



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

**REVIEW OF THE GOVERNMENT OF TIMOR-LESTE  
PROCUREMENT PROCESS**

January 2008

One of three reports comprising the Review of Key Activities  
Contract No: GOTL - 81197

## TABLE OF CONTENTS

<b>1.0 EXECUTIVE SUMMARY.....</b>	<b>2</b>
1.1 BACKGROUND .....	2
1.2 APPROACH.....	2
1.3 SUMMARY OF FINDINGS .....	3
<b>2.0 DETAILED FINDINGS AND OBSERVATIONS.....</b>	<b>7</b>
2.1 DEVELOPMENT OF A PROCUREMENT STRATEGY .....	7
2.2 SPECIFICATION OF REQUIREMENTS .....	13
2.3 CONFIRMING FUNDS AVAILABILITY .....	15
2.4 COMPILATION OF TENDERS .....	16
2.5 RECEIPT AND EVALUATION OF RESPONSES .....	19
2.6 NEGOTIATION AND AWARD OF CONTRACT .....	21
2.7 MANAGEMENT OF CONTRACTS .....	24
2.8 REPORTING AND REVIEW .....	29
2.9 CONCLUDING OBSERVATION.....	31
<b>3.0 SUMMARY OF FINDINGS INCLUDING RECOMMENDATIONS.....</b>	<b>32</b>
<b>APPENDIX A: ABRIDGED TERMS OF REFERENCE .....</b>	<b>50</b>
A. BACKGROUND .....	50
B. OBJECTIVES.....	50
C. SCOPE OF SERVICES .....	50
<b>APPENDIX B: STATEMENT OF RESPONSIBILITY .....</b>	<b>52</b>

## 1.0 EXECUTIVE SUMMARY

### 1.1 BACKGROUND

The 4<sup>th</sup> Constitutional Government of Timor-Leste (GoTL) was inaugurated on 14<sup>th</sup> August 2007. Since then, the Government has been putting in place its structures, systems and processes to establish a working Government for the next term. Part of this effort has been learning the structures, processes and operations of the previous Government. The purpose of this review is to assist the ongoing development of open, transparent and accountable Government by providing the following information in regard to the GOTL procurement process:

- The systems, processes and practices that govern the process;
- The adequacy of the number and capacity of currently assigned human resources including both international advisors and national staff;
- The controls required to ensure integrity of procurement and the degree to which these already exist and are effective;
- The steps that are required to fix anomalies and deficiencies in the controls, systems and processes, and
- Identification of areas in which the operation of controls would suggest that the government has a significant exposure (potential or current) to inefficiencies, fraud and corruption.

An abridged version of the terms of reference is presented in Appendix A.

### 1.2 APPROACH

Our approach to this review entailed interviewing key stakeholders to obtain their perspectives on process efficiency, documenting the system and examining specific instances of transactions or events that have occurred in the process.

Our approach involved five phases.

- defining the key elements of the process for each nominated area
- documenting the activities performed for each of these elements
- identifying the risks of systemic deficiencies and opportunities to commit fraud
- identifying potential instances of suspected fraud or control breakdown
- developing recommendations for improvement.

Due to the limited time available for the review (less than eight days were available to perform the fieldwork) it was not possible to examine the procurement process in detail. The absence of process documentation and procedure manuals, poor filing systems, missing archives and incomplete financial records resulted in a significantly impaired audit trail and this is likely to impair any forensic investigations that may take place in the future.

During the review we noted that since the election of the present government, transitional budget and procurement initiatives have been in place. In accordance with our terms of reference this review focuses on processes and events that occurred prior to the implementation of these initiatives.

The review identified eight major elements in the procurement process. The workflows supporting these steps were documented based on discussions with Advisors and procurement staff. Information received from these sources was sometimes contradictory and this almost certainly reflects the lack of process documentation, procedure manuals and

training provided to staff. The process charts in this report represent our understanding of the activities that should take place throughout the process although these are not always complied with.

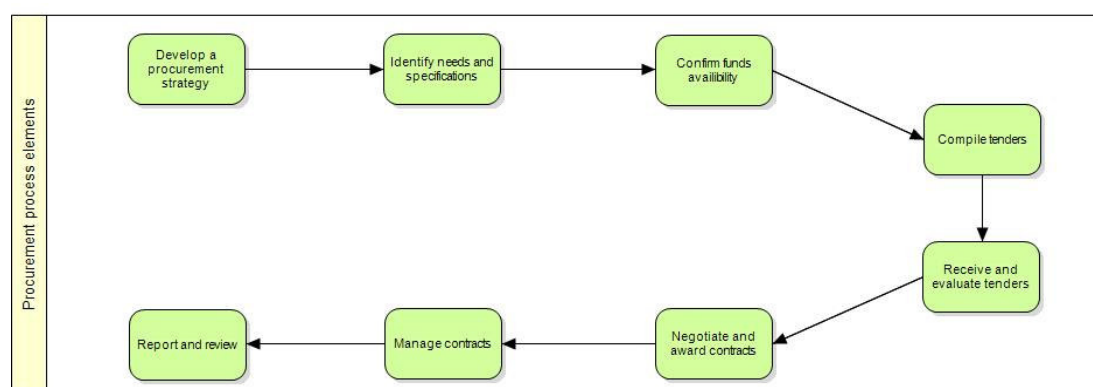
For each of the major elements in the process we have presented a flowchart, a list of key risks and issues and some limited commentary on each of these risks and issues. A subjective assessment of the degree of systemic risk and fraud risk applicable to each of these issues is also rated along with an estimate of the level of complexity of required remedial action. These ratings are based on observations made during our fieldwork, and in some cases may have been limited by the scope of the work performed. The risk ratings are intended purely to assist stakeholders to focus on areas of greatest concern.

This report should be read in the context of the statement of liability presented in Appendix B.

### 1.3 SUMMARY OF FINDINGS

The majority of government procurements are undertaken by the Procurement Services Division of the Ministry of Finance (centralised procurement). However, some agencies are empowered to perform lower value procurements on their own behalf (decentralised procurement). In addition, regardless of whether procurement is centralised or decentralised, it is a process to which different agencies and different divisions within those agencies contribute. Although most of the observations and recommendations contained in this report relate to the Procurement Services Division of the Ministry of Finance, not all of them can be addressed by this division alone. A whole of government perspective will therefore be required to address systemic issues identified in this report.

The eight major process elements identified during the review are summarised in the flowchart below.



