

NAMIBIA

Assessment of the Public Procurement System

May 2025

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1818 H Street NW
Washington DC 20433
Telephone: +1 202-473-1000
Internet: www.worldbank.org

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An Assessment Steering Committee (ASC) constituted by the Government provided leadership and guidance to the Assessment Team throughout this project.

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Acronyms/Defined Terms

ACC	Anti-Corruption Commission
AFDB	African Development Bank
ASC	Assessment Steering Committee
ATAG	Assessment Technical Advisory Group
BEC	Bid Evaluation Committee
COI	Conflict of Interest
CPBN	Central Procurement Board of Namibia
CSO	Civil Society Organization
e-GP	Electronic Government Procurement
EPDN	Enhancing Participatory Democracy in Namibia
GDP	Gross Domestic Product
GRN	Government of the Republic of Namibia
HPP II	Harambee! Prosperity Plan II
INTOSAI	International Organization of Supreme Audit Institutions
KfW	Kreditanstalt fuer Wiederaufbau
MoFPE	Ministry of Finance and Public Enterprises
NACC	Namibia Competition Commission
NIPAM	Namibia Institute of Public Administration and Management
NDP	National Development Plan
NQA	Namibia Qualifications Authority
NTA	Namibia Training Authority
NUST	Namibia University of Science and Technology
OAG	Office of Auditor General
OPM	Office of Prime Minister
PC	Procurement Committee
PE	Procuring Entity
PEFA	Public Expenditure and Financial Accountability
PMU	Procurement Management Unit
PPA	Public Procurement Act
PPP	Public-Private Partnership
PPR	Public Procurement Regulations
PPU	Procurement Policy Unit
RP	Review Panel
SACU	South African Customs Union
SCD	Systematic Country Diagnostic
SBD	Standard Bidding Document
SPP	Sustainable Public Procurement
SWAPO	South West Africa People's Organization
TOR	Terms of Reference
TTL	Task Team Leader
UNAM	University of Namibia
UNCAC	United Nations Convention Against Corruption
UNCITRAL	United Nation Commission on International Trade Law
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
VNR	Voluntary National Review
WB	The World Bank

CURRENCY EQUIVALENTS

Currency: Namibian Dollar (NAD)

USD 1 = NAD 18.917 (rates as of April 1, 2024) *

*Source: <https://www.exchange-rates.org/converter/usd-nad>

GOVERNMENT FISCAL YEAR (FY) April 1 – March 31

Executive summary

The Executive Summary is organized in different sections. It starts with general information on background, objective, process, and basis of the assessment before summarizing key findings and major strengths for each of the four MAPS Pillars followed by areas of improvement to address key gaps. At the end, it provides an overview of compliance and gaps with Red Flags as well as strategic priorities and key actions.

A. Background and objective

Resource wealth, political stability, and sound economic management since Namibia's independence in 1990 have helped poverty reduction and allowed it to become an upper-middle-income country with GNI per capita of US\$4,880 in 2022. Based on the World Bank data, GDP for Namibia was US\$12.45 billion in 2021, which increased slightly to US\$12.61 billion in 2022. The annual public procurement spend is substantial, being 25.37% of GDP in 2021. In its Action Plan Towards Economic Recovery and Inclusive Growth (Harambee Prosperity Plan II 2021–2025), the GRN identifies five goals for improved governance: (i) Accountability & Transparency; (ii) Strengthening the National Anti-Corruption Mechanisms; (iii) Improved Performance & Service Delivery; (iv) Enhancing Citizen Participation & Engagement, and (v) Enhancing Security & Rule of Law. Achievement of each of these goals will be enhanced by an effective and efficient public procurement system and procurement specific activities.

The Procurement Policy Unit (PPU) established within the Ministry of Finance and Public Enterprises (MoFPE) is responsible for advising the Minister of Finance on procurement matters including monitoring compliance with the PPA, review of and proposals for improvement of the public procurement system, assessment of the impact of the system of socio-economic policy objectives and promotion of fundamental principles of procurement.

Namibia is committed to developing a five-year public procurement strategy through which the country's procurement priorities, approach, strategies, and measures of success over a medium term will be outlined. The primary objective of conducting the MAPS Assessment in Namibia is to review Namibia's public procurement system to inform the ongoing development of that public procurement reform strategy. It is a timely exercise in the perspective of the full review of the Public Procurement Act of 2015 anticipated to commence in 2025/26. The outcome of the MAPS Assessment would provide credibility to the strategic direction of the procurement reforms in Namibia and particularly to the targeted development of the National Procurement Strategy.

B. Process and basis of the MAPS Assessment

Following the MoFPE request for a MAPS Assessment, a multidisciplinary and cross-departmental MAPS Assessment Steering Committee (MASC) was set up to ensure an efficient, high-standard, and participatory implementation of the MAPS Assessment and to provide leadership and guidance to the MAPS Assessment Team throughout the assessment process. MASC members included officials from key government agencies involved in public procurement and representatives of the private sector and civil society, WB and AfDB, with Secretariat support provided by the PPU.

