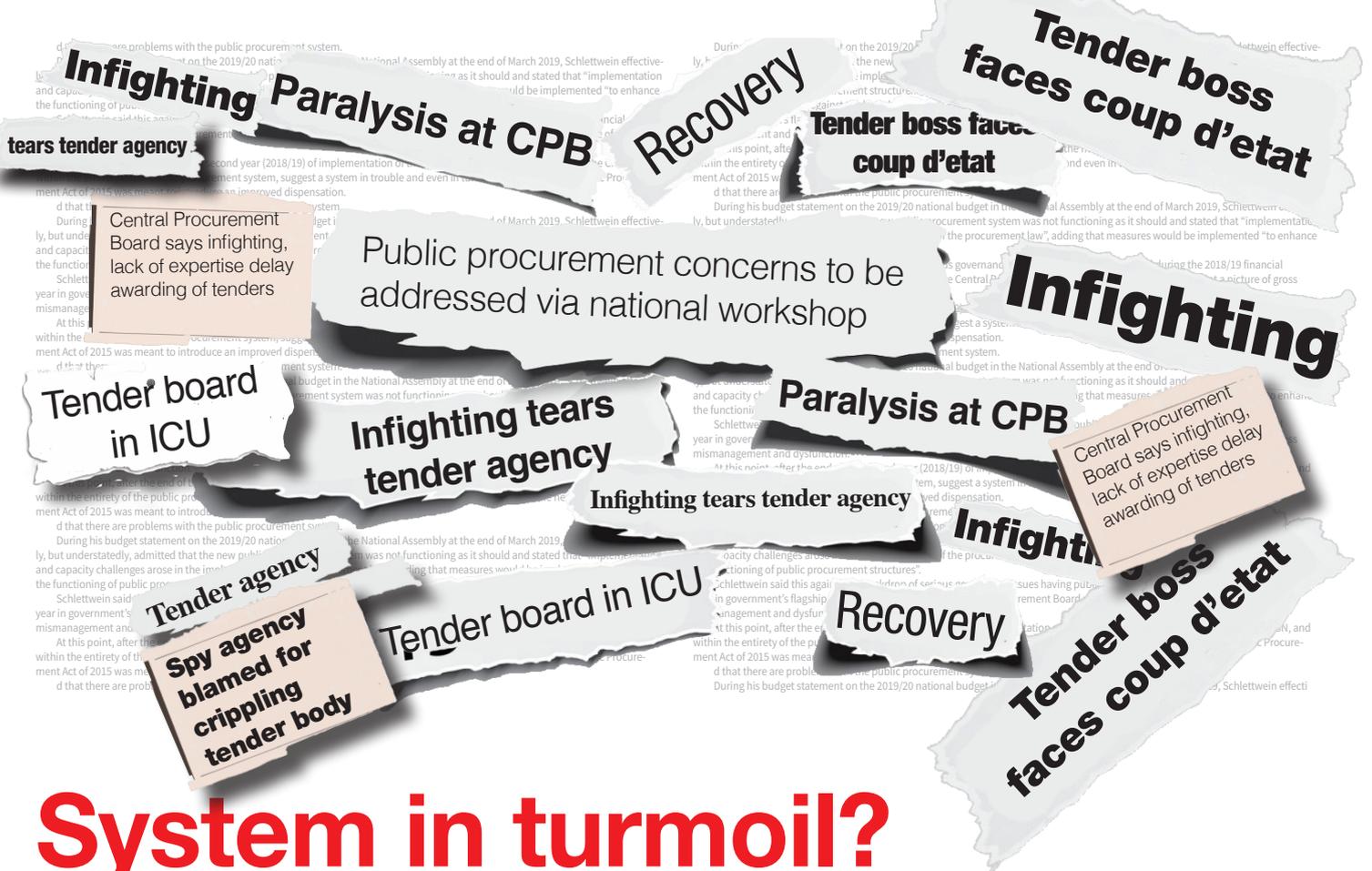


# PROCUREMENT TRACKER NAMIBIA



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## System in turmoil?

**Reports have exposed a system characterised by non-compliance with rules, lack of internal accountability, a governance culture of secrecy, persistent executive level infighting and institutional paralysis, coupled with perennial understaffing and lack of expertise.**

Finance minister Calle Schlettwein has as much as admitted that there are problems with the public procurement system.

During his budget statement on the 2019/20 national budget in the National Assembly at the end of March 2019, Schlettwein effectively, but understatedly, admitted that the new public procurement system was not functioning as it should and stated that “implementation and capacity challenges arose in the implementation of the procurement law”, adding that measures would be implemented “to enhance the functioning of public procurement structures”.

Schlettwein said this against the backdrop of serious governance issues having publicly emerged during the 2018/19 financial year in government’s flagship procurement structure, the Central Procurement Board of Namibia (CPBN), that paint a picture of gross mismanagement and dysfunction.

At this point, after the end of the second year (2018/19) of implementation of the new regime, reports of goings-on at

the CPBN, and within the entirety of the public procurement system, suggest a system in trouble and even in turmoil, even as the new Public Procurement Act of 2015 was meant to introduce an improved dispensation.

### CPBN’s broken body

At the heart of the systemic troubles is the CPBN, which has not publicly issued any sort of audit or accountability report to date, but which has attracted all the wrong headlines over the last 12 months, painting a picture of an organisation afflicted by severe organisational and management dysfunctions.

Reports have exposed an agency characterised by non-compliance with rules, lack of internal accountability, a governance culture of secrecy, persistent executive level infighting and institutional paralysis, coupled with perennial understaffing and lack of expertise.

The situation had apparently become so bad that by the end of the 2018/19 financial year, a boardroom coup d’etat was in the offing, with one report stating that “the majority of board members passed a vote of no confidence in (Patrick) Swartz” in early March 2019.

# Integrity in doubt

**Senior procurement officials have been implicated in integrity lapses and even been accused of corruption, contributing to casting the public procurement system and its critical bodies in a negative light.**

In the 2018/19 financial year, while the Central Procurement Board of Namibia (CPBN) has seemingly lurched from one governance controversy to the next, senior procurement officials have also been implicated in conflict of interest and corrupt practices.

## Lischen Ramakutla

Deputy chairperson of the CPBN Lischen Ramakutla has emerged as one of the central figures in governance controversies and reported management dysfunction at the CPBN.

Ramakutla is reported to be in continuous conflict with CPBN chairperson Patrick Swartz and has labeled him “useless, weak and incompetent”, which appears to be a sentiment shared by other board members and has led to board and administrative divisions at the agency.

Part of the apparent bad relationship between Ramakutla and Swartz seems to stem from allegations that Ramakutla, in an apparent case of conflict of interest, in 2018 irregularly issued a tender – for the building of the CPBN website – to a company in which her brother was involved.

In late 2018 it was reported that the Ministry of Finance was investigating the matter. It has also been reported that other board members have passed a motion of no confidence in both Swartz and Ramakutla over their continued feuding and lack of leadership.

## Toska Sem

Member of the Review Panel, Toska Sem, was suspended from her position as Namibia Airports Company’s (NAC) Strategic Executive: Commercial Services at the end of October 2017 over alleged procurement corruption.

An investigation by consultancy firm Deloitte has apparently revealed that Sem colluded with a prospective NAC service provider, Excel Business Consultancy, to corrupt a tender process. A media report from late September 2018 states: “Sem, who has worked for NAC



since 2004, allegedly colluded with (Corlen) Masunda with the common objective of ensuring that the Strategic Plan Tender is awarded to Excel. The probe also found that Sem shared confidential information with Masunda during the course of tender consideration.”

While Sem and her lawyer have claimed that her suspension was irregular and unduly delayed, legal advice to the Namibia Airports Company has been to dismiss Sem.

By late March 2019 the disciplinary process against Sem had still not been finalised, almost 18 months after her suspension, but it was reported that her dismissal had been recommended, even though there appeared to be no official confirmation at the time of writing. What this means for her continued role on the Review Panel remains to be seen.

## Ono-Robby Nangolo

In November 2018, the High Court set aside a Review Panel ruling halting a CPBN decision to endorse an old Tender Board of Namibia decision to award a tender for driver’s license cards. At the time the Review Panel had been chaired by Nangolo.

The case against Nangolo, and others, had been brought by Patrick Swartz, on behalf of the CPBN, and he accused Nangolo and the Review Panel of having acted un-procedural in their ruling.

This was not the first time that Nangolo had been accused of improper conduct, for in 2017, just as he was set to take up his role with the Review Panel, he was accused of impropriety around a disputed tender of the works ministry.

A report from early 2017 stated “that questions are now being raised whether keeping Nangolo, really promotes transparency in the new Central Procurement Board”.

## Staff vetting

In November 2018 it first emerged that numerous staff at the CPBN had failed vetting by the Namibia Central Intelligence Service (NCIS) and in March 2019 it was reported that much of the agency’s staff had to clear out over this failed vetting.

The vetting failure raises serious concerns about professional integrity at the agency as well as the vetting criteria and process, as reports swirl of procurement officials attempting to favour their associates and relatives in public contracting.

This issue will be followed up in the next edition of Procurement Tracker Namibia.



**During the delivery of his budget statement in the National Assembly in March 2019 finance minister Calle Schlettwein stated that “the public procurement law and institutional arrangements are in place, creating enhanced objectivity and transparency in the procurement process”.**



situation was still the same for many of the assessed bodies.

For instance, according to our database, the Ministry of Agriculture, Water and Forestry (MAWF), issued 38 procurement calls between April 2018 and March 2019. While these procurement calls were advertised briefly in daily newspapers, none of them were listed on the ministry’s website.

The same is true for many others.

Additionally, there is almost no information available publicly on direct procurement activities of state bodies and exempted procurement initiatives, which appear to still account for a large proportion of state sector purchasing of goods and services. The only information available on direct procurement is on the CPBN website, which for the 2018/19 financial year has a 10-month table – from April 2018 to January 2019 – on its website, which appears to be an aggregate of direct procurements, without specifying which government departments the purchases relate to or what was procured. According to the CPBN data sheet, there were only 12 direct procurement transactions for the period mentioned, of which only four (4) were approved.

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Over the last year Procurement Tracker Namibia has attempted to assess transparency of procurement processes, and consistently found the system to be less than what it should or could be.

Since the beginning of the 2018/19 financial year, Procurement Tracker Namibia has compiled a database of public procurement activities of ministries, agencies, state-owned enterprises and regulatory bodies, and has found that for the most part these government bodies have appeared to be struggling with procurement transparency.

By the end of the 2018/19 financial year, end March 2019, the

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Previous media reports have indicated that much of the agency’s dysfunctions centred around the toxic relationship between CPBN head Patrick Swartz and his deputy, Lischen Ramakutla, with one report, quoting from a CPBN document, stating: “The relationship between the chairperson and deputy chairperson has become strenuous over the period. The board had to intervene to divide functions amongst the two heads. However, the relationship breakdown continues. The deputy chair displays absolute disregard to the board by walking out of meetings. The chair does not have the capacity or perhaps feels not legally empowered to reprimand her”.

It was reported in late 2018 that Ramakutla allegedly accused Swartz of being “useless, weak and incompetent”, which was apparently a sentiment supported by other CPBN directors.

Another report from early 2019 stated that “workers complained about the lack of transparency and unfair treatment by the executives at the agency”.

Compounding this situation, it has also been revealed since late last year that most of the fledgling agency’s small staff complement have failed vetting by the Namibia Central Intelligence Service (NCIS) and have had to leave the body, with the board having to deny that the vetting was a tribalist purge.

Insiders have questioned the credibility and legality of the vetting process, with one quoted saying: “We find it strange that people are only vetted after they have signed their employment contracts, one would think the vetting should be done before you get the job. People live in fear because here they cannot speak their minds. Some were head-hunted, but have since left and are now unemployed because they apparently talk too much.”

According to reports, CPBN “operations will be crippled” in the wake of the staff departures following the vetting process.

### Systemic weaknesses

In his budget statement for the 2019/20 financial year, finance minister Schlettwein stated that “the public procurement law and institutional arrangements are in place, creating enhanced objectivity and transparency in the procurement process”.

While it seems true that that is the intent of the Public Procurement Act (2015), the veracity of the minister’s statement is questionable, for Procurement Tracker Namibia has repeatedly shown that in practice the public procurement system substantially fails the transparency test.

In 2018, successive editions of Procurement Tracker Namibia have pointed out how many public entities, including the CPBN and the Ministry of Finance, have failed to make public their annual procurement plans and to advertise procurement calls on their websites, as per the law.

This practice hardly seems to have improved by the start of the 2019/20 financial year, for while many public entities advertise their procurement calls in national newspapers, they mostly still do not make such calls available on their websites, thus limiting the accessibility of such information.

Added to that, procurement corruption and waste, and the use of exemptions, continue to undermine government claims of systemic improvements.

In order to address these issues, Schlettwein stated during his 2019/20 budget speech that the issues and challenges of the procurement system would be addressed in 2019.

Schlettwein indicated that there would be “a national stakeholder workshop to assess and address the emerging challenges” of the public procurement system in the first half of the year.

With the Namibian government announcing an increase in development spending for the 2019/20 financial year, dealing with the systemic weaknesses of the public procurement system should now become an overriding priority.

# Schlettwein's statements

Finance minister Calle Schlettwein made numerous references to public procurement in his budget speech for the 2019/20 financial year in the National Assembly at the end of March 2019. Following are the highlights:

- We have brought about reforms in public procurement, PPPs and a range of tax policy and administration reforms.

- The Development Bank of Namibia, in collaboration with the Chamber of Mines is developing a database of locally produced goods and services and benchmark cost prices to support local procurement activity across the public and private sectors.

- The Central Procurement Board of Namibia will improve its turnaround time for tender and bid evaluation and prioritise the finalisation of high-value tender awards within a minimum prescribed time frame.

- Implement administrative measures to enhance the functioning of public procurement structures and the new integrated tax system to facilitate the ease of paying tax and tax compliance across the board and realising the establishment of Namra.

- The regulations on exclusive bidding to support local participation will be finalised in the second quarter of this year to provide for thresholds for local sourcing under the procurement Act and for enforcement by the Central Procurement Board. Utilisation of this policy space will enable optimal participation of the domestic producers of goods and services and to stimulate domestic productive capacity.

The Public Procurement law and institutional arrangements are in place, creating enhanced objectivity and transparency in the procurement process. Notably, implementation and capacity challenges arose in the implementation of the procurement law. We are committed to a national stakeholder workshop to assess and address the emerging challenges. In the meantime, the Procurement Act provides for directives to be issued to achieve improved local sourcing.



- Last month (February), I issued a procurement directive under the procurement Act for all public entities north of the cordon fence to procure meat, fresh produce, mahangu (pearl millet), beans, cereal and their by-products to levels and quality available locally. Through partnerships, I call on the private sector to replicate this gesture.

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There is no similar reporting of exemptions.

Interestingly, on another data sheet the CPBN reports 248 procurement decisions had been made for the 10-month period, but indicates on another data sheet that only 41 bid evaluation committee reports had been received.

Furthermore the information available is incomplete and not synthesised, so an observer would struggle to make sense of what is being presented.

While minister Schlettwein continues to talk about “enhanced objectivity and transparency”, it’s clear that the levels of transparency witnessed fall far short of the stated intentions of the Public Procurement Act (15 of 2015).

Source: The Namibian