



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

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

July 2012

Review of Procurement in Ministry of Health 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 Health.

1.2 Scope and Objectives

The Ministry of Finance requested that we:

- Examine procurement procedures and internal controls for the Ministry of Health
- Inspect the Ministry of Health'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 of this is to critically analyse procurement procedures and internal controls in the Ministry of Health to assess both 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:

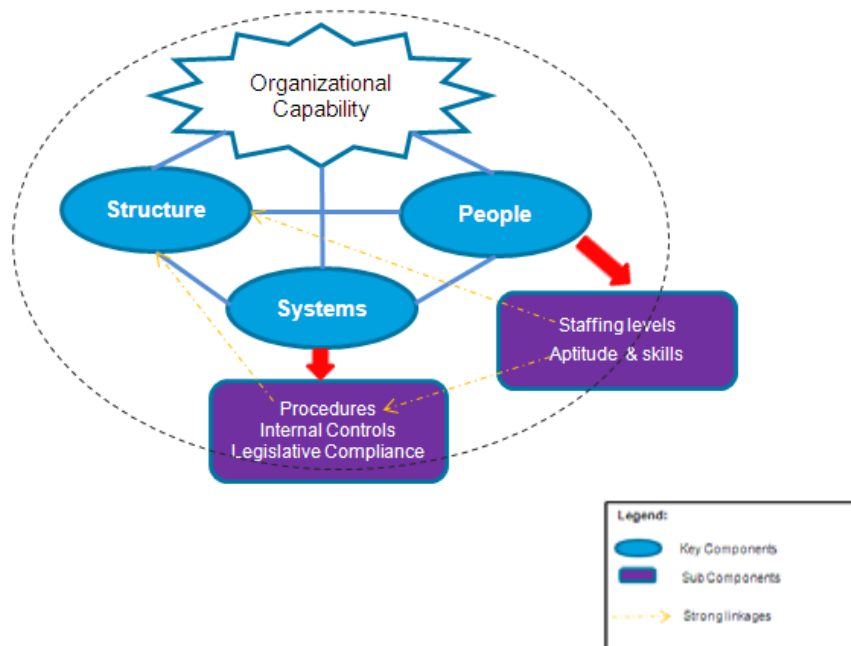


Figure 1. Organisational capability testing framework

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 Ministry of Health. 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:

- There were unauthorized alterations made to purchasing documentation
- Purchases exceeded the approved value provided in the supporting purchasing documentation
- Significant documentation requested by us for the Financial Year 2009 and 2010 was not available and attributed to poor document management during this period.
- 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 quality of contracts is assessed as poor with wide ranging issues including missing or inadequate terms, conditions and annexures.
- There is no effective contract management, even though there is an established contract management section in the procurement organizational structure.
- Procurement Conduct Checklists were not used in the procurement process.
- The controls in the operation for the fuel vouchers post their issue is considered weak and susceptible to misappropriation and abuse.
- The FreeBalance accountability system is not installed in the Procurement Department.

Recommendation

It is recommended that the Procurement Department of Ministry of Health implement standard operating procedures that regulate procurement processes at the functional level. Deloitte acknowledges that the current advisor is implementing specific directives on the procedures to be followed. While some direction is provided by the Decree Law and the Best Practice Guides in providing a strategic overview, the importance of specific directives on the procedures to be followed is emphasized.

1.4.1.2 Non Compliance with Decree Law

There were instances where the Procurement Department of Ministry of Health 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 the correct language as directed by Decree Law.

Recommendation

There are a number of steps that can be taken by the Procurement Department of Ministry of Health 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 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.

1.4.1.3 Other issues

There are several recommendations in relation to other 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 tasks assigned.

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 be comparable with the levels of experience noted in 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 remuneration levels attained, qualifications and experience. 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. Procurement staff complain that insufficient training programs are delivered by the MoF.
- Improving the training development process for staff 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 Ministry of Health have made against these recommendations.

1.6 Review of Serviço Autónomo de Medicamentos e Equipamentos de Saúde

There was a review of Serviço Autónomo de Medicamentos e Equipamentos de Saúde (“SAMES”) completed in March 2011. This review examined procurement matters in SAMES. Please read this report in conjunction with the SAMES report. SAMES has specific legislation related to the procurement of pharmaceutical products.