The review revealed widespread and systemic deficiencies across the procurement process which are invariably related to six recurrent themes. These themes are as follows:

**Inflexible decree law framework:** There are a number of decree laws which prescribe how individual elements of the procurement process should be conducted. This is unusual and provides very little opportunity for the procurement process to be changed. Procurement law in most countries is included as part of general public financial management legislation and focuses mainly on the power and responsibility of the relevant minister to implement an appropriate process. The inflexibility of the Timor Leste procurement framework may have contributed to the low ranking of the country in a recent World Bank assessment of countries with which it is easy to do business. From a broader perspective this may have negative implications for the social and economic development of the country.

A review of the entire Decree Law framework may be beneficial in identifying opportunities to simplify the currently cumbersome procurement process. Ideally legislation or decree law

should provide procurement principles with another authority determining the practices necessary to implement these principles.

**Inadequate training:** Almost no training has been provided to staff in the Procurement Services Division. Staff therefore lack a basic understanding of the basic principles of a sound procurement process. They also do not have the skills to implement or manage the procurement process. Advisors have indicated that a much greater portion of their time is allocated towards performing line responsibilities in comparison to their previous advisory engagements in other countries. A structured training needs analysis and training programme needs to be developed for all procurement staff. As an interim measure, consideration should be given to appointing advisors or other experts into key line positions.

**Inadequate system documentation:** The procurement process is not documented and extensive reliance is placed on institutional knowledge which for the most part appears impaired. In addition to the lack of system documentation there are no procedure manuals available to provide guidance on how to perform tasks in an appropriate manner. The absence of procedure manuals and other documentation is exacerbated by the inadequate skills levels of most procurement staff. All stakeholders would benefit from well documented systems and procedure manuals and these should be developed as a matter of urgency.

**Inadequate record keeping:** The filing system, which is an integral part of procurement administration, is in disarray. While many archived documents were allegedly destroyed in the 2006 crisis, the quality of more recent records varies considerably. Some tender and contract files are reasonably accessible and maintained. Most however are not.

The unavailability of this information is exacerbated through inconsistent completion of standard forms and fields in the general ledger. Many payment records in the general ledger are incomplete and, for the 2006/07 financial year, 54% of the value of all government expenditure was coded to a supplier called “no vendor”. This has resulted in a situation where there is a very poor audit trail and retrospective investigations of malpractice or fraud would be very difficult. In order to ensure that the present government can demonstrate its commitment to transparency and accountability the quality and accessibility of all financial and documentary records must be improved.

**Inappropriate language:** Most tender specifications, tender documents, evaluation records and contracts are maintained in English. This is a language which is not widely spoken or readily understood by most Timorese people. There is a very high risk that tender documents may not be clearly articulated or understood by the people writing and evaluating them. There is a similar risk that local contractors do not fully understand tender requirements and are unable to express themselves adequately when responding. Further, a number of records and supplier documents are provided in Portuguese, a language which we were informed is only fluently spoken by one member of the procurement team. This is a situation that is not conducive to efficient and effective value for money outcomes and a determination should be made about which language (including Tetum) would be most appropriately used and how best this could be achieved.

**Complexity and bureaucracy:** Tender documents and contracts appear to be overly complex for daily use in an environment impacted by low technical capacity and language capability. In addition some activities, such as the authorisation of payment vouchers, are overly bureaucratic and multiple layers of authorisation are likely to cause increased delays in the process rather than improved integrity. Opportunities should be investigated to simplify current documentation and processes without impairing control.

In the context of these six themes the major risks and issues identified during this review are summarised in the following table. Section 2 of this report provides further details and Section 3 includes a series of recommendations that could form the basis of an action plan to strengthen the overall procurement process.

**Development of a procurement strategy**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inflexible Decree Law framework	H	M	M
Absence of coherent procurement strategy	H	M	L
Inadequate training of procurement staff	H	H	H
Lack of procurement procedure manuals	H	H	M
Organisational structure	M	M	L
Poor reporting and performance measurement	H	H	L
Inadequate filing system	H	H	L
Complex bid and contract documentation	H	M	M
No clear ethical or fraud control guidance	H	H	L

**Specification of requirements**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Technical competence of staff	H	H	H
Development of specifications in English	H	H	H
Lack of national standards framework	H	H	H
Failure to plan all requirements	H	H	H
Opportunities to aggregate requirements	M	L	H

**Confirming funds availability**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Bureaucratic CPV authorisation process	M	L	L
Variation in time to complete CPV	M	L	L

**Compilation of tenders**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Supplier database not maintained	M	M	L
Supplier database lacks detail	M	M	M
Ownership of vendor organisations unclear	M	H	H
Middlemen and agents used in supply chain	M	H	M
Bid documents prepared in English	H	H	H
Bid documents overly complex	H	H	M
Limited advertising of procurement opportunities	M	H	L
Inconsistent use of pre-bid conferences	M	L	L

**Receipt and evaluation of responses**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
No lock box for receipt of tenders	M	M	L
No electronic submission process	M	M	M
Evaluation committee does not meet regularly	M	H	H
Chair of evaluation committee varies	M	H	M
Evidence of proceedings not filed	H	H	H

**Negotiation and award of Contract**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Limited contract negotiation skills	M	H	H
Onerous and inflexible contract terms	M	L	L
Inconsistencies regarding performance bonds and bank guarantees	M	M	L
Inconsistencies regarding mobilisation payments	M	H	L
No legal review of major contracts	M	M	L
Contract register lack integrity	M	M	L
Non sequential and duplicate purchase orders	H	M	L
Failure to notify unsuccessful bidders	L	L	L

**Management of Contracts**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inadequate contract management skills	H	H	H
Inadequate contract risk management activities	H	H	H
Delays in contract commencement	H	M	H
Inconsistent works certification	H	H	H
Inadequate evidence of receipt of goods	H	H	M
Delays in contract completion	H	M	H
Failure to process invoices quickly	H	M	L
Photocopied authorisation on payment vouchers	H	H	L
Failure to record payee in accounting records	H	H	L
Failure to perform supplier evaluations	M	H	M

**Reporting and Review**

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inadequate contract management skills	H	M	L
Inadequate contract risk management activities	H	M	L
Delays in contract commencement	M	M	M

## 2.0 DETAILED FINDINGS AND OBSERVATIONS

### 2.1 DEVELOPMENT OF A PROCUREMENT STRATEGY

In reviewing the development of a procurement strategy we have extended our commentary to include broader aspects of the governance framework supporting the procurement process. In the absence of such a framework it is unlikely that strategic plans and operational activities of the procurement process could be effectively implemented. A summary of relevant key issues identified during the review is as follows:

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inflexible Decree Law framework	H	M	M
Absence of coherent procurement strategy	H	M	L
Inadequate training of procurement staff	H	H	H
Lack of procurement procedure manuals	H	H	M
Organisational structure	M	M	L
Poor reporting and performance measurement	H	H	L
Inadequate filing system	H	H	L
Complex bid and contract documentation	H	M	M
No clear ethical or fraud control guidance	H	H	L

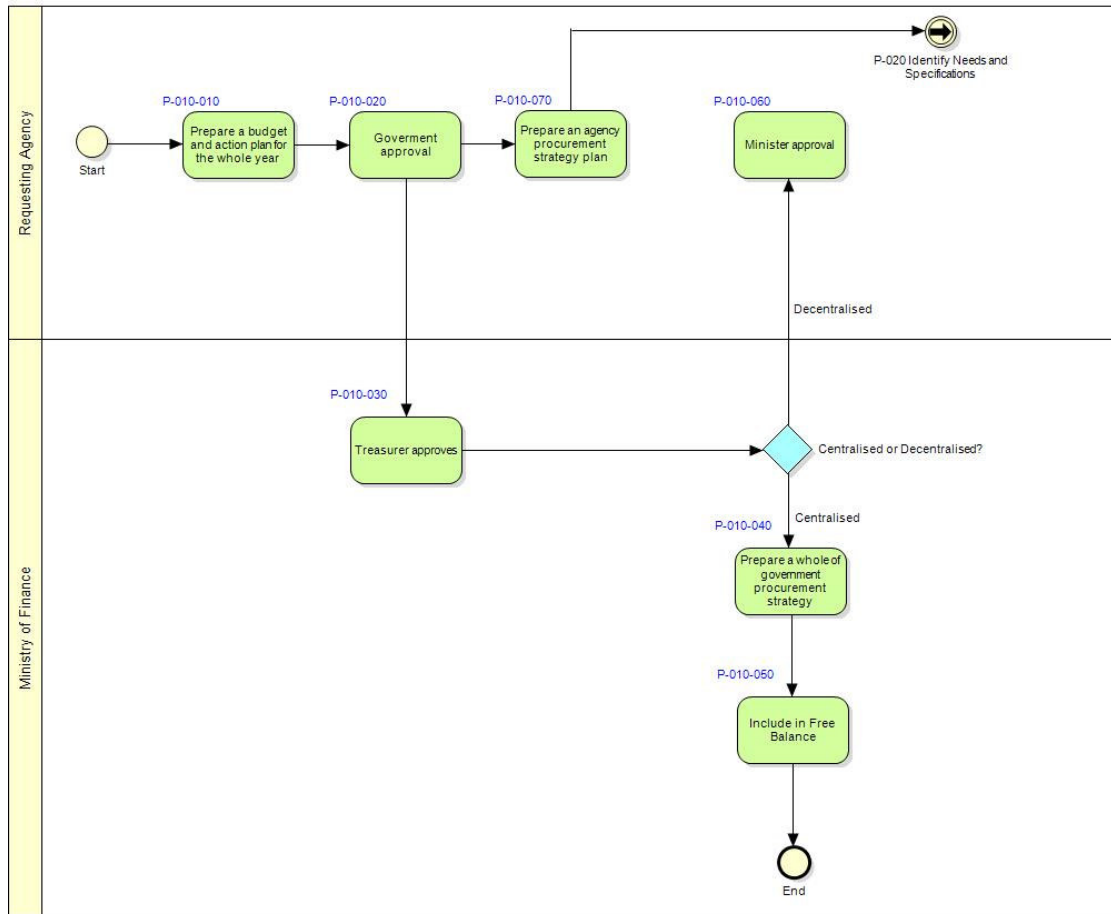
**Inflexible Decree Law framework:** The GoTL framework in relation to procurement is unusual in that the principle legal instrument governing procurement, Decree law 10/2005 (procurement legal regime) and its supporting laws are prescriptive with regard to the procedures required to undertake procurement. This legislation provides details of the procedural steps that must be undertaken to perform prequalification procedures, open and evaluate bids, procure by quotation and how to address bidder complaints etc.

The fact that these procedures are written into law results in little opportunity for flexibility. We were informed that in a recent World Bank analysis assessing the ease of conducting business with government, Timor Leste was ranked very close to the bottom of the table. Procurement law in most countries is included as part of general public financial management legislation and focuses mainly on the power and responsibility of the relevant Minister to implement an appropriate procurement process.

**Absence of coherent procurement strategy:** In its simplest terms a procurement strategy identifies the best way of achieving procurement objectives. It may articulate these objectives, in terms of value for money, transparency, accountability and operational efficiency. It would also indicate the timing of planned procurements, the type of process involved eg invitation to bid (ITB), request for quotation (RFQ) or request for tender (RFT), responsibilities and organisational and market constraints and risks. Apart from assisting with internal organisational planning, aspects of the strategy can be published to alert vendors of the timing of potential business opportunities. It can also be used as a tool to measure the performance of people and/or agencies involved in the procurement process.

Historically GoTL procurement strategy development has been limited to the process of budget approval and the production of a list of procurements for the year with minimal additional information. A summary of the process that should be in place in accordance with current GoTL policy is presented overleaf:

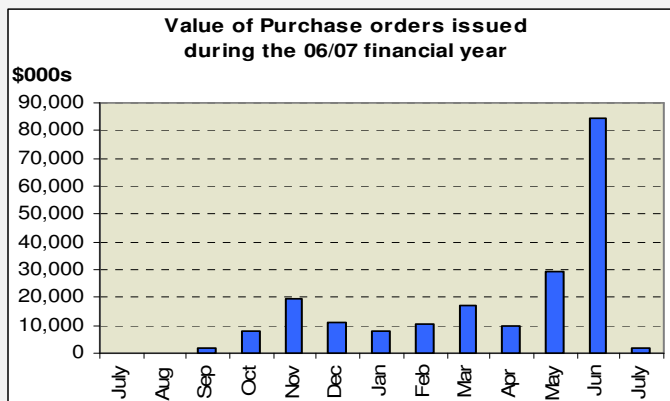




The GoTL annual procurement strategy does not provide an indication of the timing of procurements and there is therefore no benchmark against which to measure this important aspect of performance. The absence of a detailed procurement plan may therefore have contributed towards the skewed timing of authorised purchase orders during the 2006/07 financial year.

