



**GOVERNMENT OF
THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE**

**REVIEW OF PROCUREMENT SYSTEM FOR THE MINISTRY OF
FINANCE**

July 2012

Review of Procurement in the Ministry of State Administration and
Territorial Organisation for the period 1 January 2009 to 30 June 2011

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1. Executive Summary

1.1 Background

Historically the Ministry of Finance (MoF), through the agency of the Central Procurement Unit, was responsible for the planning and management of major contracts. This was changed in February 2010 with the enacting of Decree Law 1/2010 that vested this responsibility in the Procurement Technical Secretariat (STA) of the Vice Prime Minister's Office. This was part of a Government initiative to decentralise procurement to the Ministries but proved unsuccessful due to capacity constraints in the STA. The STA was abolished and replaced by temporary measures until the National Procurement Commission was established under Decree Law 14/2011 in February 2011.

The National Procurement Commission remains in existence but has been bolstered considerably through further Decree Laws and the establishment of chartered agencies to oversee specific areas of procurement. To complement this approach the MoF developed Best Practice Guidelines in an effort to improve and clarify procurement processes across all Ministries in the Government. As the process of decentralisation continues there is a need to specifically examine the effectiveness of the procurement reform agenda and the processes that have been adopted by Ministries in the Government.

The purpose of this examination is to assist the Government in gaining an understanding of the procurement systems and processes in place throughout the various Ministries within the Government. By extension this examination will also focus on the alignment and conformity of the existing system with the requirements of the Decree Law and the Best Practice Guidelines that have been promulgated by the Government to support these efforts. This specific review will focus on the processes and procedures that exist in the Ministry of State Administration and Territorial Organisation.

1.2 Scope and Objectives

The Ministry of Finance requested that we:

- Examine procurement procedures and internal controls for the Ministry of State Administration and Territorial Organisation
- Inspect the Ministry of State Administration and Territorial Organisation's compliance with Decree Law and Best Practice Guideline procedures through examination of procurement supporting documentation on a sample basis for the period 1 January 2009 to 30 June 2011
- Prepare a report of findings and recommendations

1.3 Approach to engagement

The approach to this engagement primarily entailed examination of procurement documentation and interviewing key stakeholders to obtain their perspectives on the procurement process. The objective being to critically analyse procurement procedures and internal controls in the Ministry of State Administration and Territorial Organisation, both to assess their effectiveness as well as their compliance with Decree Laws and the Best Practice Guides.

The framework for the analysis was to examine the elements of organisational architecture that support the procurement process – notably structure, systems and people. The following diagram provides an overview of what those components are and how they fit together:

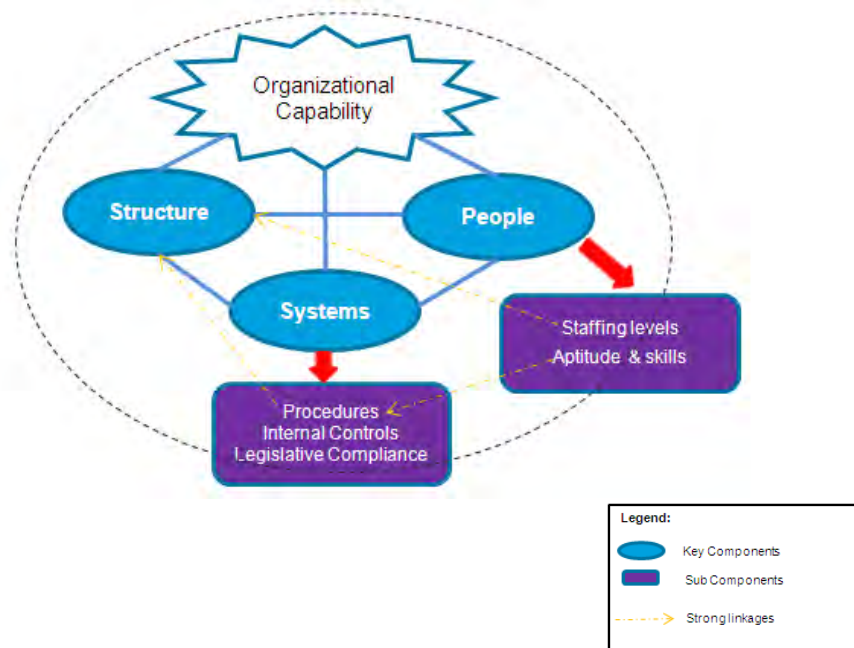


Figure 1. Organisational capability testing framework

The elements of the procurement environment are complementary and need to align for the procurement system to function correctly. For example, if the structure and systems are in place but the staff lacks the appropriate aptitude, skills and knowledge of the procurement system to fully utilise its capability, the system will be dysfunctional.

1.4 Key Findings and Recommendations

There are a number of key issues affecting the performance of the Procurement Department in the Ministry of State Administration and Territorial Organisation. The detailed findings and recommendations are included in Section 2. The key findings and recommendations are:

1.4.1 Systems

1.4.1.1 Procurement procedures & internal controls

There are a number of deficiencies in the procurement procedures and internal controls including instances where:

- Purchase orders were created after the invoice date
- Three quotations were not obtained for purchases between \$5,000 and \$100,000
- There was missing supporting documentation
- The widespread and inappropriate use of the “Commitment Only” process has resulted in the standard approvals process being avoided and large volumes of goods and services being directly awarded without sufficient justification
- The use of expired central procurement contracts has resulted in the Ministry relying upon expired contracts with an incorrect counterparty. This has also contributed to the direct awarding of purchased goods and services
- The quality of contracts observed is assessed as poor with wide ranging issues including missing or inadequate terms, conditions and annexures
- There is no established and effective contract management
- Procurement Conduct Checklists were not used in the procurement process
- The controls in the operation of the fuel voucher system post issue of the voucher coupons are considered weak and susceptible to misappropriation.

Recommendation

It is recommended that the Procurement Department of the Ministry of State Administration and Territorial Organisation implement standard operating procedures that regulate procurement processes at the functional level.

While some direction is provided by the Decree Law and the Best Practice Guides in providing a strategic overview, specific directives on the procedures to be followed are to be created and made available in the Procurement Department of the Ministry of State Administration and Territorial Organisation.