1.7 Acknowledgement

We would like to take this opportunity to thank the management and staff of the Ministry of Health 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 Alterations to supplier documents

The progress billing statement from a supplier for one of the transactions selected had been manually altered and there was no evidence of the alteration being authorised. This was for the following selection:

Year	Contract no.	Purchase Order no.	Vendor Name	Contract amount (USD)
2010	RDTL-MoH-CAMS-STA-C-001-2010	10005668	AITULA CONSTRUCTION	\$1,764,363.72

Table 1. Unauthorised alterations to documents

The initial invoiced amount was \$543,193 and this was changed to \$542,000. When there is evidence that a supplier document is altered the document is invalid and could be susceptible to fraud or error.

Recommendation

The Ministry should not accept altered supplier documents.

2.1.1.2 Purchase Value Exceeds Approved Level

During our review we identified a transaction where the contract amount is greater than the authorised purchase order (PO) amount. The details are as follows:

Related Year	PO Number	Contract number	Vendor Name	PO amount (USD)	Contract amount (USD)
2011	11001032	RTDL-MS-11-CAMS-460-C-0053	VISIO DEI UNIPESSOAL	\$308,000	\$308,160

Table 2. Transaction with purchase order amount larger than the contract amount

Although the contracted amount exceeds the approved purchase order value by a small amount (a difference of US\$160), it indicates a weakness in the review processes in place. The amount that the purchase exceeds the purchase order value is effectively unapproved. These unauthorised amounts are contracted and subsequently paid by the Ministry of Health.

Recommendation

All procurement purchases should be authorised by the relevant authorities. Purchase order amounts should not be exceeded unless the exceeded amounts are duly authorised.

2.1.2 Other purchasing issues

2.1.2.1 Supporting documentation not obtained

At the time of the procurement review, the Ministry of Health could not furnish us with supporting documentation for a number of transactions. Details of these transactions are as follow:

Year	PO no.	Vendor	Amount	Remarks
2009	92756	SAMES	110,000	All documentation at Ministry of Finance as enquired
2009	903755	Commitment only	315,420	All documentation at Ministry of Finance as enquired
2009	908519	Commitment only	315,420	All documentation at Ministry of Finance as enquired
2009	94004	OCEANO PTY LTD	77,998	Only Purchase Order obtained. All other documentation at Ministry of Finance as enquired
2009	000P65346A	HEDGE CONSTRUCTION	295,000	No Invoice, Payment Request or tender documentation obtained – at the Ministry of Finance as enquired
2009	P61564	PENTA OCEAN CONSTRUCTION	492,000	All documentation at Ministry of Finance as enquired
2009	94579	HEDGE CONSTRUCTION	300,000	Payment Request and tender documentation not obtained
2009	P73258	CHINA NO 4 METALLURG	480,000	All documentation at Ministry of Finance as enquired
2009	93157	MY FRIEND, LDA	256,240.53	All documentation at Ministry of Finance as enquired
2010	10000491	STAT GROUP	439,110	All documentation at Ministry of Finance as enquired
2010	1016428	Commitment only	372,170	All documentation at Ministry of Finance as enquired
2010	10003785	SAMES	500,000	All documentation at SAMES as enquired
2010	10001726	STAT GROUP	860,400	Purchase Order, Payment Request & tender documentation not obtained – at Ministry of Finance as enquired.
2010	10005668	AITULA CONSTRUCTION	1,764,363	Tender documentation not obtained.

Table 3. Samples with missing supporting documentation

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.

It should be noted that a failure to maintain the appropriate documentation is a violation of the Decree Law and Best Practice Guides on procurement.

Refer to Appendix 6 for the process followed in order to try and obtain the FY 2009 documentation.

Recommendation

The requirement to obtain or create and retain all the necessary procurement documentation 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 in common usage in the procurement process for Ministry of Health. 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:

No. of Transactions	Grouping			Grand Total
	Goods & Services	Minor Capital	Capital & Development	
Commitment Only	1242	0	5	1247
Standard Procurement	748	51	46	845
Grand Total	0	0	0	2092

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

Most of the “Commitment Only” disbursements are related to salaries 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 (\$3,234,650.65 in total for FY2010 for both petty cash and cash advances) indicate that this approach is potentially 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 Contract Quality

There are notable issues with the contracts observed during the examination of procurement documentation for Ministry of Health. The issues identified in one contract for the Ministry has been provided at Appendix 5 to this document. These issues (in the Appendix 5) are restricted only to clauses in the contract rather than elements that were not in the contract but could potentially have been included in the contract. The latter are extensively covered by the “Checklist: 22 Commercial Principles for Procurement Contracts” in Best Practice Guide 6: Establishing Contracts.

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 are 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 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.

2.1.2.4 Contract Management

The procurement department at the Ministry of Health possesses a contract management section. However, this section readily admits that the section is unable to manage contracts effectively due to lack of time and resources. We would add that there appears to be a lack of capacity and capability.

