



GOVERNMENT GAZETTE OF THE REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 413

2022

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 8 of 2022: Access to Information Act, 2022.

Unlocking Public Procurement Transparency

Overlaps between Namibia's ATI and procurement laws can strengthen public scrutiny and reinforce oversight

As 2025 draws to a close, moves are afoot to commence with the process of appointing the Information Commissioner in a first step towards fully and finally implementing the [Access to Information Act of 2022](#).

The implementation of this framework could and should profoundly impact information governance within the public sector, including within the public procurement system.

The Public Procurement Act of 2015 (PPA) framework, on paper, sets a transparency standard that in practice has not been

met since the operationalising of the law commenced in early 2017.

Procurement Tracker Namibia (PTN) has consistently critiqued the transparency shortfalls within the public procurement system that have become emblematic of the dysfunctions that have plagued the system over the last eight years.

This publication has repeatedly documented how most public entities are continuously non-compliant with the transparency-inducing provisions of the law, such as the timely production and publication of annual procurement plans, thereby undermining the oversight, good governance and optimal performance of the system.

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The lack of transparency within the system was classified as a high risk factor, and thus a “Red Flag”, by the World Bank consultants who conducted the Methodology for Assessing Procurement Systems (MAPS) assessment of Namibia’s public procurement system in 2023-2024.

[The MAPS assessment report](#) notes: “Based on majority response, data/information is neither accurate nor timely. The available information/data in the public domain is inadequate. The lack of data is also due to lack of compliance by public entities in reporting to PPU (Procurement Policy Unit)”.

The MAPS assessment recommends stricter compliance enforcement of transparency provisions, which is where the Access to Information Act could become critical in bridging the transparency gaps.

The concerns around transparency in public procurement become especially pressing against the backdrop of government intent to by-pass proper procedure as outlined in the PPA with the extensive use of ministerial exemptions in order to fast-track implementation of the [Swapo Party Manifesto Implementation Plan](#) (SMIP) over the period to 2030.

Ministerial exemptions have historically been a black hole in terms of transparency, [as noted in PTN 29](#), and there is nothing that suggests that the situation will be different going forward. In PTN 29 we propose that the general public, the media and civil society engage and become effective informal monitoring and oversight actors of public procurement under the current government. It is in this context that the Access to Information (ATI) Act of 2022 becomes critical as a transparency tool.

The nexus

The ATI and public procurement laws overlap considerably in their encouragement of information openness and accessibility. The two frameworks share the goal of promoting the principles of transparency, accountability and public participation in government processes.

The key areas where the two frameworks especially overlap is in provisions related to the publication of documents and reports. Sections 25 - 27 of the ATI law obligates government entities to publicly publish a wide range of information, including organisational contact details, process manuals, and reports, as well as procurement awards and contract information.

Similarly, the PPA, in various sections, mandates open publication of annual procurement plans, bid opportunities, and contract awards at public entity level.

These sections across the two frameworks complement each other in mandating both the proactive disclosure of information and release of information upon request.

The relevant sections of the PPA are especially strengthened by the ATI law, which when it comes to information access and openness sets the standard and elevates the scope of the transparency-inducing parts of the PPA.

This is clearly evident in sections where the ATI law goes quite a way further than the PPA in granting access to information.

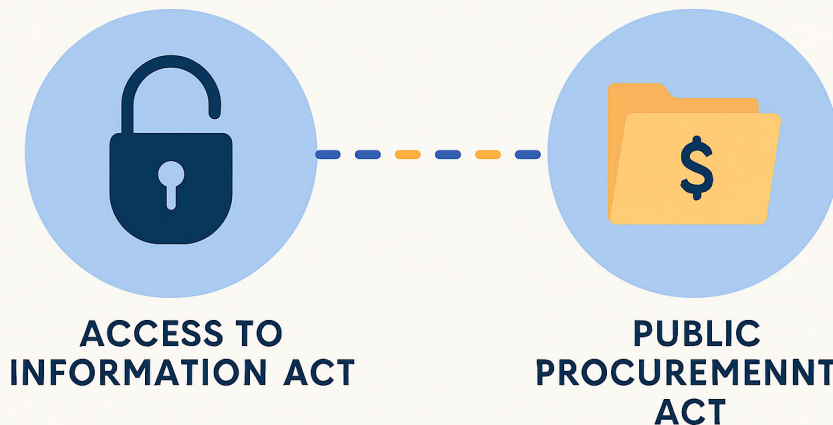
For instance, sections of the PPA allow for bidders to request debriefings and challenge procurement decisions. The language of the law suggests that information access is limited to actors or entities that are or were part of a particular bid process.