**Example: Timing of issue purchase orders**

*In the 2006/2007 financial year 30% of purchase orders were placed during June, equating to 42% of the total value of all purchase orders issued during the year.*

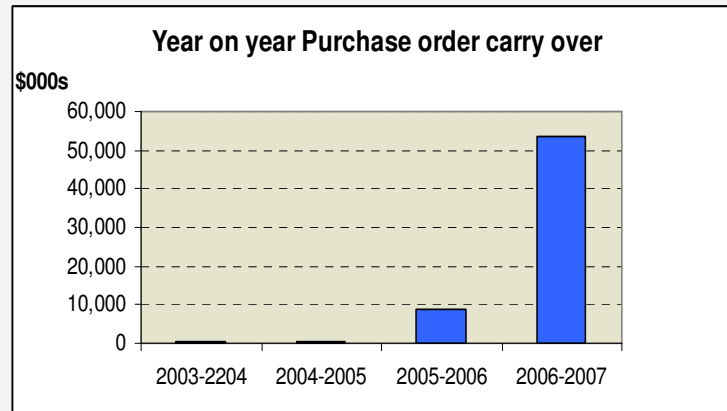


*A review of a sample of June purchase orders suggested that many of these had not been completed in accordance with approved procedures, a fact that is not surprising in view of the intense workload that this must have created during this month. (Note: July 2007 purchase orders related to the 2006/07 financial year).*

A further impact of inadequate procurement planning and contract management practices is that over the past three years the number of purchase orders carried over into the following financial year has increased substantially on a year on year basis.

**Example: Cumulative year on year purchase order carry-over:**

*Carry-overs have increased significantly over each of the past three years. This has the potential to create significant cashflow and budgetary problems as the value of these carry-overs is not appropriated into the annual budget. Carry-over statistics provided by Procurement Services in mid December 2007 are presented below.*



*There is currently an exercise underway to reduce the cumulative balance of carryovers which is estimated to be in excess of \$60million.*

**Inadequate training of procurement staff:** It is a widely accepted principle that all procurement staff should undergo appropriate training. In 2005 a series of five half-day workshops was held. Some training was also provided to staff in 2006 and 2007 however considerably more is needed in technical areas. There is no formal training plan and no formal record of training despite a competency based training course being sponsored by the Asian Development Bank and designed by an Advisor in 2005.

Procurement officers should be able to do some or all of the following, as may be appropriate to their individual responsibility:

- Identify and justify a requirement
- Plan a purchase and select the most appropriate methods
- Plan for and manage risks
- Develop a probity plan
- Develop evaluation criteria and an evaluation plan
- Develop tender request documents
- Seek quotations or tenders from the market
- Evaluate quotations or tenders
- Negotiate with suppliers and
- Manage contracts

**Lack of procurement procedure manuals:** No documented procedures are in place to communicate managements' expectations of performance standards and procedures. A standard requirement of any competent procurement function is to have well documented procedures. These help to provide an understanding of work standards, assist in training and

help to ensure a consistent approach to procurement. The table below indicates the typical subject matter that might be included in a procurement procedures manual<sup>1</sup>

Part of manual	Typical contents
Meetings and workshops	<ul style="list-style-type: none"> <li>• Schedule of meetings</li> <li>• Start up workshop</li> <li>• Monthly meetings</li> <li>• Quarterly reviews</li> </ul>
Work scope	<ul style="list-style-type: none"> <li>• Brief description of scope</li> <li>• How to vary</li> </ul>
Variation order	<ul style="list-style-type: none"> <li>• Adjustment of prices</li> </ul>
Cost control	<ul style="list-style-type: none"> <li>• Mechanisms and processes involved in cost control</li> </ul>
Practical completion	<ul style="list-style-type: none"> <li>• What defines practical completions</li> <li>• Delegates or approving officers</li> </ul>
Quality assurance requirements	<ul style="list-style-type: none"> <li>• Records to be kept</li> </ul>
Payment of invoices	<ul style="list-style-type: none"> <li>• Key dates</li> <li>• Format of invoices</li> <li>• Certification</li> </ul>
Estimate request	<ul style="list-style-type: none"> <li>• Method of preparing estimates</li> </ul>
Work order	<ul style="list-style-type: none"> <li>• Process for raising work orders</li> </ul>
Performance measurement	<ul style="list-style-type: none"> <li>• Collection of data</li> <li>• Evaluation of performance</li> <li>• Reporting of information</li> </ul>
Reporting requirements	<ul style="list-style-type: none"> <li>• Specify requirements and obligations of both parties</li> </ul>
Contract documentation	<ul style="list-style-type: none"> <li>• How is it updated</li> <li>• Who keeps the original and receives copies</li> </ul>

**Organisational structure:** The Procurement Services Division comprises a Director with oversight of 43 staff divided into four teams with each team being responsible for either contract administration, evaluation, tendering or administration. This structure might be appropriate in an environment where staff are well trained and have access to clear procurement guidelines. However, due to the lack of training and absence of procedure manuals the Procurement Services Division is dysfunctional. The division is supported by three Advisors, one of whom commented that he spends significantly more time performing line responsibilities than in previous advisory positions in other countries.

**Poor reporting and performance measurement:** There are no consistent or regular reports produced or provided to management to assist in managing the procurement process. No performance indicators such as tender cycle times are in place. It is therefore not possible to obtain an accurate picture of the status or trends in procurement activities.

**Inadequate filing system:** A comprehensive and complete filing system is fundamental for ensuring that records of decisions, payments and supplier performance are maintained and so that the procurement process can demonstrate its transparency.

At the very least a contract file should contain the following documentation in an easily accessible manner:

<sup>1</sup> Extracted from “Contract Management Better Practice Guide”, Australian National Audit Office, 2001.

- The justification (Needs identification) for contract
- Authority to proceed
- Tender documentation/evaluation including rationale for bidding process
- Details of the evaluation process, including reasons for the choice of successful provider(s)
- A complete set of the contract documents
- Copies of performance reports including all written directions, requests, reports and letters sent to the contractor and their responses and records of oral communications relating to the above
- Details of payment against agreed payment schedule
- Records of meetings

The quality of tender and contract files is inconsistent and for the most part poor. The filing system does not facilitate easy access to documentation or to records of past events and decisions. This has significant implications on the overall transparency of the procurement process. According to the procurement staff, procurement records prior to June 2006 were destroyed during the Crisis.