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 implement the framework established at Figure 1 (to this report) that encompasses structure, people and systems. Accordingly, it is essential that adequate processes for contract management be established that should be based on the guidance provided in the Best Practice Guide 7: Managing Contracts. To affect these processes, there is a need to have a structure that adequately provides the capabilities and satisfies the workload imposed in delivering appropriate contract management and ensures the adequate delivery of goods and services. The structure contemplated requires appropriately capable, experienced and trained personnel to fill these positions.

2.1.2.5 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 action 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 Health should use the Procurement Conduct Checklist in the development of all tenders.

2.1.2.6 Fuel Voucher Controls

The controls surrounding the issue and use in purchasing of fuel using the fuel voucher coupons is 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 opportunities to misuse this system and misappropriate fuel.

Recommendation

The controls surrounding the management of the purchasing of fuel using coupons requires 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.

2.1.2.7 FreeBalance Accountability System

It was noted during testing that the Ministry has no access to the FreeBalance accountability system. Whilst this does not of itself impose an impairment of the Ministry's ability to procure goods and services or adopt controls in the procurement process, it does mean that others have the ability to process journals on the Ministry's behalf without review. The inability to review the financial impacts of these transactions and ultimately the inability of the Ministry to review financial performance in the accountability system is a disadvantage.

Furthermore, it was noted that a week's training has been provided to 4 of the procurement staff in the Ministry. This indicates that there is the intention to provide access to the FreeBalance system to the Ministry but the timing of the training would have been more appropriate had it occurred simultaneously to the installation of the system or closely following it. This allows the trainees to immediately apply their training and not forget the essentials they have been taught. We did not have access to the curriculum or the objectives of the training and therefore will not comment on the sufficiency of the week long training program.

Recommendation

The FreeBalance accountability system should be installed in the procurement department as soon as possible and the necessary training provided to the procurement staff in order for them to operate the system effectively.

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 Ministry of Health 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 Ministry of Health 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 Ministry of Health should institute a Supplier Registry as soon as is practicable.

2.2.1.2 Accreditation Procedures Not Followed

Decree Law 24/2008 required that the each Ministry, as part of the decentralisation process, undergo a process of accreditation. In this process each Ministry and their related entities was 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.

The Ministry of Education has not complied with the accreditation requirements of the Decree Law and complementary Best Practice Guide 10. 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 +

Currently the Procurement Department of Ministry of Health submits an annual budget for approval and prepares a procurement plan for internal use only (not submitted for approval). The procurement plan inspected by DTT does not indicate the planned expenditure ranges required by the Best Practice Guide.

Recommendation

The Procurement Department of Ministry of Health should prepare a procurement plan in accordance with the planned expenditure ranges detailed in Best Practice Guide 1 and submit it to the Ministry of Finance for approval.

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 is 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” 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 – Language promulgation

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 tenders, both local and international, require publication in the media in English and either Tetum or Portuguese. The following three tenders were published only in English:

Year	Contract no.	Vendor	Contract amount (US\$)	Services tendered
2011	RTDL-MS-10-CAMS-458-C-0005	CAIMALELOQUI UNIPessoal	498,039.60	Cleaning and laundry services for Dili Hospital
2011	RTDL-MS-11-CAMS-460-C-0053	VISIO DEI UNIPessoal	308,160	Food Catering Services for Baucau Referral Hospital

Table 5. Tenders not published in the correct language

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

1. The action violates Decree law
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 requirement for publication of tenders must be followed in accordance with Decree Law. The Ministry should ensure that when a National Public Tender process is followed, publications in nation-wide newspapers are either made in Portuguese or Tetum.

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 web email 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 Ministry of Health 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 Ministry of Health is provided in the organizational chart that follows:

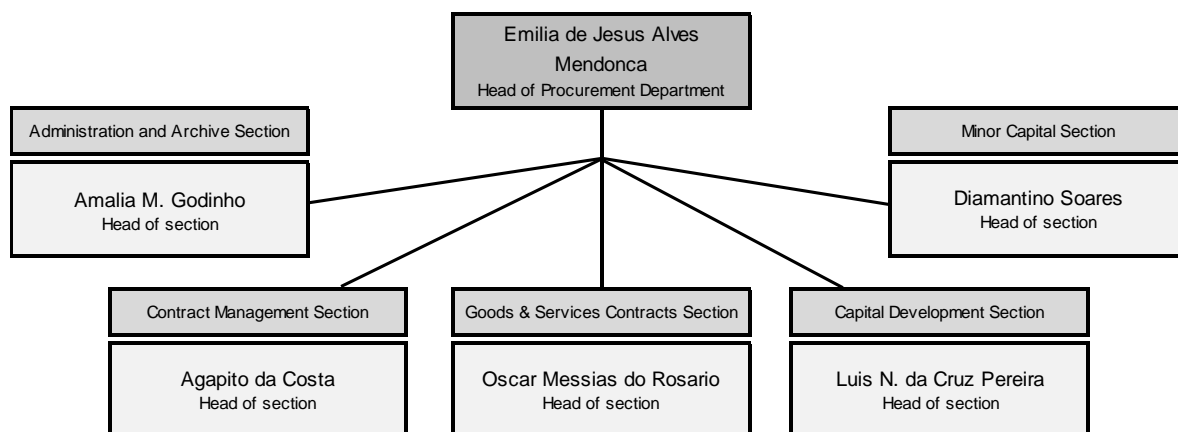


Figure 2. Organizational chart for the Procurement Department of Ministry of Health

The organizational chart establishes limits of authority and responsibility. The structure appears reasonable given the quantum of people employed and the 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 Ministry of Health. 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.

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.

2.5 People Management

2.5.1 Staffing Levels

Examination of the documentation for the complete FY2010 in Ministry of Health's Procurement Department indicates that there were 845 payments made to suppliers following the procurement processes stipulated in the Decree Law and Best Practice Guides (this excludes 1247 commitment only payments processed by the Finance Officer) for the period. The details of this can be viewed in Table 4 attached to paragraph 2.1.2.3.

Presently the Procurement Department has five full-time 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 improvements available through efficiencies gained in 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 Ministry of Health:

Name	Position	Qualifications	Experience	Pay Level
Emilia de Jesus A. Mendonca	Head of Procurement Department	Bachelor in Economics	10 years experience in finance. In procurement since Jan 2012	5
Agapito da Costa	Head of Contract Management	Bachelor in Economics	In procurement since Jan 2009	4
Oscar Messias do Rosario	Head of Goods & Service Contracts	Bachelor in Economics	3 years experience in finance. In procurement since Oct 2011	4
Diamantino Soares	Head of Minor Capital	Bachelor in Economics	5 years in procurement	3
Luis N. da Cruz Pereira	Head of Capital Development	SMA *	3 years experience in finance. In procurement since Sept 2009	3
Amalia M. Godinho	Head of Administration and Archive	Bachelor in Economics	In procurement since Jul 2010	4
Note:				
* SMA is Sekolah Menengah Atas (Senior Secondary School)				

Table 6. Ministry of Health 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.

There was no apparent succession planning in place.

Recommendation

There are no immediate requirements to action any inadequacies in the existing capability. However, there is a need to have some succession planning in place including attention to training needs (addressed further below) and candidate selection.

Formal Position Descriptions should be created for each position in the procurement department of Ministry of Health.

2.5.2.2 Training

Discussions with the Procurement staff in the Ministry of Health indicate that some of those involved in procurement were able to attend the Procurement Cycle 21 Day training at the Ministry of Finance. In all cases a certificate of attendance at this training was sighted. Not all of the staff attended the E-procurement training provided prior to the adoption of this system. The detail of attendance at training is as follows:

Name	Position	Training	
		MoF Financial Process	E- Procurement
Emilia de Jesus Alves Mendonca	Head of Procurement Department	No training attended	No
Agapito da Costa	Head of Contract Management Section	18 Days training	Yes
Oscar Messias do Rosario	Head of Goods & Service Contracts Section	No training attended	No
Diamantino Soares	Head of Minor Capital Section	12 Days training	Yes
Luis N. da Cruz Pereira	Head of Capital Development Section	No training attended	No
Amalia M. Godinho	Head of Administration and Archive Section	9 Days training	No

Table 7. Ministry of Health training attendance.

The Procurement Team at Ministry of Health have not attended much of the training on offer. Only 31% of the potential 126 training days available in the Procurement Cycle 21 Day training have been attended by staff overall. Three staff members have not attended the Procurement Cycle 21 Day training at all. Only two staff members have attended the E-Procurement training.

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. This requires that all staff involved in procurement attend the training made available by the MoF.

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.