1.4.1.2 Non Compliance with Decree Law

There were instances where the Procurement Department of the Ministry of State Administration and Territorial Organisation did not comply with the Decree Law including:

- There was no Supplier Registry prepared in accordance with Decree Law
- There is no notification available to confirm that the accreditation process for the Ministry required in the Decree Law and the complementary Best Practice 10: Decentralisation and Accreditation has been followed
- The Procurement Department should provide the Procurement Plan to the Ministry of Finance as mandated by Decree Law 10/2005
- There was no formal process for managing procurement performance
- Tenders were not published in accordance with the Decree Law

Recommendation

There are a number of steps that can be taken by the Procurement Department of the Ministry of State Administration and Territorial Organisation to resolve issues of non-compliance with Decree Law and the Best Practice Guides. These actions include:

- Create and maintain a Suppliers Registry.
- The Procurement Department should access the registry administered by the National Director of Registry and Notary in the Ministry of Justice to ensure that when assessing quotes or tenders there is no evidence of beneficial ownership by one party in separate supplier submissions.
- The Ministry should request the level of accreditation appropriate for the respective needs from the MoF.
- The Procurement Department should provide the Procurement Plan required by the Ministry of Finance as mandated by Decree Law 10/2005.
- The Procurement Department should provide the Compliance Report to the Ministry of Finance as required as part of the Annual Procurement Report submission.
- An extension of the above is to create a more effective performance management system based on the SMART criteria (specific, measurable, achievable, relevant and time-bound). The performance management system should be designed to ensure predictable goal achievement. It should possess the three essential features:
 1. The goals against which performance is measured
 2. The ability to measure performance
 3. The ability to correct deviations.

Commonly used approaches include the Balanced Scorecard encompassing financial, internal business, customer and innovation and learning measures.

However, Deloitte notes that the MoF has developed the report “Establishing Performance and Compliance Indicators in Public Procurement in Timor-Leste” under the auspices of a World Bank IDF grant. Deloitte understands further that the World Bank is providing comments, following which the MoF will roll out the performance system to line ministries.

- The tender requirements articulated within the Decree Law must be abided by.

1.4.1.3 Other Compliance issues

Other compliance issues include:

- The widespread use of non-government email hosting sites
- Poorly developed standard operating system

Recommendation

There are several recommendations in relation to other compliance issues. These include:

- The Procurement Department should use official government email accounts.
- The Procurement Department should access or create standardised documentation to support their procurement activities. There is some standardised documentation but this should be reconciled against the objectives of the Procurement Department to ensure that it is both effective and complete.
- Significant items bought in volume by line ministries such as vehicle, fuel and travel should be procured centrally to exploit the advantages of volume discounts available.

1.4.2 Organizational Structure

1.4.2.1 Roles & responsibilities

The organisational structure of the procurement department appears appropriate to the task. However, there were several issues identified in the examination of structure and human resource management systems in the Procurement Department. These include:

- There are no position descriptions for staff in the Procurement Department. The Position Descriptions describe the essential characteristics of the role such as the reporting lines involved, the task to be performed in the position and the minimum requirements needed to perform the role.
- There are differing titles used to describe roles. These should be standardised to avoid confusion.

1.4.3 People Management

1.4.3.1 Staffing levels

Deloitte’s examination of the level of transactional activity and staffing levels indicate that there appears to be sufficient staff to meet the demands of the department.

1.4.3.2 Aptitude & training

The level of experience of the Procurement staff appears to meet the required levels of experience noted in the other line ministries. A more suitable assessment would have been to compare the existing requirements within each Position Description for each member of staff to the levels attained. However, No position descriptions exist and this could not be performed.

Furthermore, it was noted that no succession planning appears to be in place in the event of the departure of key procurement staff.

There are several recommendations in relation to training that should be adopted. These include:

- Instituting more effective training tailored to the requirements of the Procurement Department.
- It was noted that all staff attended the 21 Day Procurement Cycle Course. However, no procurement staff attended for the complete 21 days of the course. It is recommended that staff attend the courses on offer in full to ensure that consistent information is made available to members and team members can have greater access to learning the skills necessary for their roles.
- Improving the training development apparatus for staff through improved performance measurement to ensure that individual staff members are monitored and the training required is delivered.
- The commissioning of a better accreditation system to complement the above and provide a formal basis for continuing professional development of staff.
- Adopting a people management strategy that focuses on productivity and embraces, amongst other elements, selection based on current skills and knowledge.

1.5 Follow up on recommendations

Due to the critical importance of procurement to both the delivery of government services and the development of Timor-Leste, a process should be implemented to monitor the progress of the Procurement Department of the Ministry of State Administration and Territorial Organisation have made against these recommendations.

1.6 Acknowledgement

We would like to take this opportunity to thank the management and staff of the Ministry of State Administration and Territorial Organisation and the Ministry of Finance for their co-operation and assistance during the course of this examination.



Deloitte Touche Tohmatsu

July 2012

2. Detailed Findings and Observations

2.1 Procurement procedures & internal controls

2.1.1 Purchase Order Preparation

2.1.1.1 Purchase orders created after the invoice date

In our sample we noted the following instances where the purchase order was dated after the invoice indicating the purchase order was created after invoicing had occurred:

Year	Vendor	CPV No.	Purchase Order Date	Invoice Date	Amount
2009	Dili Auto Supply	95761	25-Nov-09	15-Nov-09	\$207,724
2010	Suai Indah Construct	10000622	09-Mar-10	04-Feb-10	\$475,000
2011	Nauteto Unipessoal	11000794	05-Apr-11	15-Mar-11	\$511,000

Table 1. Purchase orders created after the invoice

The purchase order process establishes the Ministry of State Administration and Territorial Organisation's acceptance and authority to pay an invoice. Actions that circumvent this can result in payments that have not been approved by the Ministry of State Administration and Territorial Organisation being paid. This has the potential to permit fraud or error.

Recommendation

Procurement should follow the established procedure. Purchase orders should be created and approved prior to receipt of goods and services. The subsequent receipt of the goods and services should be accompanied by goods receipt information such as Goods Receipt Note that should be reconciled to the original Purchase Order and original supplier invoice. Provided that all agree, the Request for Payment can be lodged with the Ministry of Finance and the supplier paid.

2.1.1.2 Three quotations not obtained for purchases between \$5,000 and \$100,000

There is a requirement to obtain three quotations for purchases between \$5,000 and \$100,000 under Decree Law, Best Practice and the Simplified Procedures. From the sample, the following transaction was found to have not met these criteria during examination:

Year	Vendor	CPV No.	Amount
2010	Mira-Mar Bloco	10005806	\$28,000

Table 2. Three quotes not obtained for purchases less than \$100K

The consequence of a lack of adherence to the requisitioning of three quotes is that the Ministry of State Administration and Territorial Organisation may fail to receive value for money in their procurement. This does not necessarily mean that they adopt the cheapest quote but one that is based on a balance of price, quality and surety of supply that best meets their purposes. Gaining one quote undermines this and may lead to inferior procurement results.

The amended Decree Law 24/2008 Article 43 (the requirement also existed in Decree Law 1/2005 but the threshold for its application was only \$50,000) requires three quotations for all purchases to \$100,000 are applied.

Recommendation

Evaluations of potential suppliers should be carried out for all purchases in accordance with the Decree Law and Best Practice Guides to ensure that the best value for money is attained in terms of price, quality and timeliness in deliveries. In this instance (for purchases less than \$100,000) the recommendation is to obtain three quotes in accordance with the Decree Law.

2.1.2 Other purchasing issues

2.1.2.1 Missing supporting documentation

There were several samples noted where the supporting documentation for a selected transactions could not be provided to us by the Procurement Department. These were as follows:

Year	CPV No.	Vendor	Type of Procurement	Amount
2010	10000819	Bravo International	Tender	\$160,000
2010	10002260	Lucky Star	Tender	\$206,500
2010	10000622	Suai Indah Construct	Tender	\$475,000
2010	10000634	Lifau Indah Unipesso	Tender	\$546,919
2010	10005298	Nauteto Unipessoal	Tender	\$250,000
2011	11000794	Nauteto Unipessoal	Tender	\$511,000

Table 3. Samples with missing supporting documentation

Furthermore, there were numerous instances of incomplete information furnished by the Ministry despite the provision of detailed instructions and documentation to support our requirements. This is highlighted as an issue (related to missing supporting documentation) because it reflects possible disorganisation and inadequate document management practices in the Ministry.

The retention of critical procurement information is essential for the proper functioning of procurement controls. An absence of this information means that there is no mechanism to verify that the correct procedures are being applied or assess the reasonableness of the payment. The potential outcome of failing to apply these principles is fraud or error.

Recommendation

The procurement department should obtain or create and retain all the necessary procurement documentation. This should be adhered to rigorously.

2.1.2.2 Use of the Commitment Only purchasing mechanism

The use of the “Commitment Only” procurement approach is common in the procurement process for the Ministry of State Administration and Territorial Organisation. The table below illustrates the extent of the practice through providing the volume of transactions undertaken through both “Commitment Only” and the prescribed procurement methodology in the Decree Law and Best Practice Guides (“Standard Procurement”) in the FY2010. The table is as follows:

Process	Grouping			Grand Total	
	No Transactions	Goods & Services	Minor Capital		Capital & Development
Commitment Only		918	1	0	919
Standard Procurement		74	41	10	125
Grand Total		992	42	10	1044

Table 4. Number of transactions performed using the Standard and “Commitment Only” processes

Most of the “Commitment Only” disbursements are related to salaries, Per Diems and petty cash payments. These will be paid by the Finance Officer to the intended parties after Treasury has approved the preceding CPV and payment request.

There are systems for both payroll disbursements and procurement that are being underutilised or avoided. This avoidance may be for reasons of expediency, a lack of knowledge or confidence in the procurement or payroll systems or to take advantage of a weakness in the current systems. Table and Graph A2-3 of Appendix 2 detail the extent of these “Commitment Only” purchases.

The issues arise through the misuse of the “Commitment Only” approach are as follows:

1. There is no purchase order created for the purchase of goods and services. This means that the approval process for these acquisitions has been avoided.
2. These items are being direct awarded. For purchases in excess of \$5,000 there is a need to adopt a competitive process by the mechanisms provided for in the Decree Law and included at Appendix 4 to this review.
3. The large volumes of cash payments (\$829,036 in total for FY2010 for both petty cash and cash advances) indicate that this approach is being overused. There does not appear to be an effective acquittal process for these payments as the Commitment and Obligation Report records these payments simply as cash payments. As a result no vendors are recorded and the process for vendor selection cannot be readily understood. As a result there is a high potential for misappropriation given the extent to which cash is being handled.
4. There are substantial payments made using manual payments through the “Commitment Only” process. This approach is substantially less controlled payment option than the system that pays directly into a bank account. The manual system should only be used where access to banks is limited such as the districts. The manual approach has the potential for misappropriation given the difficulties associated with administering such a system.
5. The approach is a violation of the Decree Law due both to the direct award nature of the procurement and avoidance of the Ministry’s obligations to undertake procurement in accordance with the Decree Law.

Recommendation

The practice of using the “Commitment Only” approach for the purchase of goods and services and the disbursement of payroll related monies should cease. In limited cases the payment of per diems and salaries may be appropriately handled through this mechanism but under conditions of strict control.

2.1.2.3 Reliance on expired central procurement contracts

There was one selection identified in the testing where the Ministry purchased fuel from Esperanca Timor Oan (\$22,000 in total). The details are provided below:

Year	Vendor	CPV No.	Amount
2010	Esperanca Timor Oan	10000112	\$22,000

Table 5. An example of using the expired central procurement contracts

Per discussions with the Procurement Department, these purchases were undertaken under the authority of the contracts maintained by Central Procurement for the supply of fuel to all government ministries and agencies. However, these contracts have expired and should no longer be relied upon.

The implication of these issues is twofold:

1. The current situation is that the contracts in use are both expired and made between the Government of Timor Leste (whole government) and not the line ministry as the counter party. As a result no existing legal and operative (extant) contract is in place. The Ministry of State Administration and Territorial Organisation should establish contracts with suppliers in accordance with the decentralisation principles established in Decree Law 1/2010.
2. The Ministry of State Administration and Territorial Organisation are not taking advantage of a competitive tendering process that could provide significant advantages through the provision of discounts, volume rebates and other preferred supplier arrangements.

Recommendation

The Procurement Department is required, under the decentralized procurement regime established under Decree Law, to establish their own procurement arrangements with suppliers. In establishing these requirements there is a need to acquire three quotes for transactions between \$5,000 and \$100,000 for one-off procurement events or proceed to tender for amounts greater than this threshold that would accommodate larger, longer term supply contracts.

2.1.2.4 Contract Quality

There are notable issues with the contracts observed during the examination of procurement documentation for the Ministry of State Administration and Territorial Organisation. There were examples of comprehensive and well-structured contracts and there were some contracts that were incomplete and inadequate.

An example of the latter was Contract No.00011/ITB/DNAF-MAEOT/V/2011 for the Supply of Jeep Patriot. This 1.5 page contract states that the purchase price is \$507,000 for Jeep patriot Sport but provides no quantity, particulars or qualifying details at all. Furthermore, the payment remitted to the supplier was \$13,000 (the Ministry paid \$494,000) less than the contracted price without explanation. This selection also failed to adhere to Decree Law requirements for tenders having undergone the national rather than the required international process (refer to section 2.2.1.8).

The need to have adequate contracts is essential in order to ensure that the price, quality and surety of supply of the desired goods and services is maintained. Without these it is difficult to adequately ensure value for money.

Recommendation

The standard of contracting should be improved to provide understandable terms and conditions for contracts and adequately protect the interests of the government in their contractual arrangements. The adoption of the Commercial Principles in Best Practice Guide 6: Establishing Contracts would assist the Ministry to improve the standard of contracting presently being undertaken.

2.1.2.5 Contract Management

There are no established procedures, allocation of tasks or dedicated personnel to manage contracts.

The framing of contracts should deliver the platform for the effective delivery of goods and services but it must be managed or those anticipated benefits will not be achieved. Best Practice Guide 7: Managing Contracts provides comprehensive guidance on all aspects of contract management and administration.

Recommendation

There is a need to have contract management processes and dedicated personnel allocated to the task of managing contracts. The Best Practice Guide 7: Managing Contracts provides extensive guidance on the requirements for management process and this should be overseen by adequately trained and experienced staff.

2.1.2.6 Procurement Conduct Checklists

The Best Practice Guide 3: Tender Processes & Documents recommends that Procurement Departments use the Procurement Conduct Checklists in conduct of all tenders. An examination of documentation indicates that the checklists are not being used.

The Procurement Conduct Checklist itemises each person and issue that will be relevant in the tender process and in doing so is a valuable tool in ensuring that the process is conducted properly.

Recommendation

The Procurement Department of the Ministry of State Administration and Territorial Organisation should use the Procurement Conduct Checklist in the development of all tenders.

2.1.2.7 Fuel Voucher Controls

The controls surrounding the issue and use in purchasing of fuel using the fuel voucher coupons are considered weak. Some of the issues identified include:

- Coupon books being issued to Director Generals and above with no accounting for their usage;
- There is no sign off by the vendor (fuel station) of the fuel voucher to ensure that the receiving vehicle is the authorised recipient;
- There is no statement provided by the vendor and subsequent reconciliation performed against the fuel usage; and
- There are no log books maintained to check mileage performed by the vehicles and ensuring this agrees with the amount of fuel that would reasonably have been consumed.

The outcome of this process is that there are opportunities to misuse this system and misappropriate fuel.

Recommendation

The controls surrounding the management of the purchasing of fuel using coupons require improvement. The development and introduction of a basic procedures manual for use of fuel vouchers that eliminates these shortfalls is a simple solution that could be adopted by the Procurement Department.

2.2 Compliance with Decree Law & Best Practice Guide Procedures

2.2.1 Non-compliance with Decree Law

2.2.1.1 Suppliers Registry

The Decree Law 10/2005 requires that adequate supplier records be maintained for Government bodies involved in procurement. In the practical application of this requirement, the Procurement Department of the Ministry of State Administration and Territorial Organisation has not adopted any form of supplier registry.

The adoption of a Supplier Registry is critical to maintaining control over suppliers. In an absence of this control there is scope for companies to fraudulently misrepresent themselves in the procurement process or conceal participants that may have a conflict of interest.

Furthermore, it was noted that the Procurement Department of the Ministry of State Administration and Territorial Organisation does not have access to a Directors and Shareholders registry that would commonly be available through a corporate regulator in other jurisdictions. This creates the potential for suppliers to create a number of corporate entities in which to bid (thereby satisfying the requirement for three quotes for purchases less than \$100K) but in reality being one provider.

Recommendation

The Procurement Department of the Ministry of State Administration and Territorial Organisation should institute a Supplier Registry as soon as is practicable.

2.2.1.2 Accreditation Procedures Not Followed

Decree Law 24/2008 required that each Ministry, as part of the decentralisation process, undergo a process of accreditation. In this process each Ministry and their related entities were required to request the Ministry of Finance for a level of accreditation appropriate to their needs. This is supported by Best Practice Guide 10: Decentralisation and Accreditation.

The initial change was for the Ministry of Finance to allow procurement to level 2 (\$250,000) across all line Ministries. However, the discontinuing of the Procurement Technical Secretariat (STA) prompted the Council of Ministers to amend (by Decree Law) that line ministries would be permitted to procure to their budget. Subsequent changes in the Decree Law resulted in the creation of the National Procurement Commission that controls expenditure in excess of \$1M.

At issue is the situation where the accreditation requirements of the Decree Law and complementary Best Practice 10 have not been followed. The numerous changes in Decree Law may have resulted in some confusion.

Recommendation

The Ministry should request the level of accreditation appropriate for the respective needs from the MoF.

2.2.1.3 Mandated Procurement Plan Requirements

The Decree Law 10/2005 Article 24 requires that an Annual Procurement Plan be prepared and submitted to the Ministry of Finance. The Best Practice Guide 1: Procurement Planning provides advice on how this is to be approached including the planned expenditure ranges that are required to be reported on. These ranges are:

- \$1 - \$50,000
- \$50,000 - \$100,000
- \$100,000 - \$250,000
- \$250,000 - \$500,000
- \$500,000 - \$1,000,000
- \$1,000,000 +

However, the Procurement Department of the Ministry of State Administration and Territorial Organisation has interpreted this to mean they are required to submit an annual budget. This submission is provided for the total planned spend only and not by the procurement ranges required by the Best Practice Guide.

Recommendation

The Procurement Department of the Ministry of State Administration and Territorial Organisation should prepare a procurement plan in accordance with the planned expenditure ranges detailed in Best Practice Guide 1.

2.2.1.4 Procurement performance management system

There is no formal process for reporting procurement performance against the governing legislative instruments. Furthermore, there are no procedures or reporting for the identification of non-compliance in the procurement system.

The Annual Procurement Report required under the Decree Law states that a Compliance Report be included in the submission to the Ministry of Finance. This has not been performed.

The absence of a performance review process limits the effectiveness of the procurement process. Diagnostic systems measure and monitor Key Performance Indicators (KPI) on the procurement system. Discussions have indicated that a "procurement dashboard" reporting system is being developed by the MoF but Deloitte has only viewed a draft copy. Based on discussions with the MoF,

progress toward the establishment of a “procurement dashboard” is thoroughly endorsed and will significantly address this existing shortfall.

The non-issue of the Compliance Report within the annual procurement reporting framework is a violation of the Decree Law.

Recommendation

There are two recommendations relating to the performance reviews and non-compliance reporting:

- A performance monitoring system requires implementation. This system requires KPIs to be developed that benchmark against acceptable outcomes. This system needs to report monthly and the consolidated annual results from part of the Compliance Report within the Annual Procurement Report. The KPI reporting can be used for performance assessment of procurement officers.
- The Compliance Statement needs to be completed and included in the submission of the Annual Procurement Report in accordance with the Decree Law.

2.2.1.5 Tenders not published in accordance with Decree Law – no evidence of publication in the media

There were a number of tender documents observed in the course of the examination. The Decree Law (and further explained in Best Practice Guide 3) requires that national public tenders be publicised in the media, either in Tetum or Portuguese and international public tenders in English as well as Tetum or Portuguese. There was no evidence that the following tenders were published in any newspaper or media:

For National Public Tenders:

Related Year	CPV No	Vendor Name	Amount
2009	95761	Dili Auto Supply, Uni	\$207,724
2009	93402	Eron Power Unipessoal	\$119,880
2010	10000819	Bravo International	\$160,000
2010	10002260	Lucky Star	\$206,500
2011	11001264	Super Xerox Unipessoal	\$108,300

Table 6. National Public Tenders were no evidence of media publication was provided.

For International Public Tenders:

Related Year	CPV No	Vendor Name	Amount
2010	10000622	Suai Indah Construct	\$475,000
2010	10000634	Lifau Indah Unipesso	\$546,919
2010	10005298	Nauteto Unipessoal	\$250,000
2011	11001510	Dili Auto Supply, Uni	\$494,000
2011	11000794	Nauteto Unipessoal	\$511,000

Table 7. International Public Tenders were no evidence of media publication was provided.

The failure to publish these tenders in the media has several consequences:

1. The action violates Decree law 10/2005 Article 61
2. The lack of dissemination will likely limit the field of potential bidders and opportunity to gain value for money
3. There is potential for stakeholders to influence (in this case restrict) the field of bidders by not adopting the correct publishing requirements.

Recommendation

The tenders require publication in accordance with the Decree Law. The following are the requirements for both National and International Public Tenders:

- **National Public Tenders:** According to the Decree Law 10/2005, Section II, Article 38 and 61, an announcement for national public tenders should be published in the press and in at least one nation-wide distribution newspaper in Portuguese or Tetum.
- **International Public Tenders:** According to the Decree Law 10/2005, Section II, Article 39 and 61, an announcement for International public tenders should be published in the press and in at least one nation-wide distribution newspaper in Portuguese or Tetum and in at least two international distribution newspapers (in English and other foreign language used in international business).

2.2.1.6 Tender Evaluation Reports not obtained

Tender evaluation reports are required to be completed both as standard practice and as mandated requirement under Decree law 24/2008 Article 86. The following tenders did not possess any evidence of tender evaluation:

Year	CPV No.	Vendor	Amount
2010	10000819	Bravo International	\$160,000
2010	10000622	Suai Indah Construct	\$475,000
2010	10000634	Lifau Indah Unipesso	\$546,919
2010	10005298	Nauteto Unipessoal	\$250,000
2011	11000794	Nauteto Unipessoal	\$511,000

Table 8. Tenders where the tender evaluation report was not available

The tender evaluation process provides evidence of the performance of the tenderers in a competitive tendering process. The absence of evidence of this process casts doubt on the process that was followed and could lead to abuse in extreme cases. Key areas of assessment include:

1. Technical and professional analysis
2. Meet essential and desirable requirements
3. Client service, including support and maintenance during the useful life of the asset
4. Quality assurance
5. Capacity of execution
6. Experience and previous performance
7. Strategic questions, namely place and financial capacity

These are all pursued in order that the Ministry will get value for money in the tendering process.

Recommendation

Tender evaluations should be performed in accordance with the Decree Law. The Best Practice Guide 4: Procurement Bid Evaluation provides comprehensive guidance on how this should be performed.

2.2.1.7 Tenders not published in accordance with Decree Law – Incorrect process

As per the Decree Law 10/2005 Article 61, it is compulsory to follow the international public tender process where the purchase of goods or technical services exceeds USD\$250,000.

However, the following cases were found where a National Public Tender process was followed instead of an International Public Tender process:

Year	Vendor	CPV No.	Amount
2010	Suai Indah Construct	10000622	\$475,000
2010	Lifau Indah Unipesso	10000634	\$546,919
2010	Nauteto Unipessoal	10005298	\$250,000
2011	Magnum Unipessoal LD	11001508	\$494,000
2011	Dili Auto Supply	11001510	\$494,000
2011	Nauteto Unipessoal	11000794	\$511,000

Table 9. Tender that exceeded threshold for ITB process but followed the NPT process

This is a breach of the Decree Law 10/2005 Article 61.

Recommendation

As per the Decree Law 10/2005 Article 61, an International Public Tender process should be followed by the Ministry when the purchase of goods or technical services exceeds USD\$250,000.

2.3 Other compliance issues

2.3.1.1 Government Procurement Contact Details

The contact details of a number of Procurement Officers in each Ministry under examination were supplied. In all cases (no government email addresses were provided) either a yahoo, Gmail or hotmail account was provided. Furthermore, two of the contact details provided were not correct.

The provision of inaccurate or incomplete information will hinder the delivery of important information to the procuring entity. Furthermore, the use of publically accessed email services does not provide adequate security particularly in the transmission of 'commercial-in-confidence' information.

Recommendation

All procurement team members should be provided with a Government email account. This should be used to disseminate information to the Procurement teams and be one of the mediums for reporting back to Central Procurement. With the launch of the e-procurement system it is essential that all procurement officers are online.

The Government should ensure that only Government email addresses are used for business purposes.

2.3.1.2 Internet Accessibility

The internet and intranet services for the Ministry of State Administration and Territorial Organisation are slow and unreliable. As a consequence most of the staff does not have access to the Government server during these periods of poor service performance. This issue will affect access to the e-Portal system.

It was also noted that most senior officials utilise internet services provided by Timor Telecom that is separate from the intranet service commented on above.

Recommendation

The Director General of State Finances is currently sponsoring a Management Information Strategy (MIS) Report that comments extensively on this issue. For the purposes of this report the comments above are for information only and more detailed commentary can be gained from the MIS Report.

2.4 Organizational Architecture

2.4.1 Organizational structure

The organizational structure for the Procurement Department of the Ministry of State Administration and Territorial Organisation is provided in the organizational chart that follows:

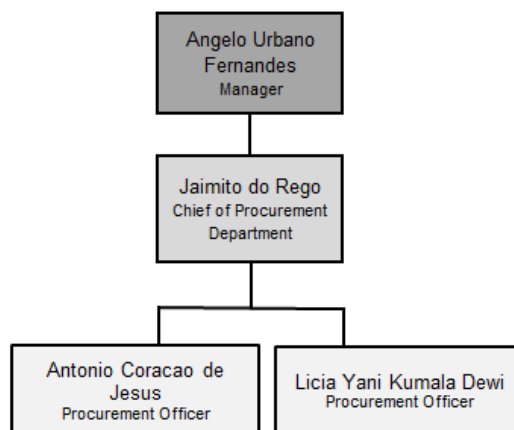


Figure 2. Organizational chart for Procurement in the Ministry

The organizational chart establishes limits of authority and responsibility. The structure appears reasonable given the quantum of people employed and lines of authority that have been constructed.

What requires clarification is whether the structure meets the objectives of the Procurement Department by adequately providing the expertise in the correct areas. Arguably, this is better examined in the roles and responsibilities section provided below.

2.4.2 Roles & responsibilities

There are no defined roles and responsibilities assigned in the Procurement Department of the Ministry of State Administration and Territorial Organisation. At the minimum the expectation would be that position descriptions exist for all positions in the Procurement Department providing information including:

- Brief description of role
- Minimum competencies
- Responsible manager
- Qualifications required
- Pay level

This provides a minimum level of information to manage personnel from a human resources perspective. This assists in recruitment, succession planning and training of staff (note the connection between structure and human resources issues in this case).

This information also provides the basis for reconciling the roles and responsibilities of the department with the objectives they are attempting to achieve. Observation of the structure and titles indicates a degree of complexity in the procurement process that may not actually exist. Overall, what function specific people perform and what outcomes are required is unclear.

The outcome of establishing adequate roles and responsibilities may be that the organizational structure requires revising.

Furthermore, there was an instance where the job title for the Manager (refer organisational chart at section 2.4.1) was also referred to as the “National Director of Administration and Finance” in the procurement documentation for the department. This should be remedied by adopting one title and applying it across all documentation to eliminate any confusion.

Recommendation

It is recommended that each position have a position description created for it. Furthermore, this needs to be reconciled across the scheme of complement to ensure that the objectives of the department are being met.

All positions should have a single title and this should be used in all documentation to eliminate any confusion in roles and responsibilities.

2.5 People Management

2.5.1 Staffing Levels

Examination of the documentation for the complete FY2010 in Ministry of State Administration and Territorial Organisation's Procurement Department indicates that there were 125 payments made to suppliers following the procurement processes stipulated in the Decree Law and Best Practice Guides (this excludes 919 commitment only payments processed by the Finance Officer) for the period. The details of this can be viewed in Table 3 attached to paragraph 2.1.3.2.

Presently the Procurement Department has three staff. Based on the current tempo of activity, the number of personnel appears to be adequate for the level of activity experienced by the Procurement Department.

Recommendation

The levels of staffing appear adequate to the volume of transaction being processed in the Procurement Department.

Should any changes be contemplated in reducing the amount of "Commitment Only" transactions, it is assessed that the potential for efficiency gains through the use of standard operating procedures are sufficient to allow the existing staff to handle any increases in workload.

2.5.2 Aptitude & Skills

2.5.2.1 Existing Capability

The following are the qualifications and experience of the personnel in the Procurement Department of the Ministry of State Administration and Territorial Organisation:

Name	Position	Qualifications	Experience
Angelo Urbano Fernandes	Manager	Degree in Public Administration	3 Years in procurement
Jaimito do Rego	Chief of Procurement Department	Economics Degree	1.5 Years in procurement
Antonio Coracao de Jesus	Procurement Officer	Economics Degree	2 Years in procurement
Licia Yani Kumala Dewi	Procurement Officer	Economics Degree	1 Year in procurement

Table 10. Ministry of State Administration and Territorial Organisation procurement staff particulars.

The qualifications and experience appear adequate for the tasks required in the Procurement Department. A more suitable assessment would have been to compare the existing requirements within each Position Description for each member of staff to the levels attained. However, No position descriptions exist and this could not be performed.

However, there was no apparent succession planning in place.

Recommendation

There is a need to have a succession plan in place which should include training needs (addressed further below) and candidate selection.

Formal Position Descriptions should be created for each position in the procurement department of the Ministry of State Administration and Territorial Organisation.

2.5.2.2 Training

Discussions with the Procurement staff in the Ministry of State Administration and Territorial Organisation indicate that the procurement team was able to attend the Procurement Cycle 21 Day training at the Ministry of Finance and their certificates of attendance at this training were sighted (except one). The staff have also attended the E-procurement training being provided prior to the adoption of this system. The details of attendance at training is as follows:

Name	Position	Training	
		MoF Financial Process	E- Procurement
Angelo Urbano Fernandes	Manager	Yes *	Yes
Jaimito do Rego	Chief of Procurement Department	18 Days training	Yes
Antonio Coracao de Jesus	Procurement Officer	18 Days training	Yes
Licia Yani Kumala Dewi	Procurement Officer	9 Days training	Yes
* No certificate provided - training days unknown			

Table 11. Ministry of State Administration and Territorial Organisation training attendance.

A notable feature of the training regime is a lack of consistency in training durations that the procurement personnel have been exposed to in the Procurement Cycle 21 Day course. The inconsistent content and durations are likely to detract from the training value that the participants are exposed to and could result in parts of the procurement cycle not being covered at all within this procurement department.

The institution of a formal training regime is essential to the effective operation of the procurement system. Training is the linkage that aligns the people (both in terms of capability and motivation) to the systems and organisational structure in operation. The issue appears to be the provision of job specific training that meets the training needs of procurement staff in performing routine procurement activities.

Recommendation

There is a need to provide more comprehensive training that supports the achievement of clear objectives. Specifically, the training must support the routine activities of the procurement department. Furthermore, there is a need to manage this so that the training development needs of individual staff are monitored and the training required is delivered. To ensure that this occurs adequate training support and accreditation should exist.

There are no recommendations or opinions provided on the adequacy of the training provided.

Appendix 1: Budget & Actual Expenditure for FY 2010

Category/Item	2010	2010	Variance
	Budget	Actual	
Ministry of State Administration & Territorial Organisation			
Salaries and Wages	2,789,372	2,778,221	11,151
Goods and Services	6,243,292	5,926,242	317,050
Minor Capital	1,622,712	1,608,404	14,308
Capital and Development	3,042,000	1,928,997	1,113,003
Transfers	39,959,623	34,157,789	5,801,834
	53,656,999	46,399,653	7,257,346
Directorates:			
Minister of State Administration & Territorial Organisation			
Salaries and Wages	62,000	61,813	187
Goods and Services	53,000	52,989	11
	115,000	114,802	198
National Graphic			
Salaries and Wages	65,304	64,548	756
Goods and Services	153,000	129,076	23,924
	218,304	193,624	24,680
National Archives			
Salaries and Wages	86,472	85,990	482
Goods and Services	86,341	83,752	2,589
Minor Capital	15,000	14,905	95
	187,813	184,647	3,166
National Institute of Public Administration			
Salaries and Wages	167,532	167,459	73
Goods and Services	181,000	174,170	6,830
Transfers	50,000	49,989	11
	398,532	391,618	6,914
Technical Secretariat Voter Administration			
Salaries and Wages	360,348	359,773	575
Goods and Services	349,940	340,938	9,002
	710,288	700,711	9,577
Secretary of State Reform			
Salaries and Wages	46,000	45,647	353
Goods and Services	85,000	84,808	192
Minor Capital	65,000	64,403	597
Transfers	480,000	471,736	8,264
	676,000	666,594	9,406
Local Development Planning Division			
Salaries and Wages	53,544	53,144	400
Goods and Services	204,186	192,674	11,512
Minor Capital	87,750	87,332	418
	345,480	333,150	12,330
Local Development Program			
Goods and Services	153,971	144,262	9,709
Transfers	2,943,211	2,942,372	839
	3,097,182	3,086,634	10,548
Sec East Region Special Oecusse			
Salaries and Wages	62,000	61,812	188
Goods and Services	108,000	108,000	0
Minor Capital	64,000	63,996	4
	234,000	233,808	192
Director General			
Salaries and Wages	19,032	19,032	0
Goods and Services	12,000	4,400	7,600
	31,032	23,432	7,600
State Administration, Finance			
Salaries and Wages	162,624	162,586	38
Goods and Services	2,625,198	2,599,906	25,292
Minor Capital	1,307,362	1,300,169	7,193
Capital and Development	3,042,000	1,928,997	1,113,003
	7,137,184	5,991,658	1,145,526
Dn of Local Administration			
Salaries and Wages	87,960	87,856	104
Goods and Services	237,256	226,529	10,727
	325,216	314,385	10,831
Dir Adm Terr District Bobonaro			
Salaries and Wages	-	-	-
	-	-	-
Dir Adm Terr District Manufahi			
Salaries and Wages	65,616	64,636	980
Goods and Services	37,000	36,999	1
	102,616	101,635	981

Dir Adm Terr District Viqueque			
Salaries and Wages	88,380	87,482	898
Goods and Services	38,000	28,417	9,583
	126,380	115,899	10,481
Dir Adm Terr District Lautem			
Salaries and Wages	68,520	67,931	589
Goods and Services	38,000	37,996	4
	106,520	105,927	593
Dir Adm Terr District Manatuto			
Salaries and Wages	80,640	80,229	411
Goods and Services	38,000	37,999	1
	118,640	118,228	412
Dir Adm Terr District Covalima			
Salaries and Wages	103,248	103,219	29
Goods and Services	39,000	38,947	53
	142,248	142,166	82
Dir Adm Terr District Ainaro			
Salaries and Wages	71,844	71,787	57
Goods and Services	37,000	37,000	0
	108,844	108,787	57
Dir Adm Terr District Aileu			
Salaries and Wages	65,796	65,779	17
Goods and Services	37,000	36,996	4
	102,796	102,775	21
Dir Adm Terr District Ermera			
Salaries and Wages	79,116	79,023	93
Goods and Services	38,000	37,996	4
	117,116	117,019	97
Dir Adm Terr District Liquica			
Salaries and Wages	59,712	59,256	456
Goods and Services	36,000	35,998	2
	95,712	95,254	458
Dir Adm Terr District Oecussi			
Salaries and Wages	-	-	-
	0	0	0
Cabinet of the Inspector General			
Salaries and Wages	19,032	18,101	931
Goods and Services	12,000	0	12,000
	31,032	18,101	12,931
Prep. Uma Inst Admin-Munic-Dili			
Salaries and Wages	515,292	515,232	60
Goods and Services	784,000	716,572	67,428
Transfers	62,760	59,248	3,512
	1,362,052	1,291,052	71,000
Admin District Bobonaro			
Salaries and Wages	119,844	119,815	29
Goods and Services	51,000	50,756	244
Transfers	57,960	57,935	25
	228,804	228,506	298
Admin District Bacau			
Salaries and Wages	119,772	119,605	167
Goods and Services	50,000	49,902	98
Transfers	57,960	55,801	2,159
	227,732	225,308	2,424
Admin District Oecussi			
Salaries and Wages	110,448	109,787	661
Goods and Services	49,000	36,334	12,666
Transfers	53,160	51,100	2,060
	212,608	197,221	15,387
Development			
Goods and Services	416,400	320,937	95,463
Minor Capital	83,600	77,600	6,000
Capital and Development	-	-	0
Transfers	31,356,000	25,614,554	5,741,446
	31,856,000	26,013,091	5,842,909
Dn Admin Authorities Support			
Salaries and Wages	49,296	46,680	2,616
Goods and Services	294,000	281,889	12,111
Transfers	4,898,572	4,855,055	43,517
	5,241,868	5,183,624	58,244
Total Expenditure	53,656,999	46,399,653	7,257,346

Table Graph A1-1. Ministry of State Administration and Territorial Organisation Budget & Actual Expenditure for FY 2010.

(Source: Democratic Republic of Timor Leste Annual Consolidated Financial Statement for the Fiscal Year 2010)

Appendix 2: Major Suppliers

The following table reflects the 40 largest suppliers in US Dollar terms for the FY 2010:

Vendor	Supply	YTD Actual	%
Commitment Only	Commitment Only	3,827,842	40%
NAUTETO UNIPessoal L	Construction	553,744	6%
SUAI INDAH CONSTRUCT	Construction	536,875	6%
DILI AUTO SUPPLY,UNI	Vehicles	467,189	5%
LIFAU INDAH UNIPessoal	Construction	446,833	5%
BOBOLAIT LDA / CARLI	Construction	349,739	4%
MULTI ARCH UNIPessoal	Construction	299,100	3%
AITULA FUELS LTD	Fuel	254,750	3%
LUCKY STAR	Vehicles	206,500	2%
ESPERANCA TIMOR OAN	Fuel	176,226	2%
BRAVO INTERNATIONAL	Vehicles	160,000	2%
DILI AUTO SERVICE	Vehicles	144,087	2%
MAGNUM UNIPessoal LD	Other	134,781	1%
ERON POWER,UNIPessoal	Construction	107,920	1%
SONHO UNIPessoal LDA	Construction	100,000	1%
VOX DA VINCI ENGINEE	Construction	98,000	1%
WEDITO UNIPessoal	Construction	89,000	1%
TANJUNG MOTOR	Vehicles	86,686	1%
FORTUNA COMPUTER, LD	Office Supplies	71,575	1%
MASTERLINK MOTOR,UNI	Vehicles	70,976	1%
THREE STAR RENTAL UN	Vehicles	70,420	1%
COTA HUN, UNIPessoal	Construction	70,280	1%
SYLVIA DILI	Office Supplies	67,023	1%
TREE STAR SERVICES	Office Supplies	65,614	1%
AVONG TAILOR	Uniforms	65,416	1%
AUTO DILI	Vehicles	64,415	1%
DOMIN TIMOR LDA	Other	64,000	1%
SOLO WORKSHOP	Vehicles	62,191	1%
DIGITAL INSTANT SHOP	Office Supplies	61,300	1%
SUPERINDO PTE.LTD	Foodstuffs	58,160	1%
INDOVISION ELECTRONI	Office Supplies	54,000	1%
JAKCY CONSTRUCTION L	Construction	49,951	1%
ELITE COMPUTER	Office Supplies	38,600	0%
RIVOLTA,UNIPessoal L	Other	35,068	0%
SEMAHDI LDA	Construction	32,785	0%
BICANTIDI, UNIP.LDA	Construction	32,175	0%
DOONROY PTY LTD	Accommodation	29,561	0%
MIRA-MAR BLOCO	Other	28,000	0%
LORON MOSU WORK SHOP	Vehicles	27,353	0%
DELBI UNIPessoal LDA	Foodstuffs	26,200	0%

Table & Graph A2-1. List of the 40 largest suppliers to the Ministry of State Administration and Territorial Organisation in FY2010.

This represents the actual purchases for FY10 including the uncategorised commitment only payments.

Source: MoF Commitment & Obligation Report from MoF Accountability System.

Total Supplies (including uncategorised “Commitment Only”):

Category	Total
Commitment Only	3,827,842
Construction	2,869,699
Vehicles	1,425,974
Office Supplies	484,134
Fuel	430,976
Other	307,328
Foodstuffs	85,560
Uniforms	65,416
Generator	6,084
Grand Total	9,503,014

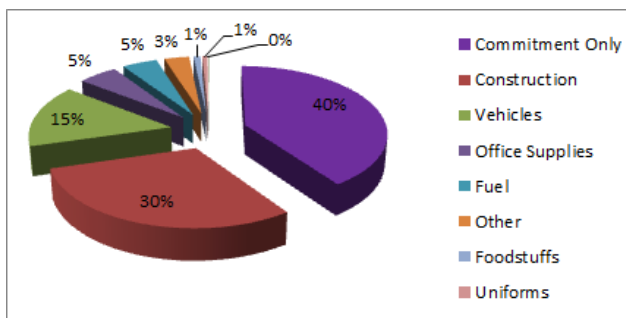


Table & Graph A2-2. List of suppliers to the Ministry of State Administration and Territorial Organisation in FY2010.

This represents the actual purchases for FY10 including the uncategorised commitment only payments.

“Commitment Only” Supplies:

Category	Total
Salaries	1,421,722
Petty cash	829,036
Vehicles	697,815
Office Supplies	628,829
Transfers	212,228
Information Technology	32,583
Construction	5,629
Grand Total	3,827,842

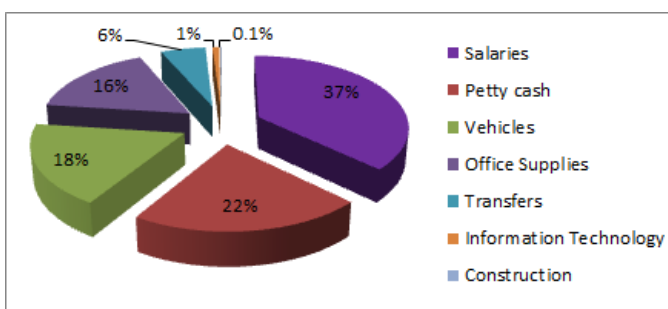


Table & Graph A2-3. Commitment only suppliers for FY2010.

Total Supplies by Category (including categorised “Commitment Only”):

Category	Total
Construction	2,875,328
Vehicles	2,123,789
Salaries	1,421,722
Office Supplies	1,112,963
Petty cash	829,036
Fuel	430,976
Other	313,412
Transfers	212,228
Foodstuffs	85,560
Uniforms	65,416
Information Technology	32,583
Grand Total	9,503,014

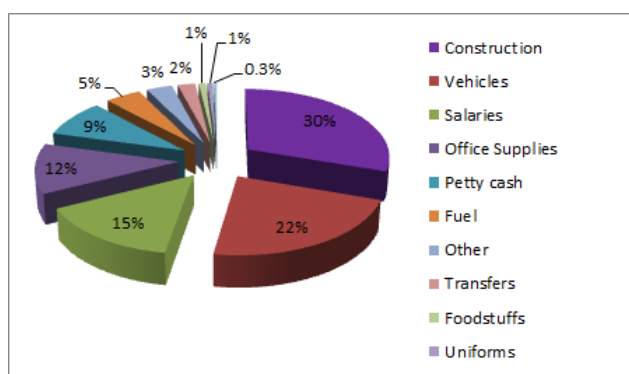


Table & Graph A2-4. Total payments to suppliers and others for FY2010.

This represents the actual purchases for FY10 including the categorised commitment only payments.

Source: MoF FreeBalance Accountability System

Appendix 3: Expenditure thresholds under Decree Law & Best Practice

	Decree Law	Best Practice Guide
0 - \$5K	Simplified Procedures - DL 24/2008 Article 45 & 95	
\$5K - < \$100K	Request for Quotation (RFQ) - 3 Quotes DL 24/2008 Article 43	Request for Quotation (RFQ) - 3 Quotes
\$100K +	National Public Tender DL 24/2008 s2 Article 38 & 61 DL 24/2008 Article 37	National Public Tender
	International Public Tender Goods & Services: >\$250K Public Works: >\$1M DL 24/2008 s2 Article 39 & 61	International Public Tender Goods & Services: >\$250K Public Works: >\$1M

Competence to sign & approve Decree Law 1/2010 Article 15		
<\$1M USD	\$1M - \$3M USD	>\$3M USD
Holders of organs of sovereignty Ministers & Secretaries of State All other public bodies subject to Government Budget Discipline	The Prime Minister - can delegate	The Council of Ministers

Appendix 4: Direct Award Procurement Circumstances

Decree Law 10/2010 Article 92 prescribes the conditions under which procurement that requires at least three quotes (or to be undertaken through the tender process) can be awarded directly to a supplier (sole source). These conditions are as follows:

No	Reason for Sole Source
1	In cases of emergency following an unforeseen event that jeopardizes public health and security
2	Where no bids exist , or where those existing do not comply with the criteria provided for in the tender, or where the candidates do not comply with the requirements for participating in the tender
3	Where no competition exists for technical reasons
4	Where the goods or services may only be supplied by a specific entity and no reasonable or substitutive alternatives exist in the market
5	In case of additional supply of goods and services , or of goods the purpose of which is to replace parts, to extend, or to proceed with services or goods for existing equipment , software, services of facilities in which the substitution of the supplier would result in the acquisition of goods and services that do not comply with the requirements of adaptability or compatibility
6	Where the intention is to obtain a prototype for original service or good or for purposes of limited experimentation , or that is created for a specific contract for research, experiment, study or original creation
7	Where the intention is to protect patents, copyrights or other exclusive or intellectual property rights
8	Where the intention is to acquire commodities or to make purchases under advantageous conditions , including unsolicited innovative proposals
9	As a result of a drawing competition
10	For reasons of impracticability or inconvenience duly justified and documented .

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