



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

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

July 2012

Review of Procurement in the Office of the President for the period
1 January 2009 to 30 June 2011

Contents

1. EXECUTIVE SUMMARY	3
1.1 BACKGROUND	3
1.2 SCOPE AND OBJECTIVES	3
1.3 APPROACH TO ENGAGEMENT	3
1.4 KEY FINDINGS AND RECOMMENDATIONS	4
1.5 FOLLOW UP ON RECOMMENDATIONS	7
1.6 ACKNOWLEDGEMENT	7
2. DETAILED FINDINGS AND OBSERVATIONS	8
2.1 PROCUREMENT PROCEDURES & INTERNAL CONTROLS	8
2.2 COMPLIANCE WITH DECREE LAW & BEST PRACTICE GUIDE PROCEDURES	13
2.3 OTHER COMPLIANCE ISSUES	16
2.4 ORGANIZATIONAL ARCHITECTURE	17
2.5 PEOPLE MANAGEMENT	18
APPENDIX 1: BUDGET & ACTUAL EXPENDITURE FOR FY 2010	20
APPENDIX 2: MAJOR SUPPLIERS	21
APPENDIX 3: EXPENDITURE THRESHOLDS UNDER DECREE LAW & BEST PRACTICE	23
APPENDIX 4: DIRECT AWARD PROCUREMENT CIRCUMSTANCES	24

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1. Executive Summary

1.1 Background

Historically the Ministry of Finance (MoF), through the agency of the National Procurement Directorate, 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 has been supported through further Decree Laws and the establishment of agencies to oversee specific areas of procurement. The MoF had previously 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 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 Office of the President.

1.2 Scope and Objectives

The Ministry of Finance requested that we:

- Examine procurement procedures and internal controls for the Office of the President
- Inspect the Office of the President'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 Office of the President 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:

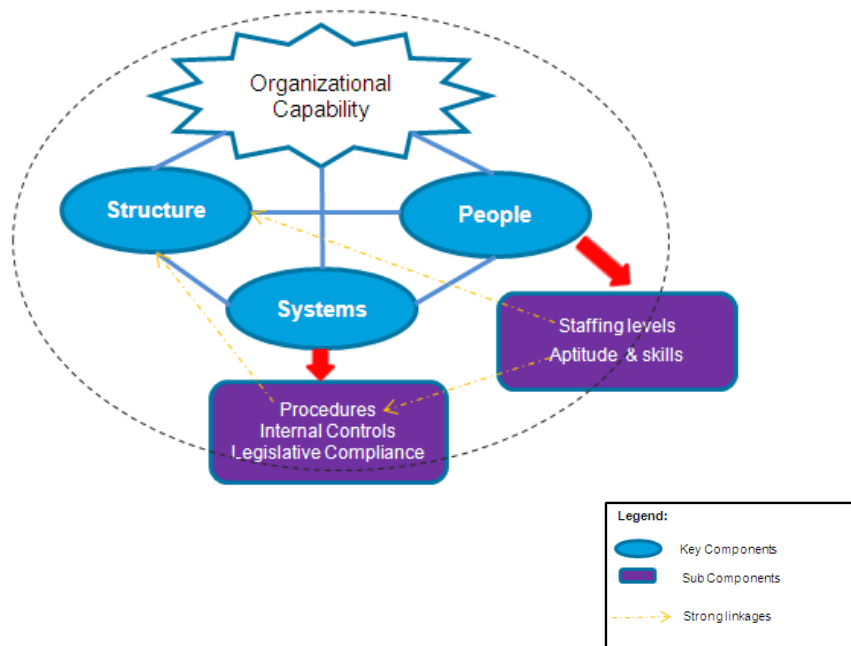


Figure 1. Organisational capability testing framework

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 Office of the President. 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 prepared with incorrect values
- Three quotations not obtained for purchases between \$5,000 and \$100,000
- Purchase orders were created after the invoice date
- Payment requests were not prepared for all purchases
- Purchase requisitions were not prepared for all procured items
- Invoices were missing
- Transactions were duplicated in the procurement transaction listing
- There were instances of 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
- Procurement Conduct Checklists were not used in the procurement process
- The controls in the operation for fuel vouchers post their issue are considered weak and susceptible to misappropriation and abuse.

Recommendation

It is recommended that the Procurement Department of the Office of the President 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 Office of the President.

1.4.1.2 Non Compliance with Decree Law

There were instances where the Procurement Department of the Office of the President did not comply with the Decree Law. These are as follows:

- There was no Supplier Registry prepared in accordance with Decree Law
- There is no evidence provided 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.
- There was no Procurement Plan prepared in accordance with Decree Law
- There was no formal process for managing procurement performance
- Contracts were directly awarded without sufficient justification

Recommendation

There are a number of steps that can be taken by the Procurement Department of the Office of the President 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 reduce the risk 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. Common criteria are based on the SMART criteria (specific, measurable, achievable, relevant and time-bound). The performance management system can be designed to ensure predictable goal achievement. They possess 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.

1.4.1.3 Other Compliance issues

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, it is recommended that each position have a position description created for it and these be appropriately designed to achieve the objectives of the department.

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 were sufficient staff to meet the demands of the Office of the President. It should be noted the procurement activity appears low due to the high volume of "Commitment Only" transactions being undertaken outside of the Procurement Department (refer to paragraph 2.1.3.3 for further discussions on this issue).

1.4.3.2 Aptitude & training

The level of experience of the Procurement staff appears to meet the required 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 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. Procurement staff complain that insufficient training programs are delivered by the MoF.
- Improving the training development apparatus 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 that the Procurement Department of the Office of the President has made against these recommendations.

1.6 Acknowledgement

We would like to take this opportunity to thank the management and staff of the Office of the President 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 with incorrect values

There were two instances identified from the testing sample where the value of the individual items on the purchase order did not agree to the total purchase order value. In both cases there were subsequent separate purchase orders provided that made up the shortfall but these were not signed by the appropriate authorities. Details of these purchase orders are provided below:

- Purchase order to Belo Associates for the cleaning of the presidential palace. The single item shown had a value of \$16,250 whilst the total value on the purchase order was \$113,750 (the contract value). There was a subsequent purchase order raised to include line items that were not included in the initial purchase order (value of \$113,750). This additional purchased order was not approved.
- Purchase order to Loysau Unipessoal for the construction of traditional gazebos. The single item on the purchase order had a cost of \$13,720 yet the total value shown was \$85,364 (the contract value). There was a subsequent purchase order raised to include line items that were not included in the initial purchase order (value of \$85,364). This additional purchased order was not approved.

The problem is that the goods receipt process lacks sufficient detail for the goods or services to be receipted against. There are two issues that may result from this oversight:

1. Suppliers may be paid for unapproved goods or services; or
2. Suppliers may not provide goods and services required and paid for in the contract.

Recommendation

Purchase orders should be raised to the level of the goods and services demanded and line items need to reconcile to the final purchase order value.

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 Guides and the Simplified Procedures. From the sample, the following transactions were found to have not met this criterion during examination:

Vendor	Amount (\$USD)	CPV #	Remarks
Ignata Unipessoal	\$26,324	10004967	Improvements to Varatcha (Traditional house)
Doonroy Pty Ltd	\$26,700	10002321	For Tour de Timor 2009
Trio Brothers Unipessoal	\$25,000	10005468	Boxes & folders for President's Office. This was explained (subsequent to its discovery) as an emergency purchase and a letter was sighted – it was not approved by the appropriate authority. The reason for the purchase does not satisfy the requirements for sole sourcing under the Decree Law. Note this selection was not tested as an emergency procurement sample.
Tanjung Motors	\$16,750	11001879	Supply of motor cables and panel controls – urgent purchase that met the criteria for emergency purchase under Decree Law but was not flagged as an emergency item in the Procurement Listing.
Belo Associates	\$66,000	11000886	Cleaning the Presidential Palace
Antika Tour & Travel	\$10,528	11000749	For airfares – not reason was provided for the purchase.
Mobiliario	\$51,975	93221	Supply of blinds & curtains
Eng Leong Medallion Industries	\$34,497	95736	Supply of medallions
Loysau Unipessoal	\$85,364	92302	Construction of a traditional gazebo

Table 1. Three quotes not obtained for purchases less than \$100K

The consequence of a lack of adherence to the requirement to obtain three quotes is that the Office of the President may fail to receive value for money in their procurement. This does not necessarily mean that they should 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 to be obtained. Through discussions with the Procurement Department, they believe the \$50,000 still applies and this needs correction. They have been informed of the current threshold and have undertaken to adhere to this in the future.

There were also issues of inadequate approvals and contravening Decree Law that have been identified previously and discussed.

Deloitte identified one instance of procedural non-compliance. This involved the procurement of cleaning services for the Presidential Palace. The Procurement Department identified a Timor Leste company and commenced contract negotiations with the company in violation of the procurement law. When we brought this to the attention of the department they immediately cancelled negotiations and commenced the tender process. This contract is scheduled to be put to tender in 2012.

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.

2.1.1.3 Purchase orders created after the invoice date

There were a number of cases noted where the purchase order was dated after the invoice indicating the purchase order was created after invoicing had occurred. These purchase orders are noted below:

Vendor	Amount (\$USD)	CPV #	PO Date	Invoice Date	Remarks
Mobiliario	\$51,975	93221	29-Jul-09	02-Jul-09	Supply of blinds & curtains
Eng Leong Medallic Industries	\$34,497	95376	09-Nov-09	19-Oct-09	Supply of Medallions
Milora Trading Unipessoal	\$39,000	10001215	12-Apr-10	19-Apr-10	Supply of computers & laptops
Doonroy Pty Ltd	\$26,700	10002321	14-Jun-10	12-Feb-10	For Tour de Timor
Trio Brothers Unipessoal	\$25,000	10005468	02-Dec-10	22-Oct-10	Supply of boxes & folders
Antika Tour & Travel	\$10,768	10004768	05-Nov-10	21-Oct-10	Airfares
Antika Tour & Travel	\$10,528	11000749	04-Apr-11	26-Mar-11	Airfares
Harvey World Travel	\$18,172	10003927	15-Sep-10	31-Aug-10	Airfares
Harvey World Travel	\$53,340	10004766	05-Nov-10	16-Sep-10	Airfares
Harvey World Travel	\$208,324	11002581	11-Jul-11	16-Jun-11	Airfares
Air Timor SA	\$74,936	10005479	02-Dec-10	22-Nov-10	Airfares
Air Timor SA	\$22,456	11000168	28-Feb-11	07-Feb-11	Airfares
Startec Enterprises	\$6,850	10005795	15-Dec-10	22-Jul-10	Supply of fencing and security light
Esperanca Timor Oan	\$18,750	10003214	05-Nov-10	10-Aug-10	Supply of fuel
Tanjung Motor	\$16,750	11001879	02-Jun-11	15-Mar-11	Supply of motor cables & panel controls

Table 2. Purchase orders created after the invoice

The purchase order process establishes the Office of the President's acceptance and authority to pay an invoice. Actions that circumvent this can result in payments that have not been approved by the Office of the President 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.

2.1.2 Payment remittance process**2.1.2.1 Payment requests not being prepared for all purchases**

There was one item procured without the requisite Payment Request. The payment involved the purchase of a Jeep Wrangler for \$45,000 from Auto Dili based on a letter signed by a Senior Government Official approving the payment.

The process for reconciling the purchase order to the invoice is undertaken by procurement staff who should then respond by issuing the Payment Request. In the case of the Jeep purchase this control was not followed resulting in the invoice being paid without a payment request.

Recommendation

The Procurement Staff in the Office of the President should be the personnel involved in procurement and should follow the appropriate purchasing procedures.

2.1.2.2 Purchase Requisitions not being prepared for all procured items

An examination of purchasing documentation revealed that a purchase requisition was not prepared for the purchase of vehicles and fuel to the value of \$26,000 from Doonroy Pty Ltd for the Tour de Timor in 2009.

When purchases are made without completing a purchase requisition (or purchase order) beforehand it can result in unauthorised purchases being made by the procurement department. This control is necessary to prevent unauthorised purchase and receipt of goods.

Recommendation

Purchase requisitions or purchase orders should be completed prior to purchasing. These documents are essential to providing the authority to purchase the goods and services and should be reconciled to goods receipts notes and invoices. After this matching process has occurred, the vendor can be paid amounts due on delivery. In many instances pre-payments are made prior to delivery, with balances payable on delivery.

2.1.2.3 Invoices Missing

The examination of documentation revealed one missing invoice for the payment of \$148,373 to Dili Flower Unipessoal for the landscaping of the Presidential Palace grounds. While the invoice was not available, the project proposal was sighted from the supplier listing the project value. This value agreed to the final payment amount.

The invoice is one of the critical documents in the procurement process. Payments made without an invoice create a significant risk of incorrect payment and scope for fraudulent activity through the creation of a fictitious supplier.

Recommendation

All purchases made should be supported by invoices from the supplier. This should be reconciled with the underlying purchase order to establish authority for accepting the claim and determining that the value of invoice is correct. This requires the support of other documentation such as evidence of goods received to ensure to the goods or services are provided.

2.1.3 Other purchasing issues

2.1.3.1 Duplications of transactions in the procurement transaction listing

The examination of 36 transactions revealed three instances as duplicates. These were as follows:

1. Anika Tour & Travel - \$10,768 for airfares
2. Harvey World Travel - \$53,340 for airfares
3. Startec Enterprises - \$6,850 for the erection of a security fence & installation of a security light at President's residence at Meti Aut, Dili.

The procurement transaction listing provided by the Procurement Department (this appears to be a standalone report compiled by the office) appears to have been incorrectly compiled. The FreeBalance Commitment - Obligation Report (actual payment/expense report) revealed no duplication of payments. Furthermore, the Commitment – Obligation Report agrees to the audited Financial Report for Consolidated Fund of Timor-Leste. The conclusion is that the error relates to the compilation of the Procurement Transaction Listing and not the payment process that relies on a Payment Request and actual invoice for remitting of a payment to a vendor. However, there may be issues with procurement listing that result in the incorrect reporting of actual expenditure related to the manual overstatement of expenditure through duplication. This could result in inter-Ministerial procurement reporting being misstated.

Recommendation

Reporting of expenditure should be sourced from the FreeBalance Accountability System. Should manual reporting be undertaken it is essential that report outcomes be reconciled with the system outcomes to ensure no errors in compilation have been made.

2.1.3.2 Missing supporting documentation

There was one case noted where the supporting documentation for a selected transaction could not be provided by the Procurement Department. The payment of \$18,000 for fuel to Aitula Fuels Ltd was performed by the National Procurement Directorate. The applicability to the current arrangement is limited (on an accountability basis) due to the change to a decentralised model where responsibility now rests with the Procurement Department of the Office of the President.

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.

2.1.3.3 Use of the Commitment Only purchasing mechanism

The use of the "Commitment Only" procurement approach is common in the procurement process for the Office of the President. 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 Transactions	Grouping			Grand Total
	Goods & Services	Minor Capital	Capital & Development	
Commitment Only	713	1	0	714
Standard Procurement	108	39	4	151
Grand Total	821	40	4	865

Table 3. 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 A2-2 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 (\$236,143 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 Office of the President’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.

2.1.3.4 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 Office of the President should use the Procurement Conduct Checklist in the development of all tenders.

2.1.3.5 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.

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 Office of the President 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 Office of the President 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 Office of the President 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.

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 Office of the President 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 Office of the President 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. Based on discussions with the MoF, there is an intention to remedy this situation through the development of a report “Establishing Performance and Compliance Indicators in Public Procurement in Timor-Leste” under the auspices of a World Bank IDF grant. Furthermore, Deloitte understands that the World Bank will provide comments and the MoF will then roll out the performance system to line ministries. The development of this approach 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 should be completed and included in the submission of the Annual Procurement Report in accordance with the Decree Law.

2.2.1.5 Direct Award without sufficient justification

There were a number of purchases observed in the examination that were undertaken using the Direct Award provisions of the Decree Law. The Article 92 of the Decree Law 10/2010 states that circumstances for using direct award (including Emergency Procurement) must be accompanied by mandatory documentation. However, there were a number of cases where no supporting documentation was provided to support using this provision. These are as follows:

Vendor	Amount (\$USD)	Date	Remarks
Antika Tour & Travel	\$10,768	10004768	Airfares
Harvey World Travel	\$18,172	10003927	Airfares
Harvey World Travel	\$53,340	10004766	Airfares
Air Timor SA	\$74,936	10005479	Airfares
Startec Enterprises	\$6,850	10005795	Erection of a security fence & installation of a security light at President's residence at Meti Aut, Dili.
Startec Enterprises	\$19,204	10005800	Supply of electrical equipment and a 21" Toshiba TV
Esperanca Timor Oan	\$18,750	10003214	Supply of fuel
Esperanca Timor Oan	\$14,250	10003270	Supply of fuel
Esperanca Timor Oan	\$10,200	10004551	Supply of fuel
Aitula Fuels	\$10,200	10004550	Supply of fuel
Aitula Fuels	\$18,750	10003210	Supply of fuel
Aitula Fuels	\$14,250	10003272	Supply of fuel
Harvey World Travel	\$208,234	11002581	For airfares – a letter was sighted that it was an urgent matter but justification does not satisfy the 10 emergency scenarios available in Decree Law 1/2010 Article 92.

Table 4. Direct award without sufficient justification

When direct award cases are processed without the required documentation, or when the justifications do not satisfy the requirements listed under Article 92 of Decree Law 10/2010, it can result in procurement procedures being circumvented under the guise of being urgent or special matters. The rationale for direct award contracts is provided at Appendix 4 to this document.

Recommendation

All direct award (including emergency cases) should be processed according to the Decree law and Best Practice Guides, with adequate documentation being maintained as proof of the urgency or special nature involved in procuring the item(s).

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 Office of the President 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 prepared by ourselves.

2.4 Organizational Architecture

2.4.1 Organizational structure

The organizational structure for the Procurement Department of the Office of the President is provided in the organizational chart that follows:

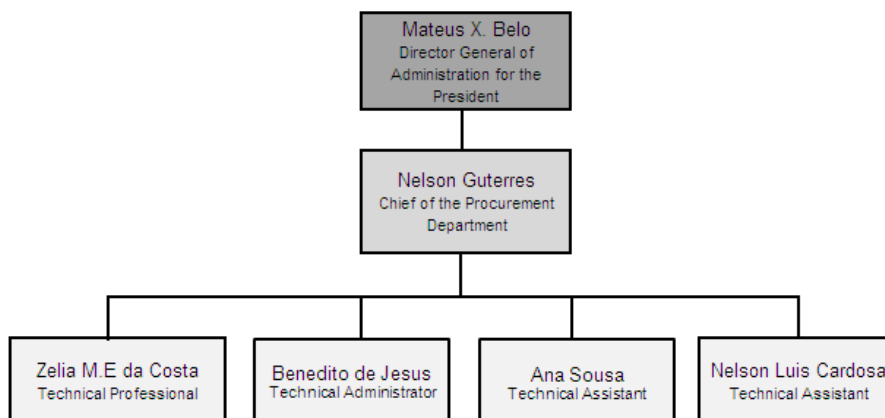


Figure 2. Organizational chart for the Procurement Department of the Office of the President

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 Office of the President. 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.

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 the Office of the President's Procurement Department indicates that there were 151 payments made to suppliers following the procurement processes stipulated in the Decree Law and Best Practice Guides (this excludes 714 commitment only payments processed by the Finance Officer) for the period. The details of this can be viewed in Table 4 attached to paragraph 2.1.3.3.

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.

There is potential for efficiency gains through the use of standardised documentation, the development of improved standard operating procedures and strict adherence to the Best Practice Guides.

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 Office of the President:

Name	Position	Qualifications *	Experience
Nelson Guterres	Chief Approver	Studied Economic Development	7 years GPR
Zelia Costa	Staff	Economic Management	1 year GPR
Bendito de Jesus	Staff	SMA **	5 years *
Ana R Sousa	Staff	SMA **	2 years GPR
Nelson Cordosa	Staff	SMA **	2 years GPR
Note: * GPR is the Office of the President ** SMA is Sekolah Menengah Atas (Senior Secondary School)			

Table 5. Office of the President 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.

2.5.2.2 Training

Discussions with the Procurement staff in the Office of the President indicate that the procurement team was able to attend one day of training at the Ministry of Finance, but no certificates or formal recognition was issued to show attendance at the training. Discussions indicate that this should have occurred. Furthermore, information from the Procurement Department indicates that for the training courses available (2 only), only the Chief Approver (Nelson Guterres) had attended both.

A review of the attendance records for the centrally provided 21 day procurement cycle training program during 2010 and 2011 indicate that no personnel from the Office of the President attended this program.

The Procurement Teams at the Ministry feel that they require additional Procurement Cycle training, and that the training is too short to cover all material in detail. Evidence provided would support the view that there appears to be difficulties in accessing training for personnel that require it.

Deloitte note there has been training in the operation of the FreeBalance Procurement and Contract Management modules. It appears this training was well received. However, it should be noted that this training was specific to the use of the FreeBalance modules and did not address the internal controls environment and Procurement Cycle training that has found to be lacking in the development of Procurement personnel.

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.

Recommendation

There is a need to provide more comprehensive Procurement Cycle training that supports the achievement of clear objectives. 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	
President of the Republic			
Salaries and Wages	457,000	457,000	-
Goods and Services	3,552,000	4,582,000	-1,030,000
Minor Capital	397,000	747,000	-350,000
Capital and Development	87,000	855,000	-768,000
Transfers	-	-	-
	4,493,000	6,641,000	-2,148,000
Directorates:			
President of the Republic			
Salaries and Wages	60,000	60,000	-
Goods and Services	1,628,000	2,658,000	-1,030,000
Minor Capital	-	414,075	-414,075
Capital and Development	87,000	855,000	-768,000
	1,775,000	3,987,075	-2,212,075
Administration			
Salaries and Wages	397,000	397,000	-
Goods and Services	1,105,000	1,105,000	-
Minor Capital	383,000	318,925	64,075
	1,885,000	1,820,925	64,075
General Counsel			
Goods and Services	609,000	609,000	-
	609,000	609,000	-
Post - CAVR Technical Secretariat			
Goods and Services	210,000	210,000	-
Minor Capital	14,000	14,000	-14,000
	224,000	224,000	-14,000
Total Expenditure	4,493,000	6,641,000	-2,148,000

Table Graph A1-1. President of the Republic 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 suppliers in US Dollar terms for the FY 2010:

Vendors	Supply	YTD Actual	%
Commitment Only	Commitment Only	3,200,215	54%
ENSUL ESPHERA ENGENH	Construction	632,367	11%
DILI AUTO SUPPLY,UNI	Vehicle	339,000	6%
BELO ASSOCIATES, UNI	Waste Collection	264,620	4%
ENG LEONG MEDALLIC I	Office Supplies	161,675	3%
DALAN CONSULTANT	Construction	135,000	2%
AUTO TIMOR LESTE	Vehicle	99,600	2%
HARVEY WORLD TRAVEL	Travel	94,566	2%
ESPERANCA TIMOR OAN	Fuel	89,050	2%
AITULA FUELS LTD	Fuel	88,050	1%
AIR TIMOR, SA	Travel	86,072	1%
SARAIRA UNIPESSOAL L	Construction	75,034	1%
GRASIA PRINTING, UNI	Office Supplies	74,210	1%
IGANATA UNIPESSOAL L	Construction	62,840	1%
MOBILIARIO PLANALTO	Office Supplies	60,916	1%
ANTIKA TOUR & TRAVEL	Travel	47,947	1%
VISIMITRA UNIPESSOAL	Information Technology	47,197	1%
MILORA TRADING UNIP.	Information Technology	39,000	1%
GRAFICA PATRIA	Office Supplies	35,995	1%
STARTEC ENTERPRISES	Office Supplies	33,206	1%
DOONROY PTY LTD	Office Supplies	26,700	0.5%
TRIO BROTHERS UNIPES	Office Supplies	25,000	0.4%
SAMUDRA PERKASA,UNIP	Office Supplies	17,300	0.3%
MR. BRAM STORE	Information Technology	12,200	0.2%
CSI COMPANY LDA	Information Technology	11,121	0.2%
ULUMAROY ELECTRONIC	Office Supplies	10,849	0.2%
AUTO VISION, UNIPESS	Vehicle	10,136	0.2%
SUPERINDO PTE.LTD	Office Supplies	9,565	0.2%
TIMOR MEGA TOURS / M	Travel	9,345	0.2%
MUTIARA, UNIPESSOAL,	Uniforms	8,850	0.2%
ARQUIRES COMPUTER SE	Information Technology	8,609	0.1%
VALSA PRODUCAO,UNIFE	Office Supplies	8,000	0.1%
MAIDALO I CONSULTANT	Construction	6,400	0.1%
AUTO TIMOR LESTE	Vehicle	6,253	0.1%
ALVES ELECTRICAL	Information Technology	5,837	0.1%
TELEFIU EAST TIMOR U	Information Technology	5,650	0.1%
HARD ROCK,LDA	Office Supplies	5,635	0.1%
IDA IMAGEM DESIGN AR	Office Supplies	4,800	0.1%
TOYOTA AUTO TIMOR LE	Vehicle	4,089	0.1%
TIMOR SUN MOTOR	Vehicle	4,000	0.1%
APM INFOTEC LDA	Information Technology	3,964	0.1%
JOSE H.O.C.MEIRELLES	Office Supplies	3,172	0.1%
DILI SPOT, UNIPESSOA	Office Supplies	3,000	0.1%
AVONG TAILOR	Office Supplies	2,430	0.04%
UD PALMA MTC	Vehicle	2,225	0.04%
ERAVIZUL SERVICES	Office Supplies	2,120	0.04%
OFICINA NAROMAN	Office Supplies	1,702	0.03%
DILI AUTO SERVICE	Vehicle	1,623	0.03%
S M S MOTOR	Vehicle	1,226	0.02%
BANIUAGA UNIPESSOAL	Office Supplies	775	0.01%
Grand Total		5,889,136	100%

Table & Graph A2-1. List of suppliers to President of the Republic 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”):

Supply	YTD Actual
Commitment Only	3,200,215
Construction	911,641
Fuel	177,100
Information Technology	133,578
Office Supplies	760,520
Travel	237,930
Vehicle	468,152
Grand Total	5,889,136

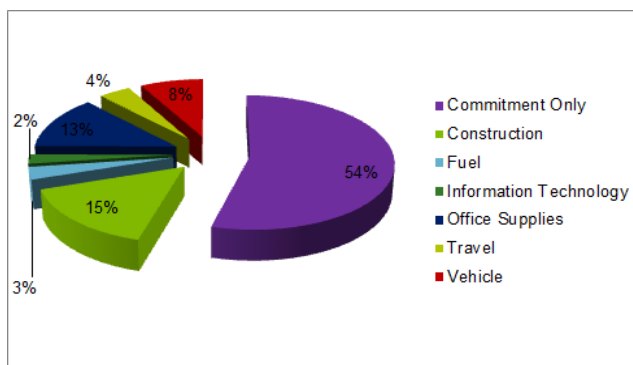


Table & Graph A2-2. List of suppliers to the Office of the President in FY2010.

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

“Commitment Only” Supplies:

Category	Total
Salaries	2,017,938
Office Supplies	703,179
Petty Cash	236,143
Airline Tickets	113,167
Vehicles	65,440
Information Technology	51,099
Construction	10,000
Fuel	3,250
Grand Total	3,200,215

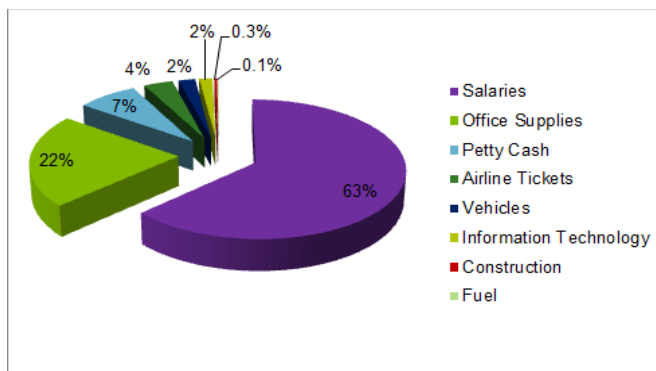


Table & Graph A2-3. Commitment only suppliers for FY2010.

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

Category	Total
Salaries	2,017,938
Office Supplies	1,463,699
Construction	921,641
Vehicle	468,152
Travel	237,930
Petty Cash	236,143
Information Technology	184,677
Fuel	180,350
Airline Tickets	113,167
Vehicles	65,440
Grand Total	5,889,136

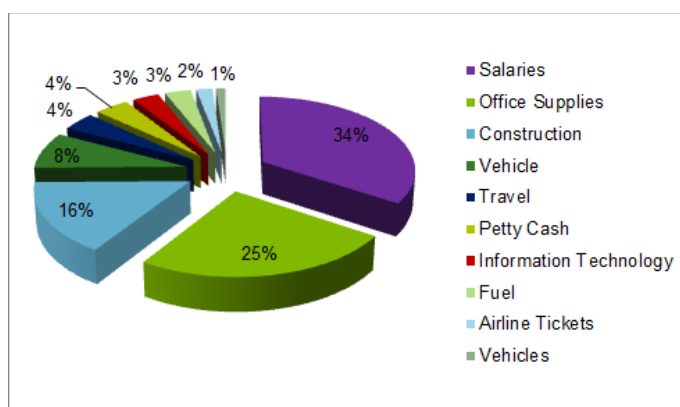


Table & Graph A2-4. Total payments to suppliers and others for FY2010.

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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