However, sections 30 - 46 of the ATI Act go further and allow individual members of the public to request access to information from public entities, including information related to procurement, such as bid evaluation reports or contract conditions, as well as performance reports related to contracts awarded.

In short, the ATI Act expands access beyond bidders to any interested party, including the media and civil society.

At the same time the ATI law also creates an avenue beyond the PPA framework that individuals, journalists or civil society actors can use to access procurement-related information, namely the Information Commissioner. The Information Commissioner can intervene when procurement information is withheld improperly or access is denied without sound justification.

TRANSPARENCY UNVEILED: THE NEXUS OF ACCESS TO INFORMATION & PUBLIC PROCUREMENT



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ATI and the Public Procurement Amendment Bill 2025

While the ATI Act empowers citizens to access procurement data, the amendment bill proposes deep reforms to make procurement processes more transparent and efficient

The [Public Procurement Amendment Bill of 2025](#) proposes to make extensive improvements to the existing PPA framework, including in strengthening transparency-related provisions.

Probably the most striking proposal in the draft bill is the creation of a Public Procurement Regulatory Authority that would be mandated to enforce compliance.

Whereas the Procurement Policy Unit (PPU) has lacked law and compliance enforcement powers in the existing framework, the proposed framework seeks to invest the regulatory authority with powers to police and penalise compliance weaknesses or shortfalls.

The draft amendments also propose clearer information disclosure obligations for public entities, which would significantly complement the proactive disclosure provisions of the ATI Act.

Similarly, the ATI law and the provisions of the draft bill would be complementary in terms of dispute resolution and oversight pathways in terms of transparency compliance enforcement.

In this regard, the office of the Information Commissioner, which is established as an administrative mechanism for dispute resolution and oversight by the ATI Act, would be considerably complemented by the creation of a procurement court, as proposed in the amendment bill, as a new judicial mechanism in procurement-related dispute resolution and oversight.

The proposed dispute resolution pathways are further ex-

panded by the proposed creation of an Administrative Review Committee through the amendment bill.

Clearly, the avenues for challenging potential transparency breaches or for monitoring and gaining access to information appear to be increasing and broadening.

However, when looking at these mechanisms as proposed, in both the ATI Act and the amendment bill, the question of adequate capacity and resources immediately looms large. This is because law and compliance enforcement in the existing PPA framework are already considerably hamstrung by a lack of capacity and resources, according to assessments over recent years. Similarly, a lack of resources has repeatedly been cited by the government as the reason why the ATI Act has not been implemented since enactment in late 2022.

That said, the amendment bill is still in the consultation phase, so some of the proposals might not make it into the final substantive draft that will eventually be tabled in parliament and passed into law.

Even so, it seems apparent that a priority intent of the amendment bill is to significantly enhance transparency-inducing measures and mechanisms in the existing framework.

Against this backdrop, it is worth noting that both the ATI Act and the Public Procurement Amendment Bill of 2025, when enacted, appear to be set for implementation and operationalising in the next government financial year (2026/27).

If that is the case, given the extensive proposed changes to the PPA framework, then the ATI Act can potentially be used, albeit in a limited way initially, over coming years to track how these changes are being implemented and whether transparency standards, as built into these frameworks, are being appropriately upheld.

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On top of that, the ATI law compels public entities to make information and data available in formats that enable easy access and use by the public or those who requested the information or data.

Taken altogether, once the ATI Act is fully implemented, it will probably have a profound impact on the nature of information governance within the procurement system, and could considerably improve on the prevailing sub-optimal information transparency situation over the medium to long term.

Information horizons

The ATI law, once fully implemented, opens up potential information opportunities and horizons that Namibians have not been able to bridge up to now.

In a practical sense, in the public procurement context, citi-

zens, journalists, and civil society actors can formally request procurement information and data, related to: Tender specifications; evaluation criteria and scores; contract terms and conditions; and, supplier or contractor performance reports, among others.

At the same time, public entities are obligated to respond to information requests within set timeframes and if they deny an information request, they can only do so using narrow justifications, such as national security or commercial confidentiality.

With public entities already struggling to comply with the existing transparency requirements of the PPA, the pressure will only double on them to also have to comply with the emergent ATI Act obligations.