Appendix 1: Budget & Actual Expenditure for FY 2010

Category/Item	2010	2010	Variance
	Budget	Actual	
Ministry of Health			
Salaries and Wages	10,446,999	9,818,137	628,862
Goods and Services	18,968,000	18,687,485	280,515
Minor Capital	1,442,400	1,399,840	42,560
Capital and Development	5,826,000	4,046,369	1,779,631
Transfers	858,000	453,196	404,804
	37,541,399	34,405,027	3,136,372
Directorates:			
Office of the Minister of Health			
Salaries and Wages	67,880	63,317	4,563
Goods and Services	104,763	104,686	77
Minor Capital	1,950	1,000	950
	174,593	169,003	5,590
Office of the Deputy Minister of Health			
Salaries and Wages	51,460	50,192	1,268
Goods and Services	173,873	161,648	12,225
	225,333	211,840	13,493
National Laboratory			
Salaries and Wages	202,103	193,179	8,924
Goods and Services	203,008	202,966	42
Minor Capital	14,000	13,990	10
	419,111	410,134	8,976
Guido Valadares National Hospital			
Salaries and Wages	1,744,704	1,540,978	203,726
Goods and Services	2,632,181	2,625,513	6,668
Minor Capital	265,000	264,397	603
Capital and Development	1,541,000	887,312	653,688
	6,182,885	5,318,200	864,685
Reference Bacau Hospital			
Salaries and Wages	713,805	709,098	4,707
Goods and Services	1,421,790	1,393,306	28,484
Minor Capital	50,000	49,500	500
Capital and Development	3,000,000	2,322,975	677,025
	5,185,595	4,474,879	710,716
Reference Maliana Hospital			
Salaries and Wages	330,990	325,519	5,471
Goods and Services	663,794	634,413	29,381
	994,784	959,932	34,852
Reference Maubisse Hospital			
Salaries and Wages	327,425	324,128	3,297
Goods and Services	759,803	739,984	19,819
	1,087,228	1,064,113	23,116
Reference Oecussi Hospital			
Salaries and Wages	307,714	303,192	4,522
Goods and Services	463,837	447,489	16,348
	771,551	750,680	20,870
Reference Suai Hospital			
Salaries and Wages	360,095	356,296	3,799
Goods and Services	469,036	454,692	14,344
Minor Capital	54,500	38,690	15,810
	883,631	849,677	33,953
Health Department – District Aileu			
Salaries and Wages	308,212	283,685	24,527
Goods and Services	254,726	244,077	10,649
	562,938	527,762	35,176

Health Department – de Ainaro			
Salaries and Wages	268,179	251,892	16,287
Goods and Services	271,721	271,067	654
	539,900	522,959	16,941
Health Department– District Baucau			
Salaries and Wages	512,092	486,902	25,190
Goods and Services	326,691	326,506	185
	838,783	813,408	25,375
Health Department – Bobonaro			
Salaries and Wages	359,448	333,588	25,860
Goods and Services	275,458	275,456	2
	634,906	609,044	25,862
Health Department – Covalima			
Salary and Wages	343,603	337,798	5,805
Goods and Services	261,545	252,789	8,756
	605,148	590,587	14,561
Health Department – Dili			
Salaries and Wages	543,805	542,045	1,760
Goods and Services	350,342	350,333	9
	894,147	892,378	1,769
Health Department – Ermera			
Salaries and Wages	398,881	384,018	14,863
Goods and Services	322,885	316,741	6,144
	721,766	700,759	21,007
Health Department – Lautem			
Salaries and Wages	445,662	445,535	127
Goods and Services	330,298	328,160	2,138
	775,960	773,695	2,265
Health Department – Liquica			
Salaries and Wages	299,242	286,846	12,396
Goods and Services	234,540	231,533	3,007
	533,782	518,379	15,403
Health Department – Manatuto			
Salaries and Wages	406,254	354,370	51,884
Goods and Services	282,655	280,888	1,767
	688,909	635,258	53,651
Health Department – Manufahi			
Salaries and Wages	339,125	334,470	4,655
Goods and Services	270,466	258,112	12,354
	609,591	592,582	17,009
Institute of Health Sciences			
Salaries and Wages	268,313	267,561	752
Goods and Services	626,398	626,351	47
	894,711	893,912	799
Health Department – Oecussi			
Salaries and Wages	262,775	233,421	29,354
Goods and Services	231,963	231,638	325
	494,738	465,059	29,679
Health Department – Viqueque			
Salaries and Wages	491,131	487,245	3,886
Goods and Services	328,832	326,048	2,784
	819,963	813,294	6,670
Director General Health			
Salaries and Wages	145,448	125,138	20,310
Goods and Services	227,330	223,885	3,445
Minor Capital	18,000	17,980	20
	390,778	367,003	23,775

