse auctions, framework agreements) with defined conditionsCodifies exemptions (e.g., direct medicine procurement) but raises concerns about transparencyLays groundwork for e-GP integrationStrengthens contract lifecycle rules, including performance security and termination clauses

Pillar II: Institutional Framework and Management Capacity

MAPS Findings	Amendment Bill Responses
<ul style="list-style-type: none">Under-resourced Procurement Policy Unit (PPU)Part-time procurement roles undermine professionalism	<ul style="list-style-type: none">Establishes a new Public Procurement Regulatory Authority to replace or reinforce the PPUFormalises Procurement Management Units and Committees with clearer mandatesIntroduces a code of conduct and asset declaration requirements to professionalise roles

Pillar III: Procurement Operations and Market Practices

MAPS Findings	Amendment Bill Responses
<ul style="list-style-type: none">Limited use of e-procurementLack of national M&E frameworkPoor procurement data collection and analysis	<ul style="list-style-type: none">Supports expanded procurement methods that can be digitisedEnables pooled procurement and framework agreements, which can improve data standardisationSets the stage for better M&E through centralised oversight and reporting mechanisms

Pillar IV: Accountability, Integrity, and Transparency of the Public Procurement System

MAPS Findings	Amendment Bill Responses
<ul style="list-style-type: none">Weak information systemsInconsistent compliance monitoringLack of robust review mechanisms	<ul style="list-style-type: none">Creates a Public Procurement Court and Administrative Review Committee for dispute resolutionIntroduces offences and penalties for misconductEnhances integrity provisions and fiduciary duties for procurement officials

Strategic Alignment Summary

MAPS Recommendation Area	Amendment Bill Response
Safeguards for non-competitive procurement	Partial alignment; direct medicine procurement remains controversial
Institutional capacity building	Strong alignment via new Authority and Committees
e-GP and data systems	Foundational support; full implementation pending
Review and accountability	Strong alignment with new legal bodies and penalties
Local empowerment	Goes beyond MAPS with expanded preferences for Namibian SMEs and goods

Some of the analysis was conducted with the assistance of Microsoft Copilot.

Public procurement in numbers

The following data has been gathered from information available through the e-Procurement Client System operated by the Procurement Policy Unit in the Ministry of Finance and Public Enterprises.

Annual Procurement Plans

By the end of the 2024/2025 financial year **176** public entities should have submitted their annual procurement plans for the 2025/2026 financial year to the Procurement Policy Unit. The Procurement Policy Unit (PPU) then publishes these plans on the e-Procurement Portal.

By 30 September 2025, **only 87** annual procurement plans were viewable via the e-Procurement Portal.

That means only about **49%** of public entities had submitted their plans to the PPU for the **2025/26 financial year.**

According to **Section 25 (4)(a)** of the Public Procurement Amendment Act of 2022, public entities must submit their plans to the PPU “**at least three months before the commencement of each financial year**”.

This means plans have to reach the PPU **by the end of December of every year**, as the financial year of the government ends at the end of March the following year.

Of the 87 procurement plans viewable via the e-Procurement Portal **only 5** were submitted to the PPU before the end of December 2024.

That means **only 3%** of procurement plans **were submitted on time.**

Making sure that the public has access to annual procurement plans remains **a major compliance issue** in the public procurement system.

When procurement plans are delayed or not publicly accessible, it can **hinder oversight and lead to inefficiencies** in resource allocation.