The ATI framework provides citizens, journalists and civil society actors with a legal basis beyond the PPA to demand procurement information and data.

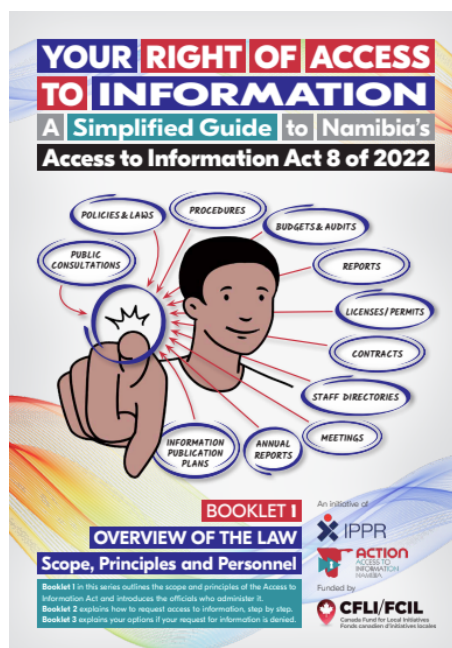
Accessible guides to the ATI law

In early 2024 the IPPR published three explainer guidebooks to the significant aspects of the ATI Act of 2022.

Explainer Guidebook 1

This booklet gives an overview of the scope and principles of the law, and the institutions created through the law, as well as the officials that will implement and administer it.

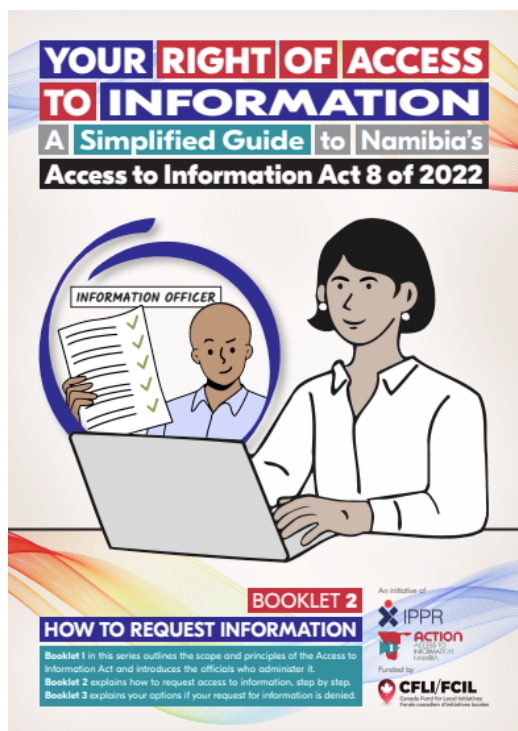
The guidebook can be accessed [here](#).



Explainer Guidebook 2

This booklet gives a step-by-step guide to how to make an information request.

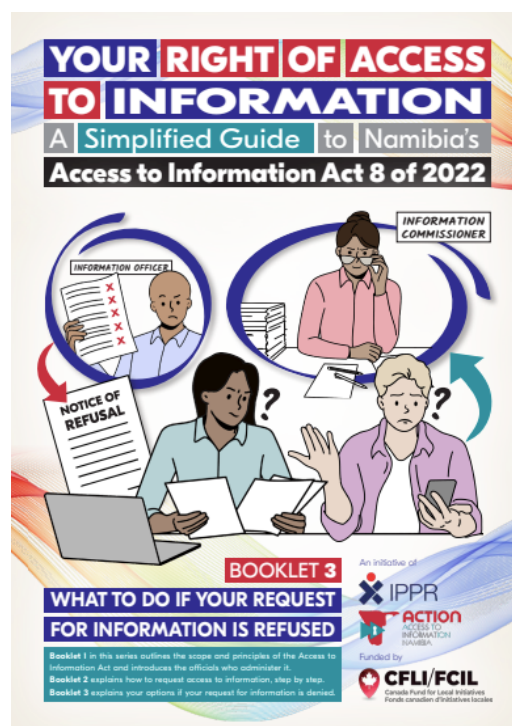
The guidebook can be accessed [here](#).



Explainer Guidebook 3

This booklet looks at what can be done if your request for information is refused.

The guidebook can be accessed [here](#).



Some of the research for this bulletin was compiled using an AI tool.