Director National Planning and Finance			
Salaries and Wages	140,599	95,904	44,695
Goods and Services	1,374,623	1,372,009	2,614
Minor Capital	60,150	58,872	1,278
	1,575,372	1,526,785	48,587
Director National Community Health			
Salaries and Wages	229,165	199,241	29,924
Goods and Services	1,125,591	1,119,966	5,625
Minor Capital	150,000	133,979	16,021
Transfers	758,000	420,700	337,300
	2,262,756	1,873,886	388,870
DN Health Human Resources			
Salaries and Wages	111,548	85,558	25,990
Goods and Services	3,487,973	3,440,322	47,651
Minor Capital	9,250	8,985	265
Transfers	100,000	32,496	67,504
	3,708,771	3,567,361	141,410
Director National Hospital Services			
Salaries and Wages	165,303	156,621	8,682
Goods and Services	284,212	284,192	20
Minor Capital	10,500	10,325	175
	460,015	451,138	8,877
DN Admin and Logistics Health			
Salaries and Wages	200,884	183,705	17,179
Goods and Services	1,110,186	1,072,694	37,492
Minor Capital	800,000	793,076	6,924
Capital Development	1,285,000	836,082	448,918
	3,396,070	2,885,557	510,513
Health Institute – Audit Office			
Salaries and Wages	101,154	76,696	24,458
Goods and Services	97,480	90,023	7,457
Minor Capital	9,050	9,045	5
	207,684	175,764	31,920
Total Expenditure	37,541,399	34,405,027	3,136,372

Table Graph A1-1. Ministry of Health 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 represents the 40 largest suppliers in US Dollar terms for the FY 2010:

Vendor	Supply	YTD Actual	%
Commitment Only	Commitment Only	8,002,599	33.1%
SAMES	Medical supplies	2,918,200	12.1%
ENSUL ESPHERA ENGENH	Construction	1,676,640	6.9%
STAT GROUP	Other	1,391,131	5.8%
CAIMALELOQUI UNIPESS	Catering and cleaning	940,887	3.9%
OCEANO PTY LTD	Medical supplies	654,958	2.7%
MABESBOR	Catering and cleaning	625,249	2.6%
AITULA FUELS LTD	Fuel	580,158	2.4%
AITULA CONSTRUCTION	Construction	487,800	2.0%
ESPERANCA TIMOR OAN	Fuel	430,847	1.8%
ISTANA FARMACIA LDA	Medical supplies	373,134	1.5%
MERLION LIMITED	Other	357,908	1.5%
VISIO DEI I UNIPESSE	Catering and cleaning	350,860	1.5%
CRUZ & LI POR QUOTAS	Construction	315,000	1.3%
ASMAETETE UNIPESSEAL	Catering and cleaning	300,079	1.2%
SUN RISE GOLDEN CONS	Construction	233,512	1.0%
A1 SERVICES	Vehicles	230,149	1.0%
BOBOLAIT LDA / CARLI	Catering and cleaning	228,035	0.9%
NEBANA, CO.LTD	Construction	204,100	0.8%
DIRBAJUDI CO.LTD	Construction	201,195	0.8%
AUTO TIMOR LESTE	Vehicles	199,565	0.8%
GARDAMOR PROTECTIVE	Other	197,398	0.8%
MAUBERE SECURITY	Other	181,143	0.8%
ERAVIZUL SERVICES	Vehicles	174,236	0.7%
TERRA SANTA LDA	Construction	147,407	0.6%
STAR KING,UNIPESSEAL	Other	136,985	0.6%
AILORA ENTERPRISE,LD	Construction	123,000	0.5%
INNOVA STAR UNIPESSE	Office supplies	114,578	0.5%
JOIA CAMANASA CONST.	Construction	109,336	0.5%
UNICEF	Medical supplies	103,405	0.4%
EDTL OFFICIAL REVENU	Office supplies	101,648	0.4%
B&F CONSULTANT/AHMAD	Other	97,156	0.4%
EAST GAS CO.LDA	Fuel	90,080	0.4%
THREE HORSES I	Vehicles	82,838	0.3%
AMELIO DIAS QUINTAS	Other	81,924	0.3%
BELEZA LOROSAE	Construction	80,300	0.3%
TIMOR BLOCK BUILDING	Construction	75,141	0.3%
NOVENA BOOK STORE	Office supplies	71,405	0.3%
DRAGON SERVICES	Vehicles	71,210	0.3%
AVONG TAILOR	Medical supplies	68,634	0.3%

Table & Graph A2-1. List of the 40 largest suppliers to the Ministry of Health 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 Suppliers (including uncategorised “Commitment Only”):

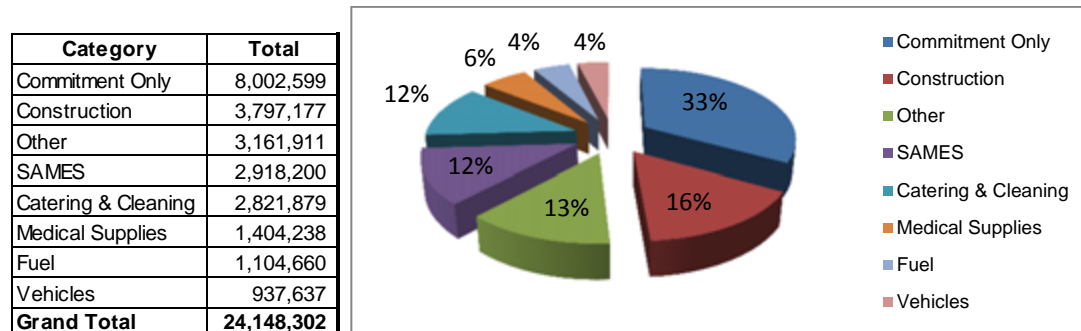


Table & Graph A2-2. List of suppliers to Ministry of Health in FY2010.

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

“Commitment Only” Supplies:

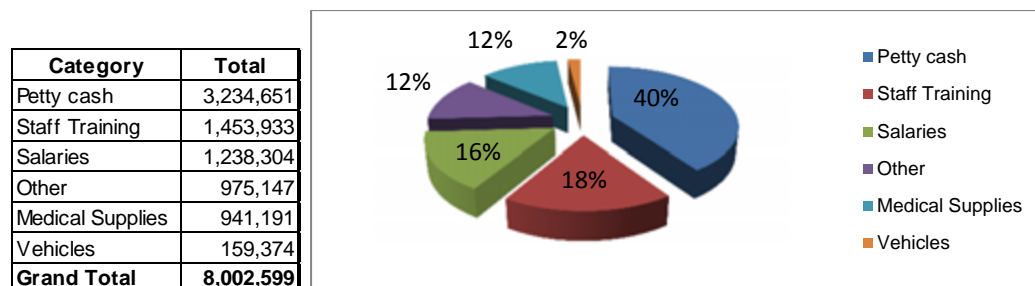


Table & Graph A2-3. Commitment only suppliers for FY2010.

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

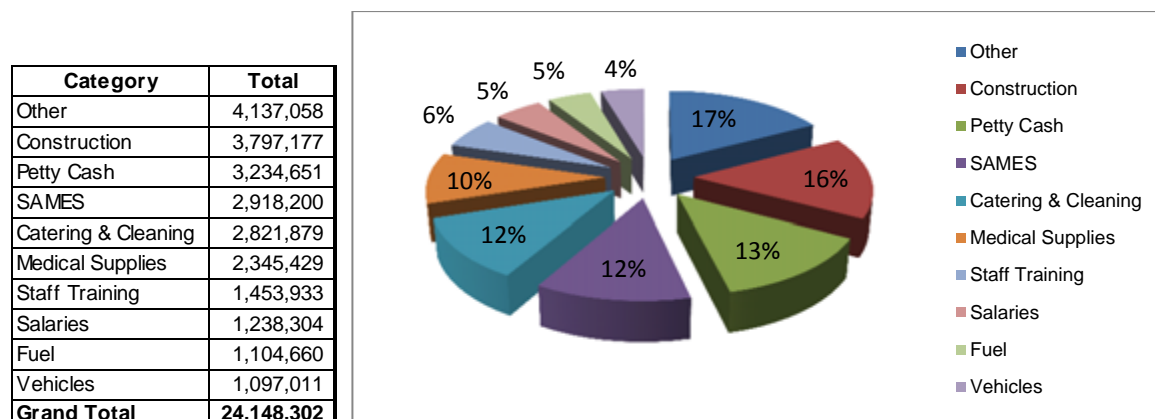


Table & Graph A2-4. Total payments to suppliers and others for FY2010.

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 .

Appendix 5: Contract Review

**STATEMENT OF COMPLIANCE
MINISTRY OF HEALTH
CONTRACT No. RDTL – MS-11-CAMS-460-C-0053**

With Visio Dei Unipessoal, LDA
For the Supply of Food Catering Services For Baucau Referral Hospital

Clause number	Nature of Issue	Explanation of Issue
Agreement	Missing & incorrect information	<p>The following issues were noted in the opening page of the Agreement. These were:</p> <ol style="list-style-type: none"> 1. One of the sentences states “Security Services” instead of “Catering Services”. 2. One of the counterparties in the Agreement was cited as the “Ministry of Health” but was cited as “Servicos de Aprovisionamento Ministerio Da Saude” in the “Special Conditions of Contract”.
Clause 1 - Interpretation		<p>The existing interpretation clause requires amendment. A more suitable clause would be the one below for example:</p> <p>INTERPRETATION</p> <ol style="list-style-type: none"> (1) In this Agreement terms used with initial capital letters have the meanings designated to them in the Dictionary (Note: when provided). (2) Unless the context otherwise requires: <ol style="list-style-type: none"> (a) Singular words include the plural and vice versa; (b) Words or phrases which are defined in government legislation have those defined meanings; (c) Subject to Clause xx, where any party to this Agreement consists of 2 or more persons or legal entities, they are bound both jointly and severally; (d) A reference to any party includes that party’s servants, agents, successors and permitted assigns; (e) Headings are used for reference purposes only and are not to be used to interpret any of the terms of this Agreement; (f) “US \$”, “USD”, “\$” or “dollars” is a reference to the lawful currency of

Clause number	Nature of Issue	Explanation of Issue
		the United States; and (3) There are no other documents, agreements, arrangements, representations or undertakings, express or implied, which are intended to form part of this Agreement.
Clause 2 – Documents	Missing Documentation	Annex 1 and 3 are not attached. It seems that Annex 3's information, "item description and price list" has been provided, but with no reference/heading as Annex 3.
Clause 3 – Supplier Warranty	Inadequate Information	There are no quality requirements stipulated in the contract – this clause may be unenforceable.
Clause 4 – Purchaser Warranty	Inadequate Information	The contract needs to detail under what circumstances ".such other sum..." may be payable by the purchaser or amend this clause accordingly.
Clause 5 – Purchaser Warranty	Incorrect Information	"upon" was spelt "up on"
Special Conditions of Contract - 1 (Related Services)	Incorrect Information	"APLICATBLE" should read "NOT APPLICABLE"
Special Conditions of Contract - 13.2 (Delays in Supplier's Performance)	Missing Information	General Conditions missing
Special Conditions of Contract - 17 (Resolution of Disputes)	Missing Information	General Conditions missing

Appendix 6: Process followed in order to obtain the FY 2009 documentation

The following process was followed in order to try and obtain the 2009 documentation:

- The documentation was requested from the appropriate ministry with sufficient lead time to allow the relevant agencies time to prepare. The request extended across all relevant documentation required for testing including the FY2009 documentation. However, no ministries could provide DTT with the 2009 documentation as the procurement were done centrally at Ministry of Finance (Central Procurement). This situation is considered reasonable as procurement was centrally controlled prior to 26 February 2010 and the promulgation of Decree Law 1/2010. However, what is problematic is that neither the relevant Ministry (nor the Ministry of Finance) could access the relevant documents in a timely fashion.
- DTT was directed to the National Procurement Commission (NPC) presumably as they represented a legacy component of the former Central Procurement. DTT specifically spoke to Mr. Aniceto do Rosario and Hermingardo 'Ardo' A Soares at the National Procurement Commission but they were unable to assist as the NPC was only established on 27 April 2011 and the NPC's charter is to assist in procurement over \$1 000 000 normally involving the procurement for the Infrastructure Fund.
- The representatives at NPC directed DTT to speak to Central Procurement Department in the Ministry of Finance. Specifically, DTT spoke with Luciano Henri Ques Andrade (Ms. Evangelina Gutierrez was not available) who made it clear that the mandate of the department was to provide procurement training and not procurement. DTT was directed to Corporate Services in the Ministry of Finance for further investigation.
- DTT then spoke to Ms. Santana (DG) at Corporate Services where it was made clear that they only procure for the Ministry of Finance and no central procurement was done at Corporate Services on behalf of any line ministries. It was then noted that the documents could be obtained from the former Head of Central procurement, Mr. Manuel Montiero.
- DTT then spoke to Mr. Manuel Montiero the current National Director of Autonomous Public Authority. He said that he could only provide us with documents for after June 2009. We requested all the relevant 2009 documents but only received a few document batches from him. These batches were found to be incomplete. .
- DTT did not go further in trying to get the 2009 documentation as Central procurement no longer exists and there was no concern or responsibility taken for whereabouts of this documentation. The outcome was DTT making the observation in this procurement report that documents for 2009 could not be provided by the ministry.

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