After approval of the MAPS concept note package by World Bank management in August 2023, the launch mission was conducted in September 2023, when the MAPS Assessment team engaged with key stakeholders and the MASC to present the plan for tasks to be undertaken together with required input and support. The Launch Workshop was held on September 13, 2023, and was attended by over 100 stakeholders, in-person and online, successfully generating the required level of collective engagement. The Launch Workshop was officially opened by the Deputy Minister of Finance and Public Enterprises, demonstrating commitment and support to the MAPS Assessment at the highest level. The Concept Note was approved by MAPS Secretariat on Dec 19, 2023.

The PPU appointed a national coordinator of the MAPS Assessment, supported by a team of officials to coordinate tasks under each pillar. Regular weekly meetings were held between PPU and the MAPS Assessment Team and WB and AfDB representatives, which ensured timely completion of all tasks. Throughout the process, the MAPS Assessment Team received extensive cooperation from Procurement Policy Unit (PPU)/Ministry of Finance and Public Enterprises (MoFPE), Procuring Entities, oversight agencies, civil society organizations (CSOs), and private sector.

For the identification of contracts as part of the required sample to be reviewed, the MAPS Assessment focused on public entities across sectors and at different levels of government. Procurement files of 191 contracts from 14 procuring institutions – at national, regional & local authority level as well as public enterprises – were reviewed and assessed. These also represented a good mix of procurement of goods, works, services (consulting and non-consulting), as well as central facilitation of contracts.

An anonymous private sector survey was launched on November 29, 2023, and

84 responses were received. Feedback was also sought from CSOs, by means of an anonymous survey/questionnaire launched on November 30, 2023, and 8 responses were received.

While overall, the collected data and information provided substantial input for the assessment, the limited availability of some data, such as information on contract execution, prevented the team from a deeper analysis.

The Validation Workshop was held on April 17, 2024, opened by Deputy Minister of Finance and attended by about 80 participants. The workshop was preceded by discussions with key stakeholders in the period April 8-12, 2024, to clarify outstanding questions. The MAPS Report was finalized in the light of responses received during the validation process with stakeholders, a peer review process at the World Bank/AfDB and then by MAPS Secretariat and international experts of the MAPS Assessment Technical Advisory Group (ATAG).

C. Key findings and major strengths under each pillar

The following summary provides the key findings including major strengths of the public procurement system in Namibia for each of the four Pillars of the MAPS Methodology. More details of the findings and for each of the identified gaps are listed in Chapter 3 of this report and in the Matrix.

Pillar I– Legal Regulatory and Policy Framework

The public procurement legal framework is set out in a clear hierarchy, with the Public Procurement Act 2015 (PPA) being the primary legislation, supported by the Public Procurement Regulations 2017 (PPR), Ministerial Directives, Codes

and Guidelines. The PPA covers goods, works, consultancy services and non-consultancy services for procurement using public funds. Exemptions from application of the PPA are listed in the PPA, although there is no specific reference to the status of internationally funded procurements. According to the PPA, the Minister also has power to grant a general or specific exemption which is a potential weakness, depending upon how and to what extent the power is exercised. Public Private Partnerships are regulated by dedicated legislation, requiring all PPPs to be procured through a competitive bidding process, respecting procurement principles.

A range of procurement methods is listed in the PPA. Open advertised bidding is intended to be the default method of procurement with broadly expressed conditions of use for other, less competitive and non-competitive methods. The legal framework requires public advertisement of opportunities using the open advertised bidding method, with the minimum period for submission of bids of 30 days. No extension of this period is specified in the case of international bidding. There are rules and procedures relating to eligibility and exclusion, including for criminal and corrupt activities and there is a system for administrative debarment of bidders. It also sets out procedures for determination of eligibility, although not in the case of public enterprises, as well as provisions on partnership/joint ventures between foreign bidders and national bidders, on reservations and margins of preference.

The minimum content of procurement documents is listed in the PPA with provision for the use of functional specifications and principle of equivalence of standards. Potential bidders have the right to request clarification of procurement documents with timelines specified for the clarification process. Bids must be evaluated according to the criteria and methodology set out in the bidding documents and award is to the lowest evaluated substantially responsive bid which meets the qualification criteria. There are no provisions in the PPA or PPR

referring in specific terms to use of non-price evaluation criteria or life-cycle costing. The Public Procurement Guidelines refer to cost of ownership and to disposal as price related criteria but actively discourage use of non-price criteria. The legal framework defines the process for, and recording of, bid opening and confidentiality of proprietary information of bidders must be respected.

Procuring entities are required to inform bidders of the award decision and bidders have the right to request the Central Procurement Board of Namibia (CPBN) or public entity to reconsider the award decision. If a bidder does not receive a response from the public entity or is not satisfied with the decision taken by the public entity, the bidder is entitled to apply to the Review Panel (RP) for review. Bidders also have a general right to apply to the Review Panel for review of a decision or action taken by the CPBN or a public entity, but this right is rarely exercised. There are a range of remedies available to the Review Panel, including setting aside the award decision. Review Panel decisions are published on the e-Procurement portal and there is a right to apply for judicial review to the High Court.