**Complex bid and Contract Documentation:** In common with most procurement functions, standard bid and contract documentation is used by the Procurement Services Division. However these are written in English which is a language that is not well understood by most people working within GoTL or most Timorese contractors. Most contract documentation is based on World Bank procedures and is overly bureaucratic and complex for use in an environment with English language and technical capacity constraints.

**No clear ethical or fraud control guidance:** Although the government has a code of ethics this has not been widely circulated. The principles it enshrines are appropriate but many public servants may find it difficult to understand as it is written in English and uses bureaucratic language. For example the final principle in the code is to “Contribute to the consolidation of national unity as a sine qua non for the economic and social development of Timor- Leste. The development of a clear and simple code of ethics specifically for staff within the Procurement Services Division should be considered.

Similarly, there is no guidance concerning fraud identification and prevention. In view of the inherently high risks of any procurement process a fraud control policy should be developed as a matter of urgency. The policy could consider the attributes of best practice in fraud control presented in the table below:

**Ten attributes of best practice in fraud control<sup>2</sup>**

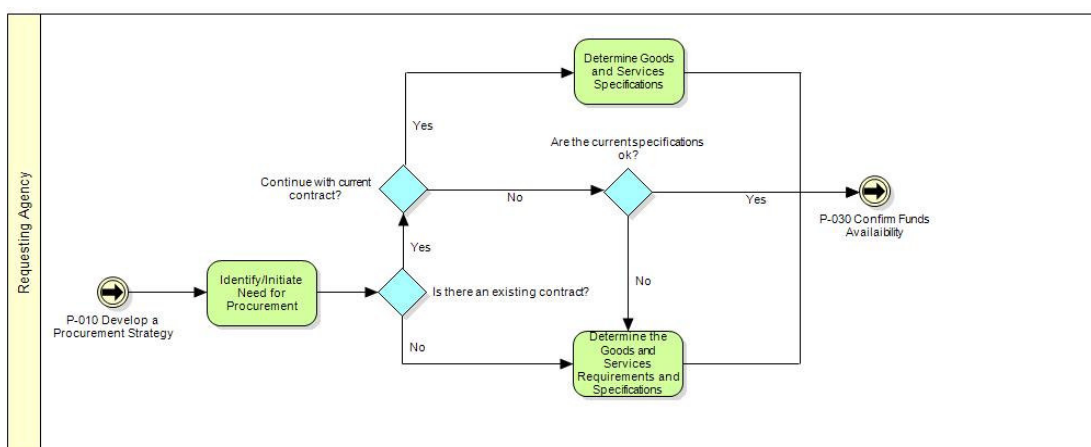
- Agencies have in place the necessary policies, systems and procedures to minimise fraud in all places, and at all levels, of an organisation
- There is clear accountability and responsibility for implementation and monitoring of the fraud management strategy
- Separate fraud risk assessment is undertaken by the organisation
- All employees understand the ethical behaviours required of them in the workplace
- Customers and the community understand that the organisation will not accept fraudulent dealings/transactions
- Policies, systems and procedures are in place to encourage the reporting of suspect behaviours
- Internal audits regularly examine samples of medium and high risk financial decision making across the organisation
- Agencies have policies which clearly identify the nature of suspect actions which require reporting to the Police, the ICAC, the Ombudsman, etc
- Procedures and other appropriate support (including training, where required) is provided to staff undertaking investigation activity on behalf of the organisation
- Employees understand that fraud will not be tolerated and that perpetrators will face disciplinary actions

<sup>2</sup> Adapted from "Fraud Control Current Progress and Future Directions guidance for better practice", The Audit Office of New South Wales 2005

## 2.2 SPECIFICATION OF REQUIREMENTS

The specification of requirements for individual purchases is an essential component of the procurement process. If a clear specification of goods or services is not developed suppliers cannot be expected to understand GoTL requirements. Further, and in the case of construction contracts, the absence of clear works specifications means it is not possible to perform an appropriate certification process to support progress and completion payments.

A summary of the current GoTL specification process and a table of key risks and issues identified during the review are presented below:



Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Technical competence of staff	H	H	H
Development of specifications in English	H	H	H
Lack of national standards framework	H	H	H
Failure to plan all requirements	H	H	H
Opportunities to aggregate requirements	M	L	H

**Technical competence of staff:** Specification of procurement requirements can vary from a simple process (eg for the replacement of a toner cartridge for an office printer) to a very complex one. Highly technical knowledge requirements are often required for construction projects and the consequence of issuing sub-standard specifications can result in reduced life and higher maintenance costs for infrastructure assets. There is a shortage of appropriate technical skills available to support centralised procurement and we understand the situation is worse in those agencies empowered to undertake decentralised procurement.

**Development of specifications in English:** The development of tender specifications in English can result in additional problems if the staff involved are not fluent English speakers. Most of the specifications developed by GoTL are written in English but most of the staff developing these specifications cannot confidently speak, read or write in this language. If specifications are not clearly articulated, vendors cannot reasonably be expected to provide an appropriate response at the tender stage.

**Lack of national standards framework:** A significant issue impacting upon the ability of GoTL to issue clear tender specifications is the lack of a national standards framework. Such frameworks normally provide a commonly understood set of criteria against which quality or performance can be determined and measured. They may also refer to levels of professional competence required to perform certain tasks. Timor Leste does possess some basic standards eg for the construction of schools, but the framework is not extensive. Sometimes international standards or standards from another country are specified but there is a risk that these may not be fully understood by locally based suppliers.

**Failure to plan all requirements:** In some contracts it is evident that the full expectations of GoTL are not articulated in writing. In these instances there is a risk that a vendor will not be informed of GoTL's expectations and will not deliver, or be contractually bound to deliver on these expectations.

**Example: Procurement of a public monument.**

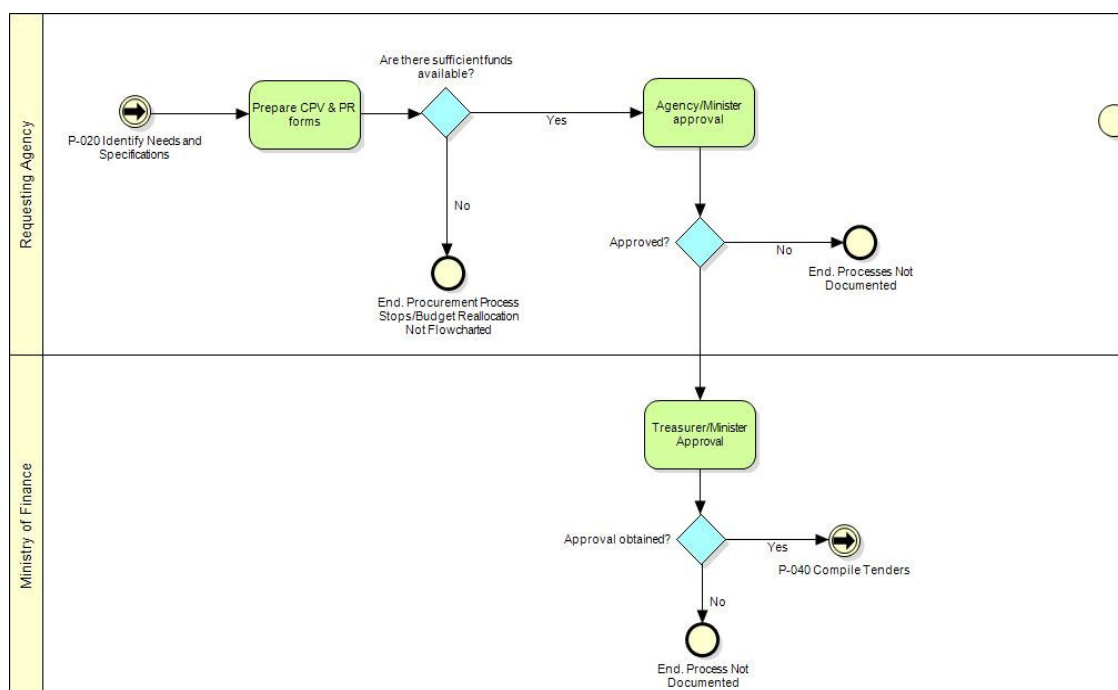
*A statue of the Pope was ordered from a South American sculptor. The intention of GoTL was that the sculptor would arrange for transport to the erection site and to mount it.*

*The contract specified only that the statue be delivered to Dili which the sculptor has done. As the contract was silent on who should be responsible for erecting the statue, there is now a dispute as to who should pay for the remainder of the job to be completed.*

**Opportunity to aggregate requirements:** A common practice for most procurement operations is to identify the organisations total need for a specific product or service (eg photocopy paper) and to aggregate this need into a single order or a small number of large orders. This can create opportunities to negotiate quantity discounts and to properly schedule deliveries and significantly reduce the amount of procurement effort required to obtain the required quantity of goods or services. This practice is not commonly employed by GoTL and thus opportunities to improve procurement efficiency and reduce overall costs are lost.

## 2.3 CONFIRMING FUNDS AVAILABILITY

Confirmation of funds availability is achieved through the issue of a Commitment and Payment Voucher (CPV). No order should be placed with a supplier unless the availability of funds has been confirmed. The workflows supporting this process are summarised as follows:



A summary of relevant key issues identified during the review is as follows:

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Bureaucratic CPV authorisation process	M	L	L
Variation in time to complete CPV	M	L	L

**Bureaucratic CPV authorisation process:** The proper authorisation of a CPV requires six separate signatories who can be situated in three different departments. This can cause considerable delays in their processing.

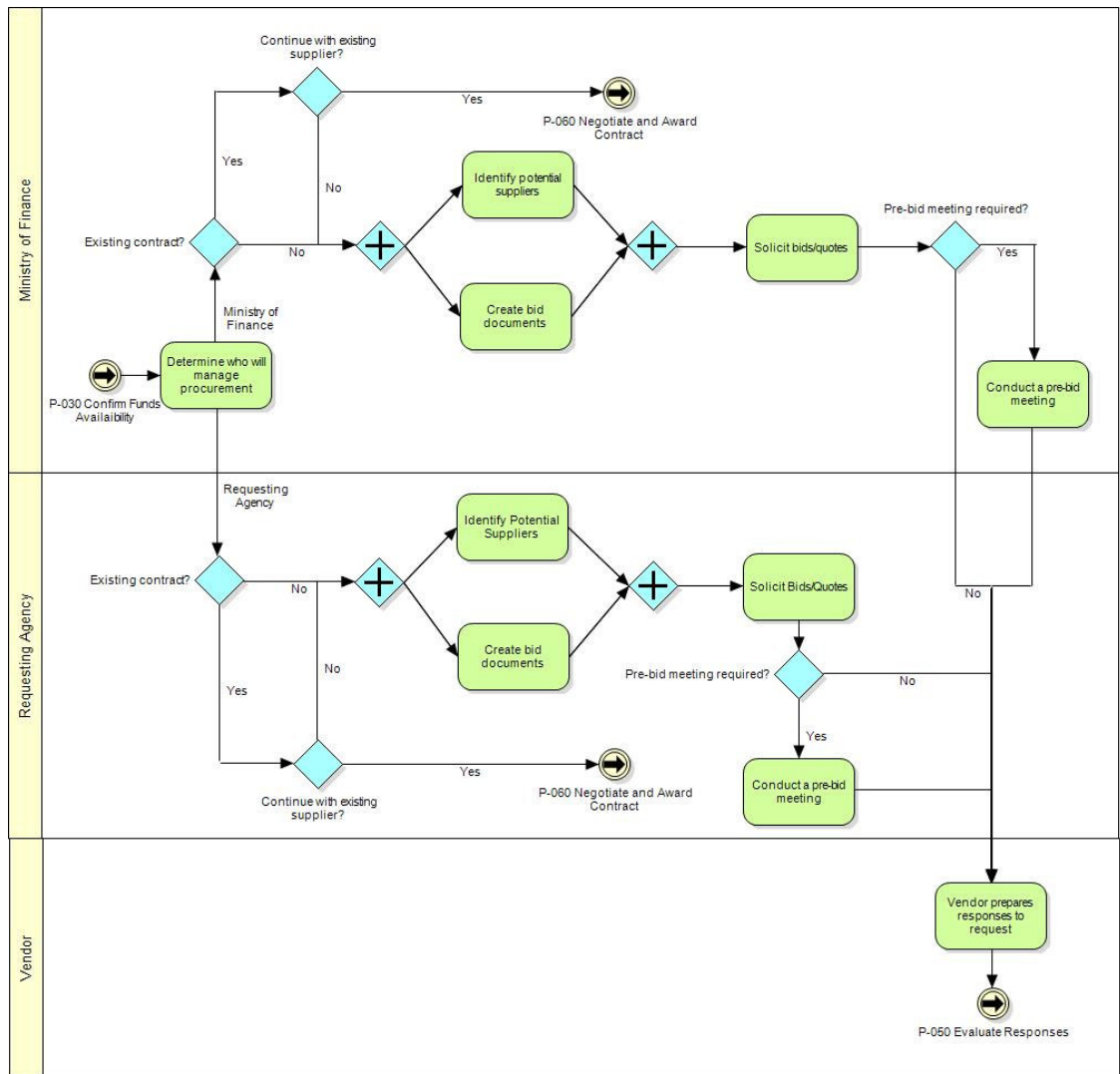
**Variation in time to complete CPVs:** The onerous authorisation process has led to variations in the time required to complete a valid CPV. The authorisation process can take up to six weeks to complete, potentially delaying the commencement of a tender, quote or bid process.



**2.4 COMPILATION OF TENDERS**

Compilation of tenders includes the activities required to identify potential suppliers, communicate requirements and solicit quotes or proposals from suppliers. Failure to conduct this process in an appropriate manner can lead to allegations from potential suppliers and members of the public that it is not fair or transparent. Regardless of the truth of such allegations they can lead to more serious perceptions that fraud or corruption is involved. Activities underlying the compilation of requests for tenders or quotes and the solicitation of responses should therefore be conducted in accordance with the highest levels of transparency.

A summary of the current GoTL process is presented below:



A summary of relevant key issues impacting upon the integrity of these activities is presented in the following table:

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Supplier database not maintained	M	M	L
Supplier database lacks detail	M	M	M
Ownership of vendor organisations unclear	M	H	H
Middlemen and agents used in supply chain	M	H	M
Bid documents prepared in English	H	H	H
Bid documents overly complex	H	H	M
Limited advertising of procurement opportunities	M	H	L
Inconsistent use of pre-bid conferences	M	L	L

**Supplier database not maintained:** There is a supplier database in the Procurement Services Division but this has not been maintained and the information is of limited practical value. Procurement officers confirmed that it is not used for any useful purpose.

**Supplier database lacks detail:** In order to be useful the supplier database should contain a suite of information including ownership, product/service range, and performance history. This information can be used to help identify potential suppliers and, if necessary blacklist poor performers. The GoTL database does not have provision for these details so even if it were maintained it would be of limited value in its current form.

**Ownership of vendor organisations unclear:** Due to Timor-Leste's business registration procedures and varying levels of compliance with these procedures by the business community it is not always possible to ascertain the true ownership of a business. Companies and their ownership should be registered with the Department of Justice and an annual "Certificate Dividas" is required from the Timor-Leste Revenue Services (TLRS) in order to register a business and to conduct business with GoTL. These certificates are only issued to businesses that are up to date with their tax assessments and payments. However, some taxpayers who have not met their tax obligations re-register their business under a new name, receive a new business licence and continue to trade under the new name. These taxpayers/businesses have therefore committed a fraud against the state.

**Middlemen and agents used in supply chain:** We were informed that some suppliers have exclusive supply contracts for specific goods and services to GoTL. While rationale for using agents can be valid, such arrangements can be used to perpetrate fraud by adding unnecessary profit margins for the agent.

**Example: Supply of security equipment**

*A random selection of payment vouchers revealed significant payments to Bravo International, a Dili based supplier for small arms ammunition. Such ammunition is not manufactured within the country and is not generally available to the public. There does not appear to be an appropriate reason why this procurement should have been processed through a local agent. Further, it appears that this contract was sourced on the basis of a single supplier.*

**Bid documents prepared in English:** The preparation of tender documents in English and requirements that responses be written in English is not conducive to effective procurement practice in Timor Leste. This is because English is not well understood or spoken as a language of choice by most GoTL procurement staff or local suppliers.

**Bid documents overly complex:** The use of standard bid documents is a widely accepted procurement practice that generally promotes quality and consistency across all procurement activities. There are standard bid documents for RFQ, ITB, and RFT. These appear to be based on World Bank pro forma documents and require a level of detail and compliance that many Timorese suppliers may find difficult to comply with. In general these documents are more suited to source large scale procurements from sophisticated international suppliers rather than Timorese based businesses.

**Limited advertising of procurement opportunities:** It is good practice to ensure that public tenders are widely advertised to increase the chance of a competitive bid process. Requests for tenders and quotes are not well advertised by GoTL. Opportunities targeted towards local businesses are usually advertised in the national newspapers however these newspapers are not widely available in the districts. Outside of Dili GoTL often relies on notification of tender opportunities to be communicated by word of mouth. While there is a GoTL tender opportunities webpage, this is not used.

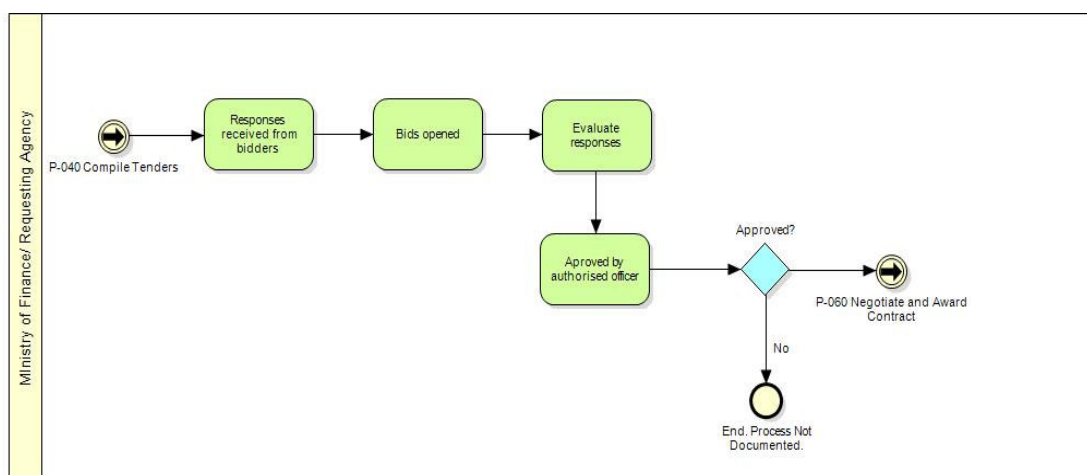
International tender opportunities are generally advertised in overseas newspapers.

**Inconsistent use of pre-bid conferences:** Pre-bid conferences are an integral part of the procurement process in most organisations and are held by GoTL for most large or complex procurements. More recently pre-bid conferences have not been routinely held although site visits for construction contracts are carried out. In addition to providing useful information to potential bidders about the nature and background of individual projects, pre-bid conferences can be used to educate potential bidders about the tender process. This would benefit many bidders and the procurement process as a whole.

## 2.5 RECEIPT AND EVALUATION OF RESPONSES

Receipt and evaluation of responses includes those activities relating to receiving, documenting and collating supplier responses to bid documents and evaluating these responses in a fair and internally transparent manner. If these activities are performed appropriately, they should result in developing contracts with reputable suppliers who are able to offer the best value for money. Ensuring the integrity of these activities is very important for if potential suppliers do not trust the evaluation process they may decline to bid or they may be tempted to try and unfairly influence evaluation outcomes.

A summary of the current GOTL process and associated key risks and issues is presented below:



Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
No lock box for receipt of tenders	M	M	L
No electronic submission process	M	M	M
Evaluation committee does not meet regularly	M	H	H
Chair of evaluation committee varies	M	H	M
Evidence of proceedings not filed	H	H	H

**No lock box for receipt of tenders:** Lock boxes provide a simple and effective control to ensure that tenderers know where to submit their responses and to ensure that only responses submitted within the tender period are evaluated. There is no lock box for the receipt of tender submissions by GoTL As a result there have been instances when supplier submissions have been discovered on desks after other bids have been opened and recorded.

**No electronic submission process:** This has become an increasingly common process in many organisations. The lack of electronic tender submission facilities presents challenges in the context of a country that does not have an efficient postal system. Submission of tender responses, particularly from internationally based suppliers can be a lengthy process or may entail high travel costs to physically deliver responses. These difficulties may result in some potential tenders failing to bid or failing to ensure that their responses arrive in time for bid opening.

**Evaluation committee does not meet regularly:** The tender evaluation committee of most organisations meet on a regular and pre-determined basis. This helps to ensure that members can schedule their availability and prevent backlogs in evaluation. The GoTL evaluation committee meets on an “as required” basis. This is an unusual situation for a government organisation processing a high volume of tenders. As a result there is a risk that meetings cannot be convened on a timely basis and this may have contributed towards delays in achieving the procurement plan.

**Chair of evaluation committee varies:** Most evaluation committees have a regular chairman with an alternate in the event he/she is unavailable. These committees normally have a fixed composition with flexibility to contain appropriate experts to support technical evaluations.

Both the chair and composition of the evaluation committee is variable. This presents a risk that the evaluation process may be inconsistent between different evaluation meetings, particularly if the composition of the committee also changes from meeting to meeting.

**Evidence of evaluation proceedings not filed:** Evidence of tender opening processes, minutes of evaluation committee meetings, copies of evaluation templates, recommendations to the minister etc. are not always filed. This impairs the transparency and auditability of the tender evaluation process and places GoTL in a potentially indefensible position if challenged on any aspect of the procurement process.

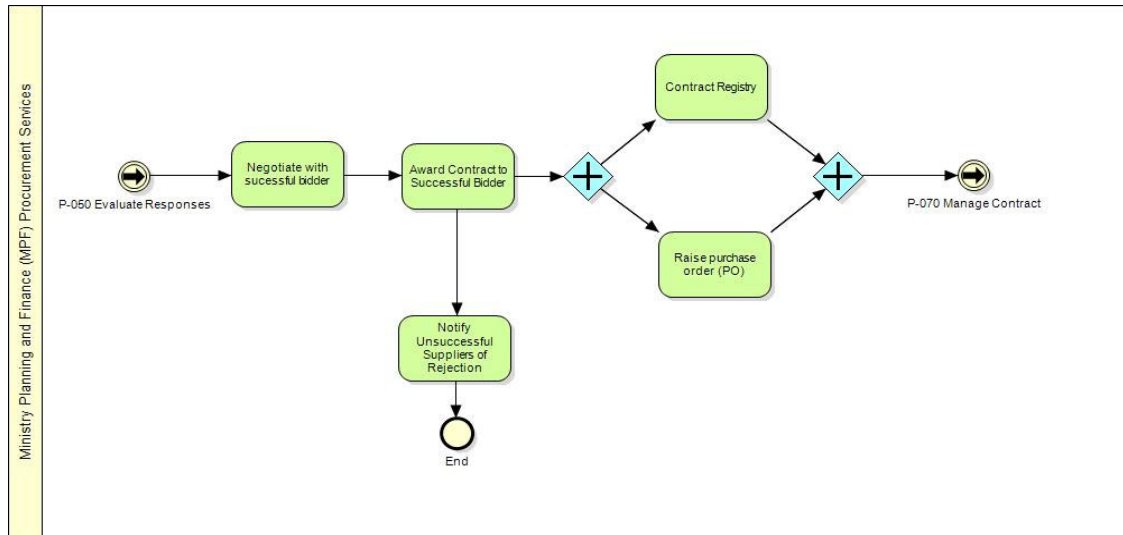
When inspecting the Procurement Service Division archives we noted a large box full of loose tender evaluation forms. It would be very difficult to match these forms to individual evaluation decisions.

**Unchallenged price variations:** Unusual price variations do not always appear to be challenged and this has the potential for GoTL to be exposed to uncompetitive prices and/or fraud.

**2.6 NEGOTIATION AND AWARD OF CONTRACT**

GoTL has three standard contracts in place which are generally used in accordance with the nature of the procurement. The contracts cover small goods and services, consultancy and works.

A summary of the current GoTL process for negotiating and awarding contracts is presented below:



Key risks and issues identified in relation to these activities are as follows:

Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Limited contract negotiation skills	M	H	H
Onerous and inflexible contract terms	M	L	L
Inconsistencies regarding performance bonds and bank guarantees	M	M	L
Inconsistencies regarding mobilisation payments	M	H	L
No legal review of major contracts	M	M	L
Contract register lack integrity	M	M	L
Non sequential and duplicate purchase orders	H	M	L
Failure to notify unsuccessful bidders	L	L	L

**Limited contract negotiation skills:** GoTL possesses a number of standard contracts and terms and conditions of contract which are designed to suit most contractual arrangements. However, some contracts are negotiated but procurement staff have received very little training in this area. In addition, there are currently no staff members on the procurement team who have appropriate legal or contract negