

# DEMOCRATIC REPUBLIC OF TIMOR-LESTE

## GOVERNMENT

Decree-Law n. 10 / 2005  
of the

### Procurement Legal Regime (PLR)

#### PREAMBLE

Procurement budget execution<sup>1</sup> by the Government of the Democratic Republic of Timor-Leste (RDTL), aiming to guarantee the Administration and other entities and public services needs satisfaction, requires the establishment of a specific legal regime that ensures good financial resources management.

The experience already gained in the goods procurement operations, in construction execution and in services delivery, recommends the adoption of clear and simple rules, tending to facilitate the organization of the procurement procedures, by defining an administrative and legal procedures base which permits a coherent development of these activities, following the existing international regulations on this matter.

In order to achieve transparency, economy and efficiency it is important to establish legal rules adequate to the Country's development needs, which permit harmonizing<sup>2</sup> good practices in procurement procedures, with an adequate control of these same activities.

In the same way, it is essential that the legal order related to the procurement shall be an incentive to goods production and to services delivery or to construction execution, which simultaneously guarantees competition and fosters the participation of national and<sup>3</sup> international enterprises.

Therefore,

The Government decrees, in the terms of the no.1, paragraph e) of the Article 115<sup>o</sup> and in the paragraphs a) and d) of the Article 116<sup>o</sup> of the Constitution of the Republic, to prevail as law, the following:

#### TITLE I PRINCIPLES AND GENERAL RULES

##### CHAPTER I Common Dispositions

##### Section I Generalities

##### Article 1. Objectives

The objective of the Procurement Legal Regime (PLR) is to establish the general rules for budget execution<sup>4</sup>, aiming at<sup>5</sup> the acquisition of goods and services or at the construction execution, intended toward<sup>6</sup> the needs satisfaction of direct or indirect entities of State administration.

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<sup>1</sup> Execution of procurement expenses = realisation of procurement expenditures = procurement budget execution ?

<sup>2</sup> to harmonize >>> harmonizing

<sup>3</sup> as >>> and

<sup>4</sup> expenses execution >>> budget execution

<sup>5</sup> to >>> at

<sup>6</sup> to >>> toward

## Article 2. Scope of Application

1. The scope of application of the present decree<sup>7</sup> covers the procurement procedures for the Public Service done using the General Government Budget or commitments from other financial resources, which belong to or are controlled by them<sup>8</sup>.
2. All goods and services acquisition activities as well as the construction for public purposes are subject to this procurement general legal regime as a basic rule<sup>9</sup>.
3. Without detriment of the application of the general principles of the present decree-law, the rules of their specific procurement legal regimes shall apply to the following entities:
  - a) related to the National Defense or to the National Security;
  - b) declared secret or the object of official secrecy;
  - c) subjected to special security measures, in the terms of the legislation in force in the RDTL or by international regulations;
  - d) related to the competencies of the Autonomous Drugs and Medical Equipment Service, EP;
  - e) any others that the Government decides to regulate separately.
4. In the execution of expenditure that covers simultaneously the acquisition of goods, construction execution, services delivery, accordingly to the present decree and one of those subject to one special regime, the prescribed<sup>10</sup> regime for the component of highest stated value applies<sup>11</sup>.
5. The diplomatic and consular representations, and permanent RDTL missions abroad, shall follow the principles of the present legal regime with necessary adaptations, to be established in a joint decree of the Ministry of Planning and Finance and of the Ministry of Foreign Affairs and Cooperation.

## Article 3. Definitions

1. For the effects of the present decree-law and of their complementary rules, the terms used have the following meanings:
  - a) **Announcement** : is the act of publishing through the press or social communication, by which the Public Service intends the participation of potentially interested parties<sup>12</sup> in providing goods, executing construction work or delivering services, in the procedures to be initiated;
  - b) **Procurement** : is the acquisition of goods, construction execution and services delivery intended for public purposes;
  - c) **Procurement of Goods or Supply** : is the purchase, leasing, including the rental of premises, financial leasing, with or without the purchase option and that may include accessory contracting and the related<sup>13</sup> installation<sup>14</sup> and maintenance work;
  - d) **Bidders** : are generically defined as all parties interested in supply of goods, construction execution or delivery of services which are the object of procurement procedures, after they demonstrate their interest to participate in the procedures;

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<sup>7</sup> for the context, "diploma" could be replaced by "decree", "charter" or "document"

<sup>8</sup> in their control >>> by them

<sup>9</sup> sentence clauses rearranged

<sup>10</sup> foreseen >>> foreseeable >>>> prescribed

<sup>11</sup> financial expression = stated value ?

<sup>12</sup> parts >>> parties

<sup>13</sup> respective >>> related

<sup>14</sup> set up >>> installation

- e) **Central Supply & Property**<sup>15</sup> : the service in charge to centrally acquire goods for current use and moreover<sup>16</sup> of a lot of public services, maintaining and supplying goods according to their respective needs;
  - f) **Invitation** : is the communication broadcasted directly by the public service to certain pre-qualified suppliers or participants in a limited competition by pre-qualifications, in a restricted competition or in a negotiation procedure, in order for them to present their bids;
  - g) **Supplier or Vendor** : the natural or legal person, as a potential contractual party, in a goods acquisition, construction execution or service delivery procedure, intended to the public needs satisfaction;
  - h) **Works (Construction)** : the action or the set of actions intended for **fixed assets works execution**, which are related to the repairs, maintenance or building of new facilities intended to guarantee the development of activities with public purposes. These may also include, any other professional activity of civil engineering and of other similar nature, as well as the project work and the supply of certain material resources required by their characteristics;
  - i) **Services Delivery** : the action or set of actions, by which a natural or legal person provides services to a public service or to a third party at their expense. These that may include the supply of certain accessory resources or materials required by the characteristics of the service to be delivered or to the construction execution directly related with the service;
  - j) **Public Service** : the awarding<sup>17</sup> or procuring entity: all Services and entities mentioned in the last article which have the power to participate directly on the procurement management and have the competence to initiate the acquisition of goods, construction execution or services delivery procedure, for itself or for third parties;
  - k) **Type of procurement procedure** : each of the variants to be used as methods for contracting goods, construction and services.
2. With a descriptive but not limited character and in order to facilitate the comprehension of the present decree-law, other terms definitions also used in the text of the present decree can be found in the Annex 1

## Section II Principles

### Article 4. Legal and Equality Principles

1. In designing and executing the procurement procedures, the Public Service observe the rules typified in the present decree, admitting only the exceptions foreseen in the law.
2. The access and participation conditions are equal to all interested parties and those criteria shall be well expressed in all procedures for procurement processes, any discrimination of the bidders being prohibited<sup>18</sup>.
3. In each procedure shall be guaranteed the consultation of the biggest possible number of interested parties and always the minimum number required by the law.

### Article 5. Principles of Public Interest, Impartiality and Confidentiality

1. In the preparation and during all the procedures, the Public Service shall look after the maximum collective need satisfaction, which are entrusted by the law and constitute their responsibility.
2. In the procurement procedures all interests shall be considered, as in<sup>19</sup> the tender and in other relevant documents, clauses liable to benefit or damage any of the parties cannot be included.<sup>20</sup>

<sup>15</sup> "Central de Fornecimentos do Patrominio" : Fornecimentos = supply, furnishing, storing; Patrimonio = something inherited >>> property/ assets/ possessions >>>> CENTRAL SUPPLY & PROPERTY

<sup>16</sup> "of the remaining" replaced by "and moreover" : ...for current use and moreover a lot of public services ?

<sup>17</sup> "adjudicatory" >>> "awarding" (ajudicacao = adjudication, award)

<sup>18</sup> interdicted >>> prohibited; phrases reversed

<sup>19</sup> sendo = as in, such as ?

<sup>20</sup> phrases rearranged

3. The Public Service, their employees and agents shall protect the confidentiality of documents and information handed over by the bidders.

**Article 6.  
Principles of Good Faith and Proportionality**

1. In executing the procurement procedures, the public and private entities shall act according to the requirements<sup>21</sup> of authenticity and truthfulness in communicating with each other.
2. The procedure to be adopted shall be chosen considering its degree of adequacy, its costs and the benefits for achieving the purposes.

**Article 7.  
Principles of Transparency and Publicity**

1. The criteria for award<sup>22</sup> shall be well defined ahead of the proceedings and the information will be guaranteed to the interested parties starting from the date of opening<sup>23</sup>.
2. The choice of proposals shall be always substantiated in writing.
3. The Public Service shall guarantee that the intention to contract is publicized, except in special regimes foreseen in this decree and other regulations applicable.
4. The present decree-law, its complementary rules, the decisions and general applicable administrative directives, related to the procurement procedures, as well as all their amendments<sup>24</sup>, shall be promptly provided to the public and updated in a systematic manner.

**Article 8.  
Principles of Stability and Security**

1. The relevant documents that constitute the basis to the procedure shall be maintained unchanged during all the process, until the end.
2. In the procedures wherein any negotiation is not foreseen, the bids presented by the bidders are unchangeable until the respective award<sup>25</sup>.
3. After the award, the parties can introduce, by mutual agreement, any adjustments of accessory or functional character as long as it is clearly observes the principle of public interest.
4. After receiving the bids, the Public Service can only withdraw<sup>26</sup> unilaterally in the cases foreseen in this decree.

**Article 9.  
Principle of Accountability**

The parties that come up in the procedure, entities, employees, contractors and economic agents can be held accountable, in a civil, financial or disciplinary manner, according to the law, by misconduct that violates the provisions of<sup>27</sup> the present decree, without detriment to the applicable<sup>28</sup> criminal penalties.

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<sup>21</sup> demands >>>> requirements, repositioned

<sup>22</sup> decision >>>>award

<sup>23</sup> opening or publication? In this context, opening means the start of the tendering process, not opening of tenders

<sup>24</sup> emends >>>> amendments

<sup>25</sup> decision >>> award

<sup>26</sup> give up = withdraw, pull out ?