The PPU has issued e-GP Guidelines and a User Manual, which require use of e-procurement at specified points in the procurement cycle. There are no provisions in the PPA or PPR that ensure the use of tools and standards that provide unrestricted and full access to the e-GP system or that require interested parties to be informed which part of the process will be managed electronically. Procurement Management Units are required to maintain and keep records of procurements by a public entity in accordance with the provisions of the PPA.

There are model procurement documents (SBDs), for mandatory use, covering goods, works, non-consultancy services and consultancy services using different procurement methods, as well as for some specialized procurement. There are several standard contract conditions for use as

an integral part of the bidding documents. The PPU has issued comprehensive Public Procurement Guidelines.

There is no policy/strategy in place together with a plan to implement all aspects of sustainable public procurement (SPP) – **economic, environmental (including climate considerations) and social (including gender equality)) – in support of broader national policy objectives and reflecting national priorities. Provisions in the legal framework on incorporating sustainability considerations and criteria into the procurement cycle are limited.**

Pillar II: Institutional Framework and Management Capacity

PPA s.6 establishes the Procurement Policy Unit (PPU) within the Ministry of Finance and Public Enterprises and assigns normative/regulatory functions for public procurement to the PPU. PPA s.7 set out a long list of the functions of the PPU including setting procurement thresholds, providing policy advice on e-procurement, preparation of guidelines, monitoring, and report on the performance of facilitating the use of ICT, compliance inspection of procurement activity and contract and performance audits.

The normative/regulatory functions and related activities assigned to the PPU are substantial and wide ranging and may require a higher-level standing. The involvement of PPU in procurement transactions, while providing technical advice to Accounting Officers, may lead to Conflict of Interest (COI) situations.

Public entities are clearly defined in the PPA. An Accounting Officer must set up an internal organisational structure which includes a Procurement Committee, ad hoc Bid Evaluation Committee, and Procurement Management Unit for the conduct and management of procurement at the public entity and is accountable for the full compliance with

the legal framework. Powers and functions of Accounting Officer are clearly defined in PPA. The PPA stipulates certification on the availability of funds before the commencement of each procurement process and to ensure funds remain committed.

There is no operational centralized procurement body in charge of consolidated procurement, framework agreements or specialized procurement. The CPBN acts on behalf of public entities in the conduct of the bidding process for the award of contracts exceeding prescribed thresholds.

Namibia's e-Procurement portal represents a huge step forward in modernizing public procurement practices, offering a robust platform to enhance transparency, efficiency, and accountability. There is an e-procurement strategy and road map, and the first steps towards implementing e-procurement have already been taken. Despite the commendable progress made to date, several challenges and gaps persist regarding the transition from the e-Procurement portal to an end-to-end e-GP system. The absence of supplier registration, electronic bid submission, and contract execution functionalities compromises the capacity to provide procurement support along the full procurement cycle and conduct data analytics for informed decision-making and reporting.

Although the use of the e-Procurement portal is mandated for all public entities, information is published only for a fraction of public entities. For example, only 45 public entities used the portal against a target of 105 public entities during 2022/23 and only 334 out of the reported 9,721 procurements were advertised in the portal. Lack of financial and human resources hamper the ability of PPU to effectively implement the e-GP strategy and engage in change management and capacity development activities with public entities to promote the use of the e-Procurement portal.

The Ministry of Finance and Public Enterprises' Strategic Plan has a strategic objective to "Enhance efficiency of the Public Procurement system and compliance to the Public Procurement Act" which provides strategic direction regarding capacity building in public procurement through PPU and partnership, with the Consortium. A cooperation agreement was signed in 2021, between the Ministry of Finance and Public Enterprises and the Consortium consisting of the University of Namibia (UNAM), University of Science and Technology (NUST) and Namibia Institute of Public Administration and Management (NIPAM) for systematic and formal training and academic pathway in procurement.

Procurement is not yet recognized as a profession in Namibia and there is no need for a professional qualification in procurement or related discipline to work under Procurement Management Unit, to act as member of the Bid Evaluation Committee or to be part of Procurement Committee. To ensure effective delivery of public services, there is a need to establish procurement as a strategic function, as opposed to a routine compliance-based activity, and to cover the entire procurement process from needs assessment, market analysis, selection, contract award and including contract management.

Pillar III: Public Procurement Operations and Market Practices

The results achieved by procuring entities in adverse conditions, with a lack of human and technical resources, is remarkable. There is a quest for generalised compliance with the guidelines. The participation of the private sector in the public market is positive.

The analysis of procurement processes indicates that the assessment of needs and market studies are often overlooked and underutilized in the creation of Annual Procurement Plans, leading to strategies

that are not fully informed or optimized and potentially undermining the integrity of specifications.

Procedures for bid submission, receipt, and opening are well-documented and generally adhere to confidentiality and security protocols, including the physical handling of paper submissions and the secure evaluation of bids. However, practices such as the disqualification of bidders based on relative price comparisons, if for example a proposed price was higher by a certain percentage than the average price, may encourage collusion, highlighting potential integrity issues within the procurement process. Confidentiality issues arise due to insufficient bid box sizes, risking the privacy of bids and potentially the procurement objectives. The visibility of decisions and transparency mechanisms are inadequate, with significant gaps in compliance with publication requirements and in providing stakeholder's sufficient oversight.

The MAPS Assessment Team found insufficient information on timely implementation of contracts. The information provided by the Procuring Entities, including for the sample contracts, did not allow quantitative indicators to be measured and in only two cases were delays of around 20-25% identified. According to information gathered from the CPBN Portal, which is responsible for the procurement of the most significant projects, it is consistently found that around 10 per cent of the processes show deviations from the planned execution time of between 10 and 25 per cent. 55% of the respondents to the Private Sector Survey claim that they have experienced situations in which the completion of the project was delayed.

The GRN promotes an open dialogue with the private sector, facilitated through established mechanisms through associations, which allow for a transparent and consultative process in formulating changes to the public procurement system while adhering to ethics and

integrity rules. Despite these efforts, the private sector perceives a lack of regular government programs aimed at capacity building among private companies. There is a prevailing negative view among economic operators about the conditions in the public procurement market. While the government identifies key sectors within the public procurement market, there is a noted absence of sectoral strategies and a failure to address sector-specific risks and opportunities, with the policies outlined in the Public Procurement Act having limited practical effectiveness.

There is a need for effective mechanisms to measure private sector competitiveness and participation in public procurement, alongside efforts to improve market accessibility by reducing barriers and redistributing contractual risks more equitably.

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

There are good initiatives by GRN on CSO participation, such as the “Enhancing Participatory Democracy in Namibia” (EPDN) program, supported by GRN and European Union (EU). These initiatives have so far limited impact on procurement specific issues of monitoring procurement performance and contract implementation. **There are a few Civil Society Organizations (CSOs) in Namibia who are active in the area of monitoring procurement.** While there is a perception of lack of consultation, according to feedback from the PPU, CSOs are invited and consulted broadly for major policy changes. There are limited opportunities to build capacity of CSOs by PPU or public entities.

There are no legal provisions to make participation of CSOs in procurement mandatory. GRN needs to create an enabling environment including through legislation for direct engagement of civil

society from planning phase to contract monitoring. This should assist in improving transparency and contract performance, enhancing the role of civil society to act as a safeguard against inefficient and ineffective use of public resources.

Oversight of procurement is conducted by the Office of the Auditor General (OAG), Internal Audit and PPU. OAG performs procurement audit as part of the financial audit, which is risk-based and conducted using INTOSAI standard. The OAG does not conduct stand-alone compliance or performance audit on procurement. OAG and Internal Audit both encourage their staff to be acquainted with procurement processes and requirements through training offered by the PPU. According to feedback received during validation, Internal Audit will also be trained to become procurement auditors. PPU has conducted only very few compliance audits of public entities and highlighted some of the systemic issues in annual compliance audit summary reports. In the absence of regular compliance audits, there is no consolidated audit report which highlights all systemic issues related to procurement. The oversight of procurement systems is assessed to be weak mainly due to capacity constraints in staffing and expertise in internal audit, OAG and PPU. The weak capacity limits the functionality of these institutions, which has a negative impact on the effectiveness and efficiency of the procurement system.

Namibia signed the United Nations Convention Against Corruption (UNCAC) in 2003 and ratified it on 27 April 2004. Namibia's Anti-Corruption Act, 2003 contains provisions relating to a number of practices and offences, including corrupt acquisition of private interest by a public officer, corruption in relation to tenders and corruptly accepting and receiving “gratification” which is a defined term. There have been two UNODC review cycles reviewing Namibia's implementation of UNCAC. Following the first review cycle, a Country Review report on implementation of UNCAC Chapters on Criminalization & Law enforcement and International

Cooperation, was published in 2016. Most of the recommendations in that report have been implemented. An executive summary of the second review cycle, concerning implementation of UNCAC Chapters on Preventive Measures and Asset Recovery was published in 2023.

D. Areas of improvement to address key gaps

Based on the key findings from the previous section, the following selected areas of improvements include recommendations for each Pillar. Priority areas of improvement are highlighted in bold for each pillar followed by additional areas recommended for improvement. A more extensive list of recommendations to address each of the identified gaps under the sub-indicators can be found in Chapter 3 of this report and in the Matrix.

Pillar I: Legal, Regulatory and Policy Framework

Introduce more robust standards for use of less competitive and non-competitive procedures:

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 maximize competition. 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.

Improve legal provisions on contract management:

Amend the procurement legal framework to define the functions for undertaking contract management and clearly assign responsibilities for contract management, avoiding duplication and overlap between functions and activities of the procuring entity and CPBN. This will ensure that the responsibility of Accounting Officers of the public entities covers the entire procurement cycle from identification of need, ensuring availability of funds till contracts completion, timely payment, with CPBN only responsible as procurement agent of public entities for awarding contracts above defined threshold. This is further elaborated under Pillar II.

Assess 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. 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 provision financed by multilateral financing institutions.

Clarify rules on participation of foreign bidders and public enterprises as bidders: Clarify provisions on partnerships and joint venture arrangements with foreign entities to ensure that they do not create

a barrier to entry for foreign bidders. Also consider including provisions in the legal framework which ensure that the principle of fair competition applies when public enterprises participate as bidders in public procurement. Amend SBDs to align new provisions and ensure that consistent terminology is used.

Introduce in the legal framework provisions to promote the use of life cycle costing or total cost of ownership, as appropriate in relevant procurements to ensure value for money decisions. All legal provisions must be supported by clear, practical guidelines on how to incorporate life cycle costing or total cost of owner into the entire procurement cycle, from planning to delivery and be tied in with measures to address sustainable public procurement more widely.

Introduce legal provisions to facilitate use of e-GP tools and standards: Introduce provisions into legal framework to ensure the consistent application of electronic technologies and require standardized formats, technical equipment and connection arrangements and procedures to grant unrestricted and full access to e-procurement. These provisions will need to be comprehensive and tailored to reflect the particularities in Namibia. They will also need to allow sufficient flexibility to take account of staged roll-out from the current e-Procurement portal to an upgraded or new end-to-end e-GP system.

Publish check list of procurement records and documents to be kept at operational level: Consider publishing a check list for use by procuring entities at an operational level which sets out which procurement documents are to be retained, to ensure a complete procurement record to cover the entire procurement process, including contract management. This should refer to and align with rights of public access to information.

Develop a sustainable public procurement (SPP) policy/strategy to implement all aspects of SPP (economic, environmental

(including climate considerations) and social (including gender equality)) in support of broader national policy objectives, and reflecting national priorities. This should include a clear implementation plan/road map to cover introduction of systems and tools to operationalize, facilitate and monitor the application of SPP in priority areas, in particular. It should also identify and provide for any amendments necessary to the legal/regulatory framework to allow for sustainability to be fully incorporated at all stages of the procurement cycle ensuring well-balance application of sustainability criteria from planning through to contract delivery and monitoring. SPP requirements embedded in the legal and regulatory framework should be reflected in model procurement documents (SBDs) and contract conditions and in supporting practical guidelines for implementation and related training.

Pillar II: Institutional Framework and Management Capacity

Elevate the status of PPU to an “Authority” under the aegis of MoFPE: GRN to consider reviewing level of expertise and resources provided to PPU and whether it is commensurate with its responsibilities and mandate under PPA. Consider elevating the status of PPU from a “Unit” to an “Authority” to enhance effective functioning according to its statutory mandate, taking into account lessons and good practices from other countries.

Establish procurement as a strategic function: Create dedicated structures within all public entities to be staffed by qualified procurement professionals, who are hired with a career path (like moving from procurement officer or contract officer to a project manager) and then initiative to be undertaken by GRN to have a regulatory body of the purchasing and supply management profession.

Enforce mandatory use of e-Procurement and enhance capacity:

The mandatory use of the e-Procurement portal should be enforced across all public entities. Resources should be allocated to establish a business continuity technical team under the PPU with all technical, administrative, and supporting expertise for the smooth operation of the e-Procurement portal in coordination with the OPM.

Review PPA and remove gaps and overlaps in responsibility among PPU, CBPN and Accounting Officer of public entities and related accountability.

These overlaps in responsibility arise from questionable provisions in PPA as described under Pillar I. For example, through its inspection and guidance functions on operational matters in procurement activities, the PPU may be perceived as being involved in procurement decisions on actual transactions rather than just providing policy advice. The role of CBPN in contract implementation for over-threshold contracts should also be reviewed to ensure that all roles are appropriately allocated, clearly defined and do not dilute the accountability and responsibilities of accounting officers. CBPN and accounting officers of public entities sign contracts as a tripartite agreement, where CBPN is designated as procurement agent and public entity as employer, but CBPN has no role in the agreement. However as required by PPA, CBPN gets involved in approving variation orders, price increases, contract extensions and cancellations which dilutes the accountability of accounting officers of public entities, and there is no value addition by CBPN in managing the contracts.

Ensure compliance with procurement planning, certification of availability of funds and timely payment. Establish linkage between budget, procurement, and treasury operations on payment of invoices and ensure that there is a national database on tracking payment to contractors/suppliers, and that funds remain committed to ensure timely payment as per contract provisions.

Pillar III: Public Procurement Operations and Market Practices

Develop strategic approach to procurement:

The key sectors of the economy, such as infrastructure, health, education, or home affairs, must identify long-term sectoral strategies that in turn feed into medium/short-term operational plans. The risks specific to each sector must be identified and accompanied by plans to mitigate them. Similarly, opportunities to influence the market to achieve policy goals must be identified and pursued.

Deliver regular training programmes to increase the preparedness of economic operators:

Given the PPU's current limited capacity to implement such programmes, partnerships should be created with other bodies to increase the reach of such programmes.

Develop guidelines to enable Procuring Entities to conduct market studies and align procurement plan with budget cycle:

PPU should develop guidelines to enable Procuring Entities to conduct market studies. An attempt should be made to align the timelines of the Annual Procurement Plan and the Budget so that the former is an effective exercise.

Address confidentiality in bid evaluation process:

The use of an e-Government Procurement solution that ensures confidentiality should be promoted. As indicated earlier the mandatory use of e-Procurement should be enforced.

Improve and safeguard visibility of decision-making: The publication of all notices should be centralised to facilitate communication with economic operators and civil society. Open/machine-readable formats, i.e., electronic formats that can be read automatically by data analysis software, should be adopted to allow effective monitoring of information.

Ensure practices for delivering better value for money: The use of relative comparison of bid prices and the use of discrete scales with subjective scoring should be avoided. Bids need to be evaluated and scored based on objective evaluation criteria stated in the bidding documents.

Monitor contract implementation, quality control and ensure record keeping: Procuring Entities must ensure monitoring and quality control mechanisms during the execution phase of the contracts. Procuring Entities must ensure that inspection, quality control and final acceptance of the products processes are in place. They must also ensure that records are kept in the procurement files. Contract execution reporting mechanisms should be set up to ensure that all information relating to procurement processes is available, both in the pre- and post-contract phases.

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

Accelerate the enactment of the PFM and Audit Bills: This step will provide comprehensive control framework (including internal controls, internal audits, external audits and oversight by legal bodies), legal backing for internal audit, and independence of the OAG.

Make it mandatory to annually file financial disclosure/asset declaration forms. This should include all officials involved in procurement and financial management (including technical staff who prepare technical specification and certify payment). The declaration should also provide information on beneficial ownership in the absence of a legislation, and ACC to analyze such report and track compliance and follow-up.

Make CSO involvement more inclusive and build capacity: CSO involvement to be made more inclusive while formulating

changes to the public procurement system to cover a wider spectrum of CSOs. PPU/MoFPE to create a formal channel of feedback and regular consultations with a wider spectrum of CSOs for effective participation by CSOs. CSOs could act as a safeguard against inefficient and ineffective use of public resources, and PPU and Public Entities need to invest in capacity building and training of credible civil society organizations.

Ensure direct engagement of CSOs in procurement and contract implementation: GRN to consider creating an enabling environment including through legislation for direct engagement of civil society from planning phase to contract monitoring for improving transparency and contract performance.

Ensure appropriate oversight of procurement: Strengthen the procurement staffing capacity (number and expertise) in the internal audit, OAG and PPU.

Conduct audits to inform improvements in procurement performance and ensure balance between timely and efficient decision making and adequate risk-mitigation: PPU (also with support from Government Internal Audit) to carry out risk-based targeted compliance and performance audit annually identifying systemic issues and root causes affecting procurement performance and publish these reports.

Strengthen process for review of audit reports by legislature and clear mechanism for follow-up: Conduct an assessment of the Public Accounts Committee performance and implement reforms to address the identified weaknesses.

Review of the reconsideration process and the appeals (review) system to ensure it is fit for purpose: Undertake a critical review of the operation in practice of the current system for applications for reconsideration and applications for administrative review by the Review

Panel to establish whether that system achieves the aims of delivering efficient and effective decision making and in a manner which is, and is perceived to be, fair and unbiased. The review should identify measures to improve or alter the system, including the institutional structure and standing of the Review Panel and its Secretariat, with particular reference to avoidance of conflicts of interest, to ensure that it is fit for purpose. The review will need to incorporate consideration and allocation of necessary resources to support operation of the Review Panel and its secretariat. The review should also include analysis of the reasons why applications for review at earlier stages in the procurement process, prior to the notice on selection for award,)), for example at the stage of clarification of bidding documents. It may also be appropriate to investigate whether/to what extent fees paid by applicants inhibit access by concerned parties and/or act as an effective disincentive to frivolous complaints.

Ensure prompt publication of Review Panel decisions on the e-Procurement portal: To ensure transparency and enhance confidence in the review process, put into place relevant resources and support to ensure that all Review Panel decisions are published on the

e-Procurement portal within the specified time frame of 7 working days. Consider also, publishing information on applications for Review so that all stakeholders are aware of such applications and can track cases and their outcomes.

Improve consistency in the use of terms related to prohibited practices: These include corrupt, fraudulent, collusive, coercive and obstructive practices in the public procurement legal and regulatory framework (PPA and PPR) and Anti-Corruption Act.

Enhance inter-institutional collaboration on anti-corruption: ACC and PPU may agree on a protocol/ procedure advising Public Entities to report cases of fraud and corruption and these are investigated and enforced. Various institutional stakeholders to work together in the anti-corruption sphere – Police, competition authorities, PPU, ACC, Audit, and NACC.

Increase support from wider group of CSO for their effective participation: This is required to safeguard against inefficient and ineffective use of public resources. Suppliers and business associations to develop internal compliance measures to ensure ethical behavior while competing for government contracts.

Overview of compliance to assessment criteria, gaps and red flags (including analysis, strategic priorities and key actions)

E. Overview of compliance to assessment criteria, gaps and red flags

The following table provides an overview of the findings of the assessment on the level of total 55 sub-indicators under four pillars. Each sub-indicator is identified (marked X) depending on the findings (full compliance/gaps identified/substantive gaps identified). This table also shows the red flags identified (marked X). Most of these red flags are elements that significantly impede the main goals of public procurement and that

cannot be mitigated directly or indirectly, and such factors could lie outside the sphere of public procurement.

The sub-indicators listed in the table below are further divided into individual assessment criteria which are each assessed separately according to the MAPS Methodology. The number of qualitative criteria per sub-indicator varies between one and eleven, in some cases supported by quantitative indicators. In total there are 210 criteria to be assessed under 55 sub-indicators, as elaborated in detailed matrix.

The overview of compliance table presents an aggregated conclusion based on all of the assessed criteria for each sub-indicator. This means that where a single criterion under a sub-indicator is assessed to have a gap this will trigger the "Gaps identified" or "Substantive gaps identified" finding (depending on the nature of the gap) in this compliance table for that sub-indicator (marked X). It is therefore important to refer to the full assessment findings and supporting analysis in detailed matrix.

Remarks on gaps marked X for table below.

- No criteria of the sub-indicator have gaps (**Full Compliance**)
- Some criteria of the sub-indicator have minor gaps, but none have substantive gaps (**Gaps Identified**)
- At least one criterion of the sub-indicator has a substantive gap (**Substantive gap identified**)

PILLAR I		Full compliance	Gaps identified	Substantive gaps identified	Red flags
1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.	1(a) – Scope of application and coverage of the legal and regulatory framework			X	
	1(b) – Procurement methods			X	X
	1(c) – Advertising rules and time limits			X	
	1(d) – Rules on participation			X	
	1(e) – Procurement documentation and technical specifications	X			
	1(f) – Evaluation and award criteria			X	

Guidance on gaps, risks and red flags is found in <https://www.mapsinitiative.org/methodology/templates-guidance/>

PILLAR I		Full compliance	Gaps identified	Substantive gaps identified	Red flags
	1(g) – Submission, receipt, and opening of tenders	X			
	1(h) – Right to challenge and appeal	X			
	1(i) – Contract management			X	
	1(j) – Electronic Procurement (e-Procurement)			X	
	1(k) – Norms for safekeeping of records, documents and electronic data.			X	
	1(l) – Public procurement principles in specialized legislation	X			
2. Implementing regulations and tools support the legal framework.	2(a) – Implementing regulations to define processes and procedures	X			
	2(b) – Model procurement documents for goods, works, and services	X			
	2(c) – Standard contract conditions	X			
	2(d) – User's guide or manual for procuring entities	X			
3. The legal framework reflects the country's secondary policy objectives and international obligations	3(a) – Sustainable Public Procurement (SPP)			X	X
	3(b) – Obligations deriving from international agreements				
Not assessed.					

PILLAR II		Full compliance	Gaps identified	Substantive gaps identified	Red flags
4. The public procurement system is mainstreamed and well-integrated with the public financial management system.	4(a) – Procurement planning and the budget cycle	-	-	X	
	4(b) – Financial procedures and the procurement cycle	-	-	X	X

PILLAR I		Full compliance	Gaps identified	Substantive gaps identified	Red flags
5. The country has an institution in charge of the normative/regulatory function.	5(a) – Status and legal basis of the normative/regulatory function	-	-	X	X
	5(b) – Responsibilities of the normative/regulatory function	-	-	X	X
	5(c) – Organisation, funding, staffing, and level of independence and authority	-	-	X	X
	5(d) – Avoiding conflict of interest	-	-	X	X
6. Procuring entities and their mandates are clearly defined.	6(a) – Definition, responsibilities and formal powers of procuring entities	-	-	X	X
	6(b) – Centralised procurement body	-	X	-	
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology	-	-	X	
	7(b) – Use of e-Procurement	-	-	X	X
	7(c) – Strategies to manage procurement data	-	-	X	
8. The public procurement system has a strong capacity to develop and improve	8(a) – Training, advice and assistance	-	-	X	X
	8(b) – Recognition of procurement as a profession	-	-	X	X

PILLAR III		Full compliance	Gaps identified	Substantive gaps identified	Red flags
9. Public procurement practices achieve stated objectives.	9(a) – Planning	-	-	X	
	9(b) – <i>Selection and contracting</i>	-	-	X	X
	9(c) – <i>Contract management in practice</i>	-	-	X	X
10. The public procurement market is fully functional.	10(a) – Dialogue and partnerships between public and private sector	-	-	X	
	10(b) – Private sector's organisation and access to the public procurement market	-	-	X	
	10(c) – Key sectors and sector strategies	-	-	X	

PILLAR IV		Full compliance	Gaps identified	Substantive gaps identified	Red flags
11. Transparency and civil society engagement strengthen integrity in public procurement.	11(a) – An enabling environment for public consultation and monitoring	-	-	X	
	11(b) – Adequate and timely access to information by the public	-	-	X	X
	11(c) – Direct engagement of civil society	-	-	X	X
12. The country has effective control and audit systems.	12(a) – Legal framework, organisation and procedures of the control system	-	-	X	X
	12(b) – Co-ordination of controls and audits of public procurement	-	-	X	
	12(c) – Enforcement and follow-up on findings and recommendations	-	-	X	X
	12(d) – Qualification and training to conduct procurement audits	-	-	X	
13. Procurement appeals mechanisms are effective and efficient.	13(a) – Process for challenges and appeals	X			
	13(b) – Independence and capacity of the appeals body	-	-	X	X
	13(c) – Decisions of the appeals body			X	X
14. The country has ethics and anti-corruption measures in place.	14(a) – Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities and penalties	-	X	-	
	14(b) – Provisions on prohibited practices in procurement documents	-	-	X	
	14(c) – Effective sanctions and enforcement systems	-	-	X	
	14(d) – Anti-corruption framework and integrity training	-	X	-	
	14(e) – Stakeholder support to strengthen integrity in procurement	-	-	X	

PILLAR IV		Full compliance	Gaps identified	Substantive gaps identified	Red flags
	14(f) – Secure mechanisms for reporting prohibited practices or unethical behaviour	-	X	-	
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules	-	-	X	X

F. Summary analysis of compliance/substantive gaps/red flags

The level of compliance of all 205 criteria that were assessed for the four Pillars is provided in the table below and can be summarized as follows:

- Out of 205 criteria, 77 are in full compliance (37.56 %).
- Pillar I, which represents “law as in the books”, is relatively strong while Pillars II, III, and IV, which relate to how the law operates in practice, require substantial improvements.
- For Pillar I, out of 64 criteria, 48 are in full compliance (75%).
- Out of total 98 Substantive gaps of 205 criteria (47.80 %), Pillar II has 33 substantive gaps out of 53 criteria (62.26 %), Pillar III has 17 substantive gaps out of 26 criteria (65.38%), and Pillar IV has 33 substantive gaps out of 62 criteria (53.22%).
- The number of “Red Flags” is 40 out of 98 substantive gaps (40.81%), which are predominant in Pillar II and Pillar IV, where higher level government intervention and inter-institutional efforts will be required with prioritized action plan (as suggested in Chapter 5 of this report).

Pillar #	Full compliance	Gaps identified	Substantive gaps identified (of which Red Flags)	Total
Pillar I	48	1	15(2)	64
Pillar II	14	6	33(17)	53
Pillar III	2	7	17(4)	26
Pillar IV	12	17	33(17)	62
Total	76	31	98(40)	205



G. Strategic Priorities and Key Actions

The following priorities and actions on improving legal provisions, and more importantly implementation and enforcement of such provisions for each of the four Pillars will help inform the development of the national public procurement strategy for Namibia.

- **Introduce** more robust standards for use of less competitive and non-competitive procedures to reduce over-use of these methods and emphasize the importance of seeking to maximize competition.
- **Review** PPA and remove gaps and overlaps in responsibility among PPU, CBPN and Accounting Officer of public entities and related accountability. Role of CPBN in contract implementation above the threshold needs review. Accounting Officer should be responsible and accountable for the entire procurement process from the time need is identified till need is satisfied for efficient service delivery, and Procurement Management Unit needs strengthening, with required resources and expertise.
- **Develop** a sustainable public procurement (SPP) policy/strategy and implementation plan for all aspects of SPP – economic, environmental (including climate considerations) and social (including gender equality supported by practical guidelines for implementation and related training).

- **Elevate** the status of PPU from a "Unit" to an "Authority" under the aegis of MoFPE: PPU is a unit under MoFPE, with inadequate financing and staff capacity impacting its independent functioning. The head of PPU is perceived as a lower level than all Accounting Officers of PE's, which has implications and consequences in as far as engaging Public Entities effectively and in establishing procurement as a strategic function.
- **Create** dedicated structures within all public entities and train staff as qualified procurement professionals and initiative to be undertaken by GRN to have a regulatory body of the purchasing and supply management profession.
- Enforce mandatory use of the e-Procurement portal across all public entities: This step will enhance transparency, confidentiality, value-for-money and trust of all stakeholders in the integrity of public procurement system.
- **Develop** and roll out end-to-end e-GP system that supports the whole procurement cycle and collects data in open standard format to facilitate data analytics.

- **Monitor** contract implementation, quality control and ensure record keeping. Contract execution reporting mechanisms should be set up to ensure that all information relating to procurement processes is available, both in the pre- and post-contract phases.

- **Accelerate** the enactment of the PFM and Audit Bills: This step will provide comprehensive control framework (including internal controls, internal audits, external audits and oversight by legal bodies), legal backing for internal audit, and independence of the OAG.
- **Undertake** a critical review of the operation in practice of the current system for applications for reconsideration and applications for administrative review by the Review Panel - to establish whether that system achieves the aims of delivering efficient and effective decision making and in a manner which is, and is perceived to be, fair and unbiased and identify measures for improvement.
- **Enforce** filing of financial and asset disclosure forms as mandatory: This should include annual asset/financial disclosure by official involved in procurement and financial management (including technical staff who prepare specification and certify payment) to annually file financial disclosure/asset declaration forms (including on beneficial ownership in the absence of a legislation) and ACC to analyze such report and track compliance and follow-up.



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Procurement Systems