<sup>27</sup> exposed in>>>>provisions of

<sup>28</sup> subject = applicable

**Article 10.**  
**Principle of Unity of the Expense**

1. The procurement amount to consider is the total cost for the acquisition of goods, the construction execution or the service delivery.
2. It is forbidden to split<sup>29</sup> the expense with the intention to subtract it in the foreseen regime, including splitting the total acquisition cost amount into several items, so that any of them doesn't reach the threshold<sup>30</sup> amounts established.
3. The competencies established to approve additional expenses sums by way of changes, price revisions and amendments to the original contracts, which are properly justified and done according to the opinion of the Ministry of Planning and Finance, can only be authorized exceptionally<sup>31</sup>, depending on the existence of budget allocations, up to 10% of the cost foreseen in the initial contract and until a limit of USD\$ 40,000<sup>32</sup> and the circumstances foreseen in this decree.
4. Exceeding the referred percentage or the limit in the last number (No 3), the competence is transferred to the entity that shall authorize the contract, accordingly to the actual total cost of the procurement operation.

**Article 11.**  
**Principle of Respect to the General Rules**

1. All the inherent acts to procurement shall observe the legal rules in force in the RDTL, they being of general character, these PLR<sup>33</sup> rules or other specific or complementary rules.
2. The present decree-law is applicable, as a basic rule, and with supreme<sup>34</sup> character, in the case of gaps in the decrees<sup>35</sup> mentioned in number 3 of article 2.

**Article 12.**  
**Principle of Accordance with International Regulations**

The present decree is not applicable when it contradicts with an international obligation contracted by the RDTL, as:

- a) a treaty or any other international agreement signed by the RDTL with one or more States;
- b) an Agreement signed between the RDTL and an international financial institution.

**Article 13.**  
**Retroactivity and Interpretation**

1. The present regulations are not applicable in retroactivity, without detriment to the legitimate expectations of the interested parties and as long as it doesn't result in damage to the State interests.
2. The substantive interpretation and the eventual gap filling in the regulations of the present charter are done by a Council of Ministers Resolution.
3. The provisions in the last number (No. 2) do not apply in the case of procedural interpretations which are not susceptible to affect the interests of the parties and the principles espoused<sup>36</sup> in this Section.

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<sup>29</sup> fraction >>>> split

<sup>30</sup> limit >>> threshold

<sup>31</sup> exceptionally = on a case by case basis

<sup>32</sup> words rearranged

<sup>33</sup> PLR = Procurement Legal Regime

<sup>34</sup> superlative >>>> supreme

<sup>35</sup> diplomas >>> decrees

<sup>36</sup> exposed >>>> espoused

**Article 14.  
Period Counting**

1. As general principle, the deadline shall provide enough time for the parties interested in the competition to prepare and submit the documentation and other information required, having in mind reasonable Public Service needs.
2. The time frame to present the bids is counted continuously.
3. The deadline suspension or prorogation shall be done accordingly to the rules established in the present decree.
4. In the case of the last day established as a deadline is a national holiday, the deadline moves to the following working day.

**CHAPTER II  
COMPETENCIES IN THE PROCUREMENT PROCESS**

**Section I  
Competencies of the Entities**

**Article 15.  
Entities competent to authorize the procurement process**

1. The following entities are competent<sup>37</sup> to authorize to initiate a procurement process:
  - a. the Prime Minister, in the contracts with a value equal to or greater than<sup>38</sup> USD\$ 1.000.000 (One Million United States Dollars);
  - b. the Minister of Planning and Finance;
  - c. the senior leadership of the organs of sovereignty, the Ministers and the Secretaries of State, accordingly to their respective Organic Laws;
  - d. the heads expressly nominated and authorized by the respective senior leadership of the organs of sovereignty and by the Ministers and Secretaries of State;
  - e. the senior leadership of the Autonomous Services, as the public entities and other organs endowed with administrative and financial autonomy;
  - f. the groups<sup>39</sup> with the participation of State capital greater than 50% (fifty percent) that although without<sup>40</sup> entrepreneurial nature, follow specific<sup>41</sup> public purposes;
  - g. all the organs and public services subjected to the State Budgetary discipline or mostly<sup>42</sup> financed by it.
2. The amounts to which extent<sup>43</sup> the entities are competent to initiate, approve and ratify the procurement operations, are established in the Annex 2 of the present charter.

**Article 16.  
Competencies of the Minister of Planning and Finance**

The Minister of Planning and Finance has the following powers in relation to the procurement procedures:

- a. to execute the procurement policy approved by the Government and to present proposals to the Government in relation to it;

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<sup>37</sup> competente = competent, sufficient, qualified, suitable

<sup>38</sup> superior to >>>>greater than

<sup>39</sup> collective persons >>> groups

<sup>40</sup> don't have any >>>> without

<sup>41</sup> distinguished >>> distinguished >>> specific

<sup>42</sup> in the majority >>> mostly

<sup>43</sup> extend>>>extent

- b. to present to the Government the proposals for procedures which guarantee the fulfillment of the general principles and the rational needs satisfaction of the State;
- c. to present to the Government reports on the fulfillment of procurement policies and to propose the adoption of necessary corrective measures;
- d. to provide ministerial decrees<sup>44</sup>, instructions and administrative acts, which are necessary to the implementation of the present decree-law;
- e. to analyze and decide the operations that are empowered<sup>45</sup> by the present decree-law and other Government' dispositions;
- f. to ask for consultation and summon whichever procurement processes, independently of which stage/ phase they fulfill, in order to guarantee its harmonization with the politics defined by the Government;<sup>46</sup>
- g. other competencies that shall be determined / assigned by the Government or the law.

**Article 17.  
Competencies of the Procurement Service**

1. The Procurement Service from the Ministry of Planning and Finance, hereinafter called the Procurement Service is the department responsible for the coordination of procurement procedures regulated in the present decree and which holds the following competencies:

- a. to advise the Minister of Planning and Finance on the global politics in terms of procurement;
- b. to participate in the activities related to Government policy<sup>47</sup> execution in relation to procurement;
- c. to organize, coordinate, control and manage the procurement operations accordingly to the provisions established in the present decree-law and other complementary rules;
- d. to recommend to the Minister of Planning and Finance the methodology parameters, procurement instructions and procedures manuals that shall be provided to the implementation of the present decree-law;
- e. to supervise the compliance of the procurement planning policy, the competition procedures, logistical administration and general supply;
- f. to perform examination<sup>48</sup>, purchase and management operations that are empowered according to the present decree-law;
- g. to maintain, for<sup>49</sup> 5 (five) years, the documentation related to the procurement operations;
- h. to promote reunions and periodical meetings with other Public Administration Services and the remaining services entrusted to conduct decentralized procurement, aiming to promote the compliance with the policies and rules in force in procurement matters;
- i. to ensure the specialized preparation of employees in areas dedicated to procurement;
- j. other competencies conferred by<sup>50</sup> the present decree-law and in the rules in force.

2. The Procurement Service is also in charge of the following tasks:

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<sup>44</sup> diplomas >>> decrees

<sup>45</sup> attributed by = affected/ determined by = empowered

<sup>46</sup> clarify application/ translation of this clause

<sup>47</sup> politics >>> policy ("politica" can mean either?)

<sup>48</sup> revisao = revision, examination, overhaul

<sup>49</sup> during>>>for

<sup>50</sup> attributed in >>> conferred by

- a. to manage procurement whenever it is within their competency, according to the provisions of the present decree-law and prior<sup>51</sup> written express delegation from the Minister of Planning and Finance;
- b. to propose the imposition of administrative measures against offenders of the present Legal Regime, according to the legal procedures established.

#### **Article 18.**

##### **Responsibilities of the Procurement Service**

1. The Procurement Service shall carry out the procurement operations requested by the Public Services referred in the article 15. , in the following cases:
  - a. when the procurement exceeds the limits approved for decentralized implementation;
  - b. when it is expressly requested by the senior leadership of these Services;
  - c. when it relates to the procurement of the administrative and financial territorial decentralized institutions of the State, without competencies for their own procurement.
  - d. for any other institutions, for which spending are done at the expense of the State General Budget or with other funds in their possession, except in the cases that have administrative and financial autonomy granted by the law.
2. For compliance purposes with the present decree-law and other/ most<sup>52</sup> complementary rules, the Procurement Service also has the following responsibilities:
  - a. to guide methodology of the procuring entities;
  - b. to advise the Public Services on the status of the financial resources execution accepted<sup>53</sup> for their centralized procurement operations;
  - c. to draw up and maintain updated records and accounts in order to reflect faithfully the economic actions carried out;
  - d. to prepare information and financial reports to reflect the operations, resources and expenses related with the procurement activity and to present them to the senior levels within the established deadlines;
  - e. to guarantee an adequate price-quality relationship of goods, construction and services which are the object of procurement;

#### **Article 19.**

##### **Decentralization in procurement**

1. The public entities mentioned in the article 15., in compliance with their respective budget allocation, have competence to carry out decentralized procurement operations up to the amount authorized by the law.
2. The entities referred in the last number (No.1) can request the centralized acquisition by the Procurement Service or by the competent institution, even if the operations don't exceed the referred total amount, which are related to construction, goods or services referred in the number 3 of the article 2.
3. The procurement procedures, for which amount doesn't exceed the limit for which the entities are competent, shall be initiated, chosen, approved and ratified by the entities competent in the terms of the law.

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<sup>51</sup> previous >>>> prior

<sup>52</sup> remaining = other??

<sup>53</sup> received = accepted

**Article 20.**  
**Responsibilities related to the decentralization**

1. The Public Services authorized to carry out decentralized procurement are obliged to comply with the rules established for these operations and have the following responsibilities:
  - a. to submit to the Procurement Service monthly activity summaries of their procurement, in the established deadline;
  - b. to submit to the Procurement Service the Annual Evaluation Report of the procurement operations carried out.
2. The Heads of the entities authorized to operate decentralized and accordingly simplified procedures, are responsible to run and control the development of these operations without detriment of those activities to be delegated on their behalf<sup>54</sup> according to the law.
3. In the cases considered necessary, the senior leadership of these entities can create a Procurement and Contracts Commission to advise them in the decision making at this level.
4. The entities authorized to make decentralized expenditures according to the simplified procedures are also subjected to fulfill the **provisions of** Article 18 number 2, paragraphs c), d), and e)

**Article 21.**  
**Delegation of Competencies**

1. The delegation of competencies in procurement matters is only allowed when is expressly authorized by the law.
2. The senior leaders of the entities mentioned in the paragraphs c), d), e) f) and g), of the article 15. that have subordinated services or institutions, can delegate the competence to carry out the procurement procedures in writing.
3. The Heads that received delegation of competencies cannot further delegate to others.
4. The entity that delegates it is not dismissed of responsibility of compliance with the law in each one of the procurement procedures that were done by the subordinated institutions or entities in which he/she has delegated.

**Article 22.**  
**Authorization of expenses for rental of premises**

1. The same entities competent to initiate and approve procurement operations are also competent to authorize expenses for renting premises for public purposes.
2. The annual rent amount of the leasing is taken into account to determine the institution competent to choose as well as to approve, ratify or sign the contract.
3. The expenses on renting of premises overseas also require the authorization of the Minister of Planning and Finance and of the Minister of Foreign Affairs and Cooperation.

**Article 23.**  
**Contracts Committee**

1. The procurement operations, when its amount or nature justifies shall be evaluated and approved also by the Contracts Committee, established according to the law.
2. Without detriment of the provisions of the present decree, the competencies of the Committee are defined in the decree law relative to Public Contracts.

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<sup>54</sup> no seu sbstituto = on their behalf ?? (not "substitute")

**Section II**  
**Procurement Records**

**Article 24.**  
**Archive**

1. With the purpose to control the basic information related to their activities, the entities authorized to carry out procurement operations and centrally the Procurement Service of the Ministry of Planning and Finance, shall draw up and maintain an archive, which must contain the minimum information:
  - a. the annual procurement plan;
  - b. the data related to the Procurement Announcements and Invitations;
  - c. the results of the proceedings, including the names of the firms and individuals awarded<sup>55</sup> contracts, as well as their amounts;
  - d. the information on measures applied to the bidders;
  - e. all the other information that can be required by the legal rules.
2. The rules relative to the operation records and the vendors and suppliers can be regulated by ministerial dispatch of the Minister of Planning and Finance.<sup>56</sup>

**Article 25.**  
**Vendors Registry**

1. The Vendors Registry is created with the purpose of controlling the information related to the vendors, is to be maintained with the appropriate confidentiality by the Procurement Service and shall contain the following:
  - a. Vendors List, separated by area of specialization;
  - b. the data relative to the vendors of goods and services that have participated in procurement operations, accordingly to the respective specific rules;
  - c. the information on measures<sup>57</sup> applied to each one of them.
2. The entities with decentralized competencies for effecting procurement, can request information from the Procurement Service of the Ministry of Planning and Finance in relation to the vendors, during the phases of pre-qualification or qualification assessment, in order to guarantee the certainty of the data indicated by those.
3. As requested by the interested parties, the Procurement Service can issue certificates of Vendors' Registration.

**CHAPTER III**  
**BIDDERS**

**Section I**  
**General Rules on Competition**

**Article 26.**  
**Declared qualifications**

1. The natural or legal persons competing for a procurement operation, shall demonstrate their qualifications, namely the compliance with the requisites established in the law and **the current operation itself**.<sup>58</sup>

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<sup>55</sup> attributed with = awarded

<sup>56</sup> should be item "f"?? By itself, to what does it relate ? "that" deleted – makes sense

<sup>57</sup> measures – could be data checks, sanctions or qualified use (use with qualifying conditions/reservations)

<sup>58</sup> verify translation/ intent

2. The assessment of qualifications criteria shall be based only on the essential and specific requisites referred in the law and in the pre-qualification and/or tender.

**Article 27.  
Essential requisites**

1. In order to participate in the procurement procedures, the bidders shall fulfill the following essential requisites:
  - a. possess an entrepreneurial capacity, worthy of trust, experience and sufficient reputation to provide guarantees of fulfilling the contract;
  - b. have a legal capacity to enter into the contract;
  - c. have fulfilled all legal requisites required in the RDTL to act in a procurement operation;
  - d. possess enough financial resources to perform the contract;
  - e. have at the disposal personnel with professional and technical qualifications required to fulfill the contract;
  - f. have fulfilled all its fiscal obligations and social security contributions, in the case of vendors<sup>59</sup> with headquarters in Timor-Leste;
  - g. do not present any of the disqualification causes foreseen in the present decree.
2. Without detriment of the bidders' right to protect their intellectual property or their business secrets, the Public Service can require the appropriate documentation or other information that may be considered useful to certify their qualifications.

**Article 28.  
Specific requisites**

1. The Public Service can establish any other specific requisites in relation to the qualifications to be fulfilled by the bidders, which shall be indicated in the pre-qualification documents, or in the bid documents or in the request for quotation.
2. In no<sup>60</sup> case can the Public Service establish discriminatory requirements for any of the bidders, or against categories or groups of them, based on the nationality or other aspects that are not objectively justified.

**Article 29.  
Causes for disqualification or impediments**

1. The bidders that fall into the following categories<sup>61</sup> are considered disqualified and excluded from the procurement proceedings:
  - a. are insolvent or declared bankrupt;
  - b. are in a situation or process of ceasing activity, trustee, and bankrupt or in liquidation;
  - c. their business is being administered by a court of by a judicial agent;
  - d. their business activities<sup>62</sup> have been suspended by judicial decision;
  - e. have fiscal, social contribution debts or debts of any nature with the State;
  - f. their directors or administrators have been convicted by judicial sentence in the process of being judged, for any criminal offense related to their professional conduct or with the delivery of false statements or wrongful

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<sup>59</sup> for this context, "adjudicators" = "awardees" = vendors ??

<sup>60</sup> obvious error ?? "nenhum"=" no", not "any"

<sup>61</sup> clauses interchanged

<sup>62</sup> phrases rearranged; "empresariaras" = organising/ fixing/ financing = entrepreneurial = business

information in relation to their qualifications, for entering into a contract with any RDTL public institution within the previous five years;

- g. have been disqualified by any other cause in result of administrative suspension or licensing procedures;
  - h. the bidders or their representatives are found to be in an incompatible situation, in the terms of the present charter
  - i. have submitted more than one bid in the same tender.
2. The foregoing<sup>63</sup> to disqualification causes and impediments are informed to the bidders in the pre-qualification documents or in the bid documents.
3. At any time In verified cases, the Public Service shall disqualify the bidder where the information provided in relation to their qualifications are false, contain errors or (have) essential omissions<sup>64</sup>.

#### **Article 30. Evidence of requisites**

1. The Public Service can require the bidders to provide appropriate documentation or other information that may be considered useful to ascertain their qualifications.
2. The requirement can include the notary certification or the official confirmation of any document relative to the supplier qualification in the procurement procedures.

### **CHAPTER IV INCOMPATIBILITIES**

#### **Section I The Incompatibilities relative to the Participants**

#### **Article 31. Incompatibilities of the Employees and Civil Service Agents**

Accordingly to the exclusivity regime established by the law, in relation to the civil servants and Civil Service Agents, it is incompatible the exercise of any act of bidders' representation in procurement procedures, except in the case that they participate as official representatives of the public entity, to which they provide services.

#### **Article 32. Conflict of Interests**

1. The civil servants and Civil Service Agents shall observe, in relation to their participation in the procurement operations, the rules on conflict of interest established by the Civil Service Statute.
2. The Civil Service, in their intervention on the procurement procedures, cannot be represented or in any way advised by the following persons:
  - a. family members to the second degree in blood relation, spouses or those maintaining business relations with one of the bidders;
  - b. those within the last three years, counting from the date of the tender opening, who have been partners with any of the bidders.
3. The Public Service cannot adjudicate a contract to family members until the second degree of blood or associates of consultants which intervened at any stage in the proceeding.

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<sup>63</sup> previous >>>> foregoing (paragraphs 1(a) to 1 (i)

<sup>64</sup> which omit essential features / information

**Article 33.**  
**Incompatibility of bidders**

Without detriment of the bidders' right to request from the Public Service the necessary clarifications and audiences, it shall be incompatible the direct exercise, or by representatives, of any activity with the purpose to influence the institutions responsible for pre-qualifications or qualifications assessment or to adjudicate the contract.

**Section II**  
**General Rules on Incompatibilities**

**Article 34.**  
**Relationship of the bidders with the Public Service**

1. Except in the cases foreseen in the law, no negotiations<sup>65</sup> shall take place between the Public Service and one bidder in relation to a bid submitted, before the contract adjudication.
2. Clarifications<sup>66</sup> can only be requested in relation to drawings, conceptual orientation or technical specifications, technical characteristics of quality requested in a pre bid conference or by writing, but in no case are clarifications allowed relative to prices and conditions of payment.<sup>67</sup>

**Article 35.**  
**Effects of the Incompatibilities**

1. At any time or phase in the procedure that the authorities responsible for the procurement control detect a conduct which is incompatible or has conflicts of interest, such responsible authorities shall be requested to make a declaration of invalidity of the acts relative to the procurement in progress<sup>68</sup>
2. In the case of civil servants or Civil Service agents, the authority that detected the incompatibility shall request the bidders to enter into a corresponding<sup>69</sup> inquiry and disciplinary process, according to existing provisions in the legislation in force.

**TITLE II**  
**PROCUREMENT PROCEDURES**

**CHAPTER I**  
**TYPES OF PROCEDURES**

**Section I.**  
**Types of Procedures**

**Article 36.**  
**Pre-qualification procedures**

The pre-qualification procedure is the one that can be summoned by the Public Service ahead of conducting the procurement process, aiming to identify and select through a preliminary analysis, the bidders which are fulfilling the requisites previously established in the pre-qualification documents.

**Article 37.**  
**Admitted procurement procedures**

In the terms and conditions exposed in the present charter, the procurement procedures can be of the following types:

- a. Public Tender, required as compulsory in the procedures with a value greater than USD\$ 50,000 (fifty thousand United States Dollars), in which any interested person can present a bid, as long as they **meet**<sup>70</sup> the requisites required in the tender documents;

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<sup>65</sup> words interchanged

<sup>66</sup> position changed

<sup>67</sup> why no clarifications on conditions of payment ??

<sup>68</sup> phrases rearranged

<sup>69</sup> correspondent = communication between parties/ a two way process; corresponding = related/ resulting?

<sup>70</sup> reunite>>>>meet

- b. Limited Tender by Pre-qualification, only the bids from those selected in the pre-qualification procedure are admitted;
- c. Restricted Tender, in which only those invited can present bids;
- d. by Negotiation or Two Stage Tendering;
- e. by Request for Quotations;
- b. by direct appointment<sup>71</sup>;
- c. by simplified procedure.

## Section II Tenders

### Article 38. National Public Tender

1. The national public tender is the one employed by the Public Service with the objective to promote participation, as preferred bidders, the individuals<sup>72</sup> or firms constituted in Timor-Leste, which possess at least fifty one percent by Timorese citizens.
2. In the case of procurement of goods, construction or services, with an equal or lesser value to USD\$ 100,000 (one hundred thousand United States Dollars) the tender shall be compulsorily national;<sup>73</sup>
3. In the national tender and all subsequent procedures, the current legal currency of the RDTL as well as the official languages shall be used<sup>74</sup>.

### Article 39. International Public Tender

1. The international public tender is employed with the objective to promote the participation of bidders from all countries.
2. The international public tender is compulsory in the following cases:
  - a. the public works construction, which value is estimated to exceed USD\$1,000,000 (one million United States Dollars);
  - b. the contracts for the purchase of goods or relative to technical services<sup>75</sup>, which value is estimated to exceed the USD\$250,000 (two hundred and fifty thousand United States Dollars);
  - c. the consultancy services contracts, which value is estimated to exceed the USD\$200,000 (two hundred thousand United States Dollars).
  - d. following the announcement of a pre-qualification procedure period without at least three bidders having been pre-qualified.
3. After the end of the period announced for a National Tender, without any bidders applying, pre-qualifying or qualifying and after fulfilling all formalities in force, the Public Service has the power to initiate an International Tender, **without detriment to choosing other better procedures**<sup>76</sup>.
4. In the international public tender can also be presented the persons referred in the last article (~~#38~~), subject to the equality of conditions and fulfilling the requisites established for the procedure in progress.<sup>77</sup>

<sup>71</sup> ajuste = agreement, arrangement = appointment (for the context)

<sup>72</sup> singular persons >>>> individuals

<sup>73</sup> Article 38/ clause 2 is poorly phrased ? Definition in clause 1 using "preferred" contradicts use of compulsory/obligatory in clause 2 ??

<sup>74</sup> phrases rearranged

<sup>75</sup> technical services = non-consulting services ??

<sup>76</sup> verify translation

5. In this public tender, the current legal currency in the RDTL is used.
6. In the international public tender the English Language shall be used<sup>78</sup>, without prejudicing the translations that shall be done in Portuguese or Tetum.

**Article 40.  
Limited Tender by Prequalification**

1. The limited tender by pre-qualification can be initiated when the technical complexity or the high amounts involved advise for a prior assessment of the financial, commercial and technical capacities of the bidders.
2. In this tender the invitation for the bids presentation is addressed to the bidders already admitted in the pre-qualification procedure.

**Article 41.  
Restricted Tender**

1. The restricted tender is the one directed to all registered suppliers that possess predetermined qualifications and characteristics already known to the Public Service which initiates the procedure.
2. The restricted tender can also be directed to all registered suppliers, which comprise <sup>79</sup> a determined geographical area or are dedicated to a specific commercial activity, or which fulfill the specific requisites required by the type of procurement in mind.
3. A restricted tender can be employed, when the time and costs necessary to examine and assess a large number of bids are disproportionate to the small amount of construction, goods or services to be procured.
4. After the invitation and in all proceedings, the Restricted Tender follows the same rules of the Limited Tender by pre-qualification.

**Article 42.  
Procedure by Negotiation**

1. The procedure by negotiation takes place in two stages and is used exceptionally, in the case of supply of goods, complex construction work or services with special characteristics, in the following situations:
  - a. when it is not possible in advance to determine by the Public Service the technical and contract specifications, due to the high level of specialization required to determine exactly the goods, construction work and services specific requisites or their inherent contingencies;
  - b. when the Public Service needs to consider more than one bid or technical option in order to be able to decide which one better correspond to their needs,
2. This procedure shall be done in two stages:
  - a. in the first, the Public service invites the bidders through a public announcement or through an invitation addressed to at least three bidders, in order to present their plans, drawings and technical studies, without prices in order for the Public Service itself to be able to design the specific procurement requisites.
  - b. in the second stage, the Public Service issues an invitation to present final technical bids, including prices, following the same rules of the Restricted Tender.

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<sup>77</sup> *those eligible for national tender may also participate in international tender subject to equality & qualification*

<sup>78</sup> "shall be used" repositioned

<sup>79</sup> compromised >>>> comprised

**Article 43.**  
**Procedure by Request for Quotations**

1. The procurement procedure by request for quotations is the one addressed to at least three suppliers already known to the Public Service and can be used always when the value of the contract is less than USD\$50, 000 (fifty thousand United States Dollars) for goods, construction or services of minor complexity, which does not require technical specifications in advance.<sup>80</sup>
2. In this procedure, the choice of the contract adjudication/ award is the responsibility of the Public Service itself without tender procedures.

**Article 44.**  
**Procurement by Direct Appointment**

1. The procurement procedure by Direct Appointment is an exceptional procedure, by which the Public Service can direct to one or to determined suppliers to satisfy the specific procurement needs and pre-existence of special circumstances in the terms espoused in the articles 92 to 94.
2. In this procedure the choice for the contract recipient rests with the Public Service itself without developing a tender

**Article 45.**  
**Simplified procedure**

1. In the present charter, the current expenses which do not imply a tender or a new contract or amendment of existing contracts, namely those for the acquisition of consumables, water supply, communications or electricity and in general all other periodical and previously registered budget items are considered, without detriment to their adequacy and subject to the established government policy, simplified procedures
2. For the fulfillment of the last number, the scope of the simplified procedure can be changed by ministerial dispatch of the Minister of Planning and Finance.

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**Section III**  
**Choice of Procedures**

**Article 46.**  
**Competence to choose the type of procedures**

The initial<sup>81</sup> choice of the type of procedures has to be well founded and it belongs to the competent entity to initiate the procedure, except when the authorization of a hierarchically superior entity is compulsory, in the terms of the present decree.

**Article 47.**  
**Criteria of Choice**

1. The choice of the procedure shall be determined having taken into account the value and accordingly the rules established in the present decree.
2. The procedures chosen shall be the most adequate for the procurement needs satisfaction, in the terms of the present decree.
3. Whenever possible, preference will be given to the public tender procedure.

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<sup>80</sup> note well the qualification >>>meaning goods of simple description/ off the shelf

<sup>81</sup> previa = previous, prior, preliminary >>>>initial??

CHAPTER II  
PROCESSING THE PREQUALIFICATION PROCEDURES

Section I  
Prequalification procedures

Article 48.  
From the beginning

1. The prequalification procedure is initiated with the publication of a prequalification announcement, inviting the possible interested parties to participate.
2. Except by legal imperative, the authority competent to initiate the public tender is also empowered to decide on the conduct, or not, of a pre-qualification procedure.
3. With the appropriate adaptations, the pre-qualification procedure follows the common tender process rules, including the participation of the institutions responsible for opening the sealed envelopes and the evaluation of bidders.

Article 49.  
Compulsory Prequalification

The pre-qualification procedure shall be compulsory in the following cases:

- a. the procurement operations relating to specifically conceived<sup>82</sup> equipment, industrial facilities, specialized services, turnkey contracts, design and construction or management contracts.
- b. in construction for which value is superior to USD\$ 250,000 ( two hundred and fifty thousand United States Dollars ).<sup>83</sup>
- c. in the cases foreseen in the law.

Article 50.  
Requisites of Prequalification Announcements

1. The entire prequalification announcement shall contain the minimum information in detail on the Annex 3 of the present charter.
2. In the pre-qualification announcements it shouldn't be requested nor received the following information from the bidders:
  - a. bidding price;
  - b. design specifications;
  - c. descriptive models of technical characteristics;
  - d. quality standards;
  - e. methods of quality analysis;
  - f. packaging;
  - g. trade marks or any other signs and symbols;
  - h. any other that may obstruct the equal conditions of bidder participation.
3. The prequalification announcement publication observes the same rules to applying the tender which it precedes.

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<sup>82</sup> "specifically conceived" = custom designed/ tailor made/ bespoke

<sup>83</sup> note well this requirement – it further complicates works procurement procedures & if applied to the letter will mean that all internationally tendered construction must employ prequalification of contractors

**Article 51.**  
**Prequalification Documents**

1. In the prequalification procedure, the pre-qualification documents shall be provided to each bidder, so that they present the necessary data for decision.
2. The prequalification documents shall include, as a minimum, the information established in the Annex 4 of the present Decree Law.
3. The pre-qualified bidders shall maintain the fulfillment of the prequalification requisites and provide them in the ways and opportunities requested by the Public Service.
4. The price of the prequalification documents shall reflect only the cost of their printing and its distribution to the bidders.

**Article 52.**  
**Amendments to the Prequalification Announcements**

1. Until the third day before the deadline for the presentation of the prequalification documents and if there are exceptional reasons to justify it, the Public Service can make amendments to these documents, which shall be published in the same terms and conditions as the prequalification announcement.
2. If it is necessary, the entity itself declares the procedure suspended and grants a prorogation period to the presentation of the prequalification documents.

**Article 53.**  
**Information on the Prequalification documents**

1. The bidders have the right to request to the Public Service by writing, information on the pre-qualification documents, in the period established in the prequalification documents.
2. After having received the request in the terms of the previous number (53/1), the Public Service shall reply in the shortest possible period.
3. The reply to any request that may be of the interest of all bidders, shall be communicated to all of those who have received prequalification documents by the Public Service, without the source of the request being identified.

**Article 54.**  
**Additional evidence of requisites for the Prequalification**

1. The jury<sup>84</sup> can exceptionally request the bidders that have been pre-qualified to demonstrate, once again, their qualifications according to the same criteria used in the prequalification, setting a deadline for this evidence to be made.
2. In this case, the deadline established for the end of the prequalification procedure shall be prorogated, which shall be communicated to all bidders.
3. The bidder failing to demonstrate again their qualifications when requested shall be disqualified.
4. In the case of the last number (54/3), the jury is obliged to promptly notify each bidder who have been requested to give a new demonstration of their qualifications, to do it in a satisfactory way.

**Article 55.**  
**Validity of the Prequalification requisites**

The prequalified bidders, shall maintain the fulfillment of the pre-qualification requisites and make them available in the ways and opportunities that have been requested by the Public Service.

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<sup>84</sup> jury = evaluation committee/ team

CHAPTER III  
PROCESS OF PROCUREMENT PROCEDURES BY TENDER

Section I  
Common Rules of Process

Article 56.  
**Stages in Tender Procedures**

1. The procurement procedures by Tender have the following common phases:
  - a. opening and publication;
  - b. **pre-bid**<sup>85</sup> conference
  - c. **receiving** of bids;
  - d. Public act of opening the bid's sealed **envelope**<sup>86</sup> by the **committee**<sup>87</sup> in charge;
  - e. exclusion or admission of bidders, by the committee;
  - f. assessment, choice and classification of bidders by the committee;
  - g. publication of intention to award<sup>88</sup> the contract;
  - h. period for bidders complaints<sup>89</sup>;
  - i. contract signature.
2. Independently to the common stages established in the last number (56/1), each tender follows the specific rules for their process, established in the law and in the tender documents.

Section II  
Opening and Publication

Article 57.  
**Public Tender Opening**

1. The tender opening<sup>90</sup> is the procedural stage in which the Public Service makes an announcement to the potential suppliers, aiming at their participation in the procurement operation.
2. The announcements shall include, at least, the elements contained in the Annex 5.

Article 58.  
**Tender program**

Through the tender Program, the Public Service sets up the dates in which takes place every stage of the procurement procedure, from the tender opening to the signature of the contract.

Article 59.  
**Announcement for Bids Presentation ( Invitation for Bid Submission)**

1. The announcement for bids presentation consists in calling the potential interested parties to present their bids, in order to be assessed.
2. In the announcement for bids presentation shall be indicated the factors to take into consideration in the assessment<sup>91</sup> and whenever possible, the manner of quantification<sup>92</sup>.

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<sup>85</sup> previous>>>>prebid

<sup>86</sup> cover = envelope

<sup>87</sup> commissao = commission, committee

<sup>88</sup> adjudicate >>>>award

<sup>89</sup> *this bidders' complaints period is presently not observed/ not encouraged ??*

<sup>90</sup> the word "opening" should be replaced by "commencement", "publication" or "announcement"

<sup>91</sup> assessment = assessment/evaluation criteria

3. In the limited tender by prequalification, in the restricted tender and in the procedure by negotiation, the announcement is replaced<sup>93</sup> by a direct invitation to the suppliers pre-selected, which may or may not be published according to the decision of the Public Service that initiates the process.
4. The entity that is competent to initiate the process shall sign the announcement or invitation.

#### **Article 60.**

##### **Invitation to tender proceeding Prequalification and for the Restricted Tender**

1. In the limited tender by prequalification, the Public Service invites the bidders that were already prequalified.
2. This invitation shall accompany of the Tender Documents, in the terms established in the present decree and the specific complementary rules for this tender.
3. The committee in charge of assessing the prequalifications is also responsible for assessing the bids.
4. Besides the documents established, it can be required from the pre-qualified bidders the presentation of a honor statement relative to continuing to fulfill or not those requisites and an update of the information initially required in the pre-qualification documents.
5. In the case of a contract with a value more than USD\$100,000 (one hundred thousand United States Dollars), the pre-qualified bidders shall include also a sworn<sup>94</sup> statement on the following aspects:
  - a) access to lines of credit<sup>95</sup> and availability of other financial resources;
  - b) work schedule and contracts obtained after the pre-qualification notification;
  - c) legal disputes in progress in which the bidder is involved;
  - d) equipment and personnel availability to fulfill the contract, in the case of award<sup>96</sup>.
6. In the Restricted Tender, the invitation is directed only to the suppliers previously selected<sup>97</sup> by the Public Service.

#### **Article 61.**

##### **Publication of Announcements**

1. To guarantee the information to the interested parties, the publication of announcements is compulsory in the following procurement procedures:
  - a. National Public Tender
  - b. International Public Tender
  - c. Pre-qualification procedures.
2. The publication of announcements is subject to the following rules:
  - a. all announcements referred in number 1 shall be published in the press;
  - b. the announcement for national public tender shall be published in at least one nation-wide distribution newspaper, in Portuguese or Tetum;
  - c. the announcement for an international public tender shall be published at least in two international distribution newspapers of recognized prestige, in English and other foreign language used in international business as well as in one nation-wide distribution newspaper, in Portuguese or Tetum;

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<sup>92</sup> quantification = scoring

<sup>93</sup> substituted>>>replaced

<sup>94</sup> honor >>>> sworn

<sup>95</sup> delete comma "lines of credit availability" ? or lines of credit and availability of other financial resources

<sup>96</sup> adjudication>>>award

<sup>97</sup> words rearranged

- d. The announcements are sent simultaneously to all means of communication, in which is intended the publication.
3. Without detriment of the obligation of publishing in the newspapers, the announcements can be published also in other means of communication and information, in conformity with the rules and procedures established for electronic business.
4. In the remaining processes of procurement procedures required to be published, the rules of this article apply with the appropriate adaptations.

#### **Article 62. Tender Documents**

1. Depending on the program established and during the period defined in the announcement, the Public Service shall provide a set of documents to each bidder.
2. The minimal requisites of the Tender Documents are described in the Annex 6 of the present decree.
3. The price of these documents shall reflect only the cost of its printing and their distribution to the bidders.

#### **Article 63. Pre Bid Conference**

1. As established in the Tender Documents, the Public Service shall conduct in the date, time and place set up a Pre Bid Conference in order to clarify all the details relative to the procedure in progress.
2. The Pre Bid Conference has a public character.
3. In the Pre Bid Conference not entailing the verbal instructions, the content of the bidding document can be changed.<sup>98</sup>
4. When as the result of the Conference it is necessary to amend or change any terms of the tender, this decision shall be done after by the Public Service and sent out in writing to all bidders.
5. When necessary, the Pre Bid conference can include a visit to the place where goods are to be provided, the construction executed or the service delivered.

### **Section III Reception of bids**

#### **Sub-section I Process for the reception of bids**

#### **Article 64. Essential bid elements**

1. The bids shall be presented accordingly to the requirements requested in the "Tender Documents", elaborated for each specific procedure.
2. The price is indicated in numbers, followed by its amount in full, prevailing in the case of disagreement the amount written in full.

#### **Article 65. Set up the deadline for submission of bids**

1. The time frame for the submission of bids shall be set up accordingly to the type of procedure used and within the deadline established in the complementary rules, accordingly to the type of procedure applied.
2. The Public Service shall prorogate the initial deadline for an adequate period when there are justifiable reasons.

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<sup>98</sup> "vincular" = linked, tied. Check literal translation and intent of 63/3

3. The prorogations that are determined according to the espoused in the last number (65/2), are useful to all bidders and therefore all shall be promptly and simultaneously communicated.

**Article 66.  
Submission and Registration of bids**

1. The bids are submitted directly or by registered mail, and shall be received within the deadline and in the place, or places for their submission.
2. If there is a mention in the announcement or invitation, allowing sending by other communication means, namely fax or e-mail, whenever that is adequate and possible considering the volume or the type of documentation.
3. In the case of the last number, the acceptance of documents by fax or e-mail is subject to the requirements established in the rules and procedures on electronic business in force in the Country.
4. The reception of the bids shall be registered, making note of the date and hour of arrival and the order number of presentation, in the exterior envelope, as well as in the packages or envelopes.
5. The bids received shall be guarded in a secure place with limited access, only for authorized personnel.

**Article 67.  
Presentation**

1. Each bidder can only present one single bid.
2. The cost for the presentation and submission are at the bidder expense, independently of the tender result.
3. The proposal is presented in an individual envelope<sup>99</sup>, opaque, closed and separate, following the instructions indicated in the tender documents.

**Article 68.  
Period of Validity of the bids**

1. The period of validity of the bids shall be sufficient to allow the comparison as well as to assess them and obtain all necessary approvals, in order that the contract can be signed during the referred period.
2. Each bidder shall submit their bid, as well as a tender guarantee valid for the period specified in the Tender Documents.

**Article 69.  
Prorogation of the period of validity**

1. Exceptionally and before the end of the bid validity periods, the Public Service can request the bidders to extend the validity period of the respective bids for up to four weeks.
2. The bidder has the right to refuse the request without loss of the tender guarantee, but the validity of her/his bid will end in the date initially set up.
3. The bidder that accepts an extension of their proposal shall extend the tender validity period or present a new one covering the additional validity period, otherwise it is presumed as a refusal of the extension request.

**Article 70.  
Modification of bids**

1. Except when it is stipulated in other way, the bidder can modify or withdraw the bid before the end of the period for the presentation of tender documents without losing the tender guarantee.

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<sup>99</sup> cover >>> envelope

2. The bid modification or its withdrawal notification is effective when is received before the end of the presentation period of the tender documents.

**Article 71.  
Announcement or Invitation Closing and Respective Effects**

1. Having passed the deadline for the presentation of the tender documents and having received bids, in the period indicated, the Public Service shall declare the closing, registering this action in writing.
2. A proposal received past the established deadline is returned to the bidder without opening, according to the procedures established.

**Section IV  
Tender Guarantee**

**Article 72.  
Tender guarantee<sup>100</sup>**

1. Each bidder shall provide validity guarantee of their bid during the period established in the tender documents.
2. This guarantee can only be required up to the limit of 10% (ten percent) of the bid value and starts in the date of bid submission<sup>101</sup>.
3. The validity time of the tender guarantee shall be the period required for the bid assessment and the conduct of other procedures until the award of the contract.
4. This guarantee shall be returned to the bidders immediately if the contract has not been awarded.
5. The Public Service shall retain the tender guarantee presented by the bidder to whom it intends to adjudicate the contract, until it has been replaced by the performance guarantee.<sup>102</sup>
6. The Public Service can convert the tender guarantee into a performance guarantee, in the case the bidder to which the contract has been awarded, not presented later than the deadline established, without detriment of his/her obligation to pay the difference between both guarantees.

**Article 73.  
Forms of Tender Guarantee**

The submission of the tender guarantee can be requested in the way of a credit letter or guarantees of a bank or financial institution or security<sup>103</sup>, suitable and according to the following rules:

- a) the requirement shall be asked equally to all bidders;
- b) in the tender documents shall be stipulated the conditions relative to the issuer or guarantor, as well as the terms and forms of guarantee, to be considered acceptable;
- c) the guarantees have to express a clause of irrevocability;
- d) in the case of a guarantee and the issuer fulfills the requirements established in the tender documents, it cannot be rejected based on the fact that it was issued by a natural or legal person with headquarters outside the Country.

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<sup>100</sup> tender guarantee = bid security

<sup>101</sup> presentation = submission

<sup>102</sup> guarantee of execution = performance guarantee

<sup>103</sup> security = bond/ insurance/ surety

**Article 74.**  
**Confirmation of the Guarantee Issuers**

1. The bidders have the right to request in writing to the Public Service the confirmation of the acceptability of a guarantee issuer and to receive a reply also in writing in the shortest possible period of time to this request.
2. This confirmation of acceptability doesn't prevent the Public Service rejecting the guarantee on the basis that the issuer or guarantor, accordingly to the case, has become insolvent or without credit.

**Article 75.**  
**Loss of Tender Guarantee.**

1. The bidder loses the right to claim the return/ dissolution of a tender guarantee, when it exhibits conduct damaging to the Public Service, namely when:
  - a. withdraws or modifies the proposal during the bid validity period or after the contract has been awarded;
  - b. doesn't fulfill the payment of the contract performance guarantee, in the terms foreseen in the tender documents;
  - c. doesn't fulfill any other condition preceding the signature of the contract, specified in the tender documents;
  - d. without any justification, doesn't sign the contract by the date set up by the Public Service;
2. The declaration of losing a deposited guarantee and the causes, is notified in a timely manner in writing to the bidder.

**Article 76.**  
**Discharge of a Tender Guarantee**

1. The tender guarantee shall be discharged<sup>104</sup> quickly when there ceases to be a reason to require their deposit.
2. The Public Service shall give back the guarantee document in a timely manner, after one of these facts having occurred:
  - a) the end of a tender guarantee;
  - b) the end of the procurement procedures without being awarded the procurement contract in favor of the bidder;
  - c) the withdrawal of the proposal, before the deadline for the submission of bids, except if the tender documents establish if the withdrawal is not allowed.

**Section V**  
**Opening of the Sealed Envelopes<sup>105</sup>**

**Article 77.**  
**Opening Committee**

1. The Public Service that initiates the prequalification procedure or tender shall nominate a Committee responsible for opening the envelopes.
2. This Committee shall be composed by at least three employees of the Public service, between which one shall be nominated as its president.

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<sup>104</sup> devoluted = discharged

<sup>105</sup> covers = envelopes

**Article 78.**  
**Public Act of Opening of the Envelopes**

1. In the established date in the pre-qualification or tender documents, the Commission responsible proceeds to opening of envelopes.
2. Any interested parties can attend<sup>106</sup> this public ceremony without those present being allowed interventions<sup>107</sup>
3. In the pre-qualification procedures, the act is initiated with the reading of the procedure identification, following by proceeding to opening the envelopes and immediately after is written the bidders list, within the sight of all present.
4. In the public tender, the act is initiated with the reading of the procedure identification, following by proceeding to opening the envelopes and immediately after, make the participants list with the prices offered, which is written within sight of all participants and read in a loud voice, making a copy of this list in a document to be provided to the Committee.
5. Following that, the Committee gathers all documents, giving them to the (Tender) Committee<sup>108</sup> or keeping them in a secure place until is delivered to the (Tender) Committee .
6. The Commission responsible for opening the envelopes shall deliver all documentation to the (Tender) Committee at the latest in the day following the opening.

**Section VI**  
**Tender Jury**

**Article 79.**  
**Nomination and constitution of the Tender Committee**

The jury is designated by the competent entity to initiate the procedure and is constituted, by at least three members, added a substitute member, one of which is nominated president and other as his/her substitute in the impediments, always protecting the jury's odd number.

**Article 80.**  
**Competence of the Tender Committee**

The competencies of the Committee are:

- a) to accept or exclude the bidders, in a substantiated manner, based on the requisites required in the pre-qualification documents or tender documents, accordingly to the case.
- b) to decide on the bidders pre-qualification, in a procedure of this nature based on the requisites required in the Pre-Qualification Documents;
- c) to assess the bids and qualify the bidders, accordingly to the selection criteria that are defined in the tender documents;
- d) to conduct the assessment, choice and classification of bidders.
- e) to propose the bidder to be awarded with the contract.

**Article 81.**  
**Functions of the Tender Committee**

1. The Committee is considered to be functioning starting from<sup>109</sup> the first working day following the opening of the pre-qualification or tender documents.

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<sup>106</sup> assister = assist / attend/ watch

<sup>107</sup> rearranged; verify translation

<sup>108</sup> jury = tender committee = evaluation team

<sup>109</sup> after >>> starting from

2. The Committee can request a secretary to the named entity to write the meeting minutes in which shall be included the causes for the exclusion of bidders and to deal with all work expediently<sup>110</sup>

**Article 82.  
Admission and exclusion of bidders**

1. In a private session, the Committee proceeds to the signature or official stamping of the tender documents, proceeding their analysis.
2. After the analysis, the Committee decides on the admission or exclusion of the bidders, as well as their qualification.
3. The criteria to be taken into account by the Committee are previously established in the pre-qualification or tender (documents), according to the case.

**Article 83.  
Reading of the Lists**

Before finalizing the private session, the president of the Committee makes the list of the bidders admitted, as well as those excluded, explaining the reasons and the basis, albeit in a summarized manner.

**Article 84.  
Examination of the Bids**

1. In the tender procedures, the jury proceeds to the examination of the documents in a private session.
2. The bids are excluded if:
  - a) they are presented by one single bidder<sup>111</sup>;
  - b) they are not in conformity with the requirements expressed in the tender documents.
3. In the tender procedures, the President of the Committee then provides knowledge of the total price of each one of the bids accepted and the essential aspects of these.

**Section VII  
Assessment, choice and classification of the bidders**

**Article 85.  
Assessment in the Prequalification Procedures**

1. Based on the requisites requested in the pre-qualification documents, the Committee determines the pre-qualified bidders.
2. It is compulsory to make the final classification list and write the final minutes with the respective basis, individualized and that serves as the report of proceedings
3. This list is submitted to the Public Service and is published in the terms established in the article 89.

**Article 86.  
Assessment and Choice in the Tender Procedures**

1. The Committee evaluates and classifies the bidders, accordingly to the requisites required in the Tender Documents, starting if possible, for bidder appraisal, in the following order:
  - a) professional knowledge;
  - b) technical capacities and experience;

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<sup>110</sup> clause rearranged

<sup>111</sup> should be "a bidder submits more than one bid" ? check intent

- c) financial capability.
2. Following, starts appraising the bids in the following order:
- a) the deadline for the supply of goods, work execution or services delivery;
  - b) the quality of goods, construction work or services;
  - c) the preference applied to the national bidders or to the benefit of bids those involved local products;
  - d) the specifications and technical approvals, when required;
  - e) other elements required in the tender documents, namely the price justification note or the model presentation or the prototype of the material to be supplied.
  - f) the total price and the conditions of payment;
3. Then follows<sup>112</sup> the percentage application of the selection factors expressed in the tender documents, giving ranking to the bidders.
4. In the case of a draw, the adjudication shall always be done in favor to the lowest or economically favorable proposal, always when the bidder has passed the technical evaluation.
5. It is compulsory to do final list of classification and write the final minutes with the respective basis, individualized, serving as the report of proceedings
6. Without prejudicing the powers of the Contracts Committee on the matter, the jury shall take into account the provisions in the paragraphs b) and d) in the no. 5 of the article 60., for the purpose of judging the real capacity of the bidder, in the case of accumulating contract awards and therefore evaluating the eventual dominantly prejudicial position for competition and taking part in the contest<sup>113</sup>.

#### Article 87.

#### Analysis by the Contracts Committee and Other Authorities

1. When it is the competence of the Contracts Committee to ratify the jury decision, the report of the current proceedings shall be delivered to the president of this Committee, within three days maximum after the (Tender) Committee concluding its choice
2. In the same way, in the case of a decision by the Contracts Committee is to be ratified by superior entities, this shall be submitted within a period of seven days, commencing counting from the date of receipt of the report.
3. The (Tender) Committee composition is maintained until their bid award is ratified or rejected.
4. In the case the (Tender) Committee decision is ratified, the recommendation shall be submitted by the approving entity and as<sup>114</sup> necessary, to the entity competent to sign the contract.
5. In the case the jury decision is rejected, the Contracts Committee shall provide the basis for their decision and submit to the jury for new analysis.
6. In the situation described in the last number (87/6), the jury can propose a second qualified bidder and thus successively.
7. The Contracts Committee may reject the jury decision based on the reasons referred in the no. 6 of the last article.

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<sup>112</sup> "After, proceeds" >>> Then follows

<sup>113</sup> accessing a tender >>> taking part in the contest ?

<sup>114</sup> if necessary >>>> as necessary ??

**Article 88.**  
**Rejection of all bids**

1. At any time before the award of the contract, the Public Service has the right to reject all bids submitted, having to communicate the decision to each one of the bidders, however not being obliged to justify those reasons.
2. In the case of invoking that right, the Public Service doesn't incur in responsibility toward the bidders.

**Article 89.**  
**Publication of the decision**

1. The notice relative to the jury decision, containing the pre-qualified bidders or the intention of a contract award to one bidder, is posted in the usual places that the Public Service used to initiate the procedure, indicating in a summarized way, the reasons for the choice<sup>115</sup>.
2. After its publication, this notice shall stay visible to the public by at least five days in the pre-qualification procedures and in the tender procedures by at least fourteen working days,.

**Article 90.**  
**Abandoned bid**

1. When the elected bidder qualified in the first place, after being appropriately notified, doesn't sign the contract or doesn't provide a performance guarantee by the date set for that process, the bid shall be declared as abandoned, with declaration of loss of the tender guarantee in favor of the adjudicating (awarding) entity.
2. In the situation of abandoned bid, the Public Service shall choose one of the variants to follow:
  - a) make use of their right to reject all bids, accordingly to the established in the present diploma;
  - b) select in conformity with the order of results obtained in the evaluation phase, other bids considered valid and conduct all procedures for acceptance and notification for later contract award.

**CHAPTER IV**  
**PROCEDURES WITHOUT TENDER**

**Article 91.**  
**Procedure by Request for Quotations**

1. In the procedures for request of quotations, the final bids shall be evaluated and compared **within** the Public Service itself, in order to choose, according to the followed general rules:
  - a) the offer<sup>116</sup> with a lowest price, subject to any margin of preference<sup>117</sup> applied to national bidders or to the benefit of the bid involving local products;
  - b) the offer<sup>117</sup> with lower value evaluated based on criteria in specified the bid documents, criteria that shall be objective, quantifiable and expressed in monetary terms.

**Article 92.**  
**Process for Procurement by Direct Appointment<sup>118</sup>**

1. The Public Service may choose direct appointment, in the following cases:
  - a) whenever there is a single goods supplier, work or services to be delivered, without another alternative or reasonable substitute;

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<sup>115</sup> review current practice in regard to providing reasons for the choice

<sup>116</sup> bid>>>>offer

<sup>117</sup> proposal>>>offer

<sup>118</sup> adjustment >>>> appointment ( settle/ agree on )

- b) when there is a supplier that has specific rights in relation to goods, construction work or services (and) no alternative or reasonable substitute exists;
  - c) when the contract has as an object an expert regime, investigation, experimentation, study or development or the acquisition or restoration of historical art works and it is not possible to tender, because the supplier is the only one capable and immediately available<sup>119</sup> to achieve the objective;
  - d) when accordingly to another contract initially signed by a determined supplier, the adjudicatary responsible for the project design requires the purchase of vital items from a specific supplier as a condition of execution guarantee or of quality in the contract;
  - e) in the cases of emergency purchases;
  - f) in the cases of the supply of additional parts or parts substitution of a bidder which offer has already been accepted, in other contract signed;
2. For all operations, as well as circumstances that justify the use of this procedure, the correspondence shall be documented, in the terms established in the present decree and moreover complementary rules.

**Article 93.**  
**Limitations in the use of Direct Appointment Procedure.**

1. In the procedure by direct appointment, the Public Service contacts directly with the future adjudicatary (awardee) in order to arrange<sup>120</sup> a contract with him/her, based on special reasons.
2. This procedure cannot be used in the cases foreseen the paragraph c) of no. 1 in the last article, when the same contract includes the production of goods in quantities that establish its business viability or the cost recovery with investigation and development;
3. In the case of paragraph d) of no. 1 in the last article, a new contract shall be made by direct appointment procedure within the authorized limits in the Article 9. of the present decree-law, when concurrently there are at least one of the following circumstances:
  - a) by reasons for the standardization of goods, construction work or services;
  - b) the need for compatibility with goods, construction work and technical services already received.

**Article 94.**  
**Direct Appointment for emergency purchases**

1. The Public Service can use the procedure for emergency purchases, when:
  - a) there is an urgent need, unforeseen and not caused by the procurement beneficiary in relation to the construction works, goods or services, it not being practical to initiate tender procedures or any other procurement methods;
  - b) In the case of official declaration of catastrophe or emergency situation, which imposes the need to do construction work, supply goods or deliver services to avoid the loss of lives, loss of Government properties or other demands that require an urgent action in the public interest.
2. In this case, the Public Service can contract by direct appointment only the goods, construction work or services strictly necessary to remedy the emergency situation and provide an answer to the immediate shortages.

**Article 95.**  
**Process of the simplified procedures**

1. The senior leadership of the entities mentioned in the paragraphs d), e), f) and g) of the article 15. can delegate to other leaders the realization<sup>121</sup> of current expenses of periodical procurement, which are appropriately budgeted,

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<sup>119</sup> responsible>>>>available

<sup>120</sup> celebrate>>>>create? establish?

<sup>121</sup> realization = transacting/ payment

up to the amount of USD\$ 1,000 (one thousand United States Dollars), consultation being necessary with the Central Supply & Property on availability of goods or services.

2. The process of the simplified procedures is established in the complementary rules of the Ministry of Planning and Finance.
3. The leaders of the entities authorized to operate in a decentralized manner and according to the simplified procedures are in charge of managing and controlling the development of these operations and assume the responsibility to approve and sign the contracts in the sphere of their legal competencies, without detriment for those activities being delegated in the terms of the law.

## **CHAPTER V CLAIMS AND APPEALS**

### **Article 96. Right to claim**

1. The bidders that considered to be affected during the course of the procurement procedure have the right to present a claim to the Public Service, in the following causes:
  - a) the non-compliance with the rules established in the present decree or their complementary rules;
  - b) the non-compliance with the terms and conditions declared in the pre-qualification or tender documents;
  - c) the non-compliance of a decision adopted by the jury, which may have violated the legal rules in force.
2. In the cases of the paragraphs a) and b) of the last number, this claim can be done within five days, after the causal event<sup>122</sup> occurring.
3. In the case of paragraph c) of the number 1, the deadline to the claims shall be posted in the pre-qualification or tender documents and also advertized in the decision publication notice.

### **Article 97. Competent Entity to Acknowledge the Claim.**

The entities authorized to initiate procurement procedures are competent to acknowledge and solve the claims referred in the last article, in relation to the procedures that are their responsibility.

### **Article 98. Procedures of the Claim Presented**

1. The Public Service shall receive all the claims presented and decide on their admission within a maximum of five days.
2. The only reason to declare it non - admissibility is their presentation after the established deadline.
3. Admitting the claim, within a period of two days, deciding on their truthfulness and later on the suspension of the procedure.

### **Article 99. Suspension Effects**

1. When a protest is received from one of the bidders, the competent entity can suspend the procurement procedure within a period of five days<sup>123</sup>
2. The competent entity can prorogate<sup>124</sup> the suspension term by a maximum period of five days when reasons exist that justify that decision.
3. Whenever there is not a decision conveyed in **an administrative manner concerning** the complaint or the hierarchical appeal, it cannot proceed to:

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<sup>122</sup> fact of origin >>>> causal event

<sup>123</sup> clauses rearranged

<sup>124</sup> prorogate = terminate/ conclude

- a) in the tenders, to the opening of the envelopes containing the bids;
  - b) in the negotiation procedure, to conduct the negotiation session;
  - c) to the adjudication/ award, in all procedures.
4. The judicial appeal doesn't produce suspension effects.

**Article 100.  
Decision on the Claim Presented**

1. After having analyzed the case, the competent authority shall decide if accepts or rejects the claim presented, within a period of twelve days.
2. The decision on the claim presented shall be included in a document mentioning the reasons that were taken into account, as well as all pronouncements that are according to the law and will be immediately notified to the interested parties.

**Article 101.  
Right to hierarchical appeal of claims**

1. The bidders not conforming with the decision taken in relation to their claim, can put in an hierarchical appeal to the competent authority, within five days, after the date of notification of the decision on their claim.
2. The hierarchical appeal can suspend the procedure for a maximum period of five days.

**Article 102.  
Competent entities to decide on the hierarchical appeal**

1. The senior leaders of the **other<sup>125</sup> sovereign** institutions, as well as the Ministers and the Secretaries of State, are competent to acknowledge and decide the hierarchical appeals in procurement matters, in the terms of the respective organic laws, with respect to the appeals **interposed** against the decisions adopted by:
  - a) the Heads expressly nominated and authorized by them to conduct procurement operations.
  - b) the senior leaders of the Autonomous Services, public entities and other entities granted with administrative and **delegated<sup>126</sup>** financial autonomy
  - c) the other **groups<sup>127</sup>** with capital participation of the State more than 50 % (fifty percent) that, although **they** don't have an entrepreneurial nature, follow eminent public purposes;
2. The Prime Minister is the competent entity to acknowledge and **solve** hierarchical appeals in procurement matters, presented against the decision adopted in the first instance to senior leadership of the remaining **sovereign** institutions, as well as the Ministers and the Secretaries of State.
3. In the cases that the Contracts Committee shall provide opinion for the contract approval, before resolving the hierarchical appeal there shall be a hearing by this Committee, in relation to the claim presented.

**Article 103.  
Decision on Hierarchical Appeal**

1. After having analyzed the case, the competent authority shall decide if accepts or rejects the appeal presented, within a period of five days.

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<sup>125</sup> Clarify "other"; sovereignty>>>>sovereign

<sup>126</sup> subordinated>>>>delegated

<sup>127</sup> collective persons >>>>groups

2. The decision on the appeal presented shall be included in a document, mentioning the reasons that have been taken into account as well as all the pronouncements that are according to the law, and will be notified immediately to all interested parties.
3. The contented appeal, judicial, doesn't produce suspension effects.

### TITLE III SPECIAL AND TRANSITORY DISPOSITIONS

#### Article 104. Patrimonial Declaration

Each civil servant or Civil Service agent of the services in charge of conducting procurement operations, shall present a goods declaration that integrate their personal wealth/assets<sup>128</sup> and of their spouse or those who live as spouses, within the terms to be established in the joint decree<sup>129</sup> of the Ministry of Planning and Finance and the Ministry of State Administration.

#### Article 105. Professional Services Contracts, Design Work or Consultancy

The professional services to be provided by RDTL citizens, for the needs satisfaction of the Public Services, are regulated by the Civil Service Statute and their complementary rules.

#### Article 106. Special regimes.

All the Ministries that have within their scope of competence, the activities related to the number 3 of the article 2., , commencing counting after the present decree-law coming to force, shall submit within 90 days to the Council of Ministers the draft **decree**<sup>130</sup> on special legal regimes for procurement, maintaining for them a transitory character for the regime in force<sup>131</sup>

#### Article 107. Duty of Previous Consultation

1. Before proceeding, all Public services, decentralized or not, must<sup>132</sup> consult with the State' Central Supply & Property Services, the availability of goods to be acquired.
2. The exposed in the last number is not binding on Public Enterprises.

#### Article 108. Complementary instructions

The Minister of Planning and Finance holds the power to issue complementary instructions of general character that are necessary to the implementation of the present decree.

#### Article 109. Changed Rules

The no. 2 of the article 16. and the article 36. of the Decree-Law no. 14/2003 of 24 September, regulates the Public Enterprises, changed to have the following writing:

"Article 16.

2. The public enterprises administer and use freely the goods that integrate their **wealth**<sup>133</sup> without subjection to the rules relative to the private domain of the State, except the special dispositions mentioned in their statutes and in the Procurement Legal Regime, which shall be adjusted in their operations."

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<sup>128</sup> patrimony >>>> wealth or assets

<sup>129</sup> diploma >>>> decree

<sup>130</sup> diploma >>>> decree

<sup>131</sup> regime in force refers to this present decree

<sup>132</sup> have the right to >>>> must

<sup>133</sup> patrimony >>>>> wealth ? assets ?

"Article 36.  
Subsidiary Law

"The public enterprises are regulated by the present decree-law, by their respective statutes and in what hasn't been specially regulated by the rules of private law as well by the Procurement Legal Regime."

**Article 110.  
Regime of Public Contracts**

The specific rules in regards to the public contracts are established in a decree of the Government.

**Article 111.  
Administrative offenses**

The Government establishes in a decree the specific rules in regards to administrative offenses to the procurement legal regime and to public contracts.

**Article 112.  
Repeal rule**

The Regulation 2000/10 of UNTAET on Procurement to the Civil Service of Timor-Leste is repealed and other dispositions which are contrary to that established in the present decree.

**Article 113.  
Initiated procedures**

The procurement procedures already initiated at the time of coming to force the present decree-law, continue their process by the rules previously in force until their end.

**Article 114.  
Implementation of a schedule decentralization**

1. The decentralization for procurement operations, foreseen in the present decree, starts to be implemented gradually<sup>134</sup> in the authorized entities, after the specific analysis of each one of them and through the approval of the Ministry of Planning and Finance.
2. The rules for a gradual entry process of the institutions into a decentralized procurement system can be established by ministerial <sup>135</sup>decree of the Ministry of Planning and Finance.

**Article 115.  
Coming to force**

The present diploma comes into force within sixty days after the its publication date.

Approved by the Council of Ministers in the 5th October 2005

The Prime Minister

Mari Bim Amude Alkatiri

The Minister of Planning and Finance

Maria Madalena Brites Boavida

Promulgated in  
Publish it

The President of the Republic  
Kay Rala Xanana Gusmão

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<sup>134</sup> note that process of introduction will be gradual

<sup>135</sup> note that rollout requires ministerial decree

## ANNEX 1

### Additional definitions related to Procurement

**Adjudicator:** The Public Service that opens a tender aiming to celebrate (establish/ arrange) a public contract. It is also called as "adjudicating entity".

**Adjudicatory:** The natural or legal person that received the adjudication (award) of a public contract. It is also called as supplier or provider.

**Tender:** The procedure preceding the public contract that is conducted in view to choose impartially the adjudicatory (awardee) by the jury.

**Decentralization:** For procurement effects, it is the competence that the Public Services have to initiate procurement procedures and to award public contracts, in view to their needs satisfaction.

**Entities:** For effects of the procurement regime, any organ, public service institution or similar that have the capacity to celebrate public contracts.

**Beneficiary entity:** In the terms of the present decree, any entity, organ, public service institution or similar, that receives the goods supply or the services delivery.

**Issuer or Guarantor:** For effects of this decree, any natural or legal person that substitute the bidders obligation to provide or pay one of the guarantees mentioned in this decree-law.

**Tender guarantees:** The monetary amount or the equivalent financial instrument, required by the bidder, as protection by the Public Service, against risks derived from eventual withdrawals or modifications to the bids presented.

**Guarantee of execution (Performance Guarantee):** The monetary amount or the equivalent financial instrument required to the contract adjudicatory (awardee), as a protection of the adjudicator entity against the risks derived from eventual lacks in fulfilling the public contract.

**Procurement operations:** Any actions undertaken to achieve the supply of goods or services delivery.

**Procurement procedure:** All the process that is done in order to guarantee the acquisition of goods and services or the construction execution with public purposes.

**Tender procedures:** All the procedures in which the contract adjudication is done through a jury assessment.

**Bid:** It is considered as the offer submitted by the bidder in a procurement procedure, through fulfilling the requisites required in the law.

**ANNEX 2**

**Amounts limit to initiate procurement operations, to evaluate and approve the signature of public contracts  
(Article 15.)**

Entity that initiates the procurement procedure	Ratification entities of adjudication and signature of Public Contracts	
Procurement Service by request of the interested Public Service	Revision	Prime Minister, in the contracts with a equal value or more than USD\$ 1.000.000
	Contracts Committee for contract equal or more than USD\$ 200.000	Minister of Planning and Finance, when equal or more than USD\$500.000, in consultation with the Prime Minister and the relevant Minister  Procurement Service by delegation of the MPF between USD\$ 200.000 and less than USD\$ 500.000 in consultation with the relevant Minister
	Procurement Service by delegation of the MPF	
Government members and senior leadership of the remaining Sovereign Entities, up to USD\$ 10.000	Senior leadership of the remaining sovereign entities, Ministers and Secretaries of State	
Senior leaders of the Autonomous Services and competent public entities, up to USD\$ 10.000	The senior leaders of the Autonomous Services, the public entities and other organs granted with administrative and financial autonomy, including joint capital enterprises.	
Heads expressly nominated and authorized up to USD\$ 5.000	Heads expressly nominated and authorized by the senior leaders of the sovereignty organs and by the Members of Government, including all the remaining organs and public services not mentioned before	
Leasing with annual rent more than USD\$ 100.000	Procurement Service at the request of the interested Public Service	Equal to the levels established for the remaining procurement procedures  Leasing of premises abroad needs the authorization of the MPF and MNEC.
Leasing with a annual rent less than USD\$ 100.000	Interested Public Service	

### ANNEX 3

#### REQUISITES FOR PRE-QUALIFICATION ANNOUNCEMENTS

The announcements for beginning a pre-qualification procedure, that is referred in the Article 50. Of the present decree-law, shall have at least the following information:

- a) Identity and address of the Public Service;
- b) Place and issuing date, and authorizing entity;
- c) Unchangeable declaration of the type of tender;
- d) Declaration that is a pre-qualification Announcement, as well as all the legal requisites required;
- e) The goods and services which procurement is submitting to a tender, including the general requisites of quantity and quality;
- f) Date and place foreseen to receive the procurement;
- g) The program of pre-qualification procedure, the means to obtain the pre-qualification documents, as well as the place where they can be obtained;
- h) The price of the form, if there is any, charged by the Public Service, in relation to the pre-qualification documents and forms.
- i) Languages in which the documents are available;
- j) Place and deadline for the submission of the pre-qualification documents;
- k) Notification date of the pre-qualification results;
- l) Any other information that the Public Service considers useful to provide about the tender or being regulated by the applicable specific rules or procedures.

**ANNEX 4  
PRE-QUALIFICATION DOCUMENTS**

The pre-qualification documents, related in the article 51 . shall be at least related with the following:

- a) Instructions for the preparation and submission of pre-qualification requests;
- b) A summary of the main terms and general conditions in relation to the contract to be celebrated;
- c) Any documented evidences and other information that may be submitted by the bidders to demonstrate their qualifications and the required requisites in this decree-law;
- d) The documents relative to fulfill any other specific requisites that may be established by the Public Service in conformity with the rules in force.

**ANNEX 5  
ANNOUNCEMENT REQUISITES FOR TENDER OPENING**

The Announcements for Tender Opening referred in the Article 57. of the present decree-law shall contain all the following minimum information:

- a) The identity and address of the Public Service that initiate the tender, place, issuing date and authorizing authority;
- b) Unchangeable declaration of the type of tender;
- c) Declaration that is an Announcement for Opening a Tender;
- d) Address, days and timetable to acquire the Tender program, which have not been publicized with the Announcement.

## ANNEX 6

### TENDER DOCUMENTS FOR BIDS PRESENTATION

The tender documents for bids presentation referred in the article 62. of this decree shall include, as a minimum, the following information:

- a) instructions for the preparation and submission of bids
- b) characteristics of goods and services the object of tender, requesting as minimal information in relation to:
  - 1) Quantity;
  - 2) Required quality requisites;
  - 3) Design specifications and other requisites necessary for the delivery and presentation of plans and other technical documents, in the case they are required;
  - 4) Descriptive models of technical characteristics of the goods and services to be purchased;
  - 5) Methods of quality analysis, to determine their compliance to the required specifications;
  - 6) Package;
  - 7) Brands and other signs and symbols.
- 8) Price bids, that shall be submitted in a separate envelope.
9. Date and place foreseen for fulfilling the obligations;
10. Methods and procedure to assess the bidders qualification, as foreseen in the present decree-law and in the applicable rules and procedures;
11. Conditions of Guarantee of offer validity, in relation to the issuer and to the nature, way, amount and validity period and forms of satisfaction.
12. Conditions of performance guarantee in relation to the issuer and to the nature, way, amount and validity period and forms of satisfaction.
13. Any other information that the Public Service considers to be useful to the tender
14. A summary of the main terms and conditions necessary in relation to the contract to be celebrated not included in the pre-qualification procedure, if it is the case.
15. Any other documentary evidences or other information that shall be submitted by the bidders to demonstrate their qualifications and the remaining required requisites, if it hasn't been done a pre-qualification procedure;
16. Notary power that authorize whose presenting the bid **to be obliged to the bidder name**, in the case it hasn't been demonstrated this power in other documents sent.
17. In the cases the bidder is an association, group or any other multi-personal entity, together with the submission of the bid shall be added the probation document which states assuming the responsibility by the actions of the common representative together with the constitution agreement.
18. Declaration on goods, work and services needed to be sub-contracted to other entities for fulfilling the contract main object, always when this opportunity is included in the conditions of bid submission.
19. Any other documents necessary to demonstrate the compliance of specific requisites established by the entity that initiates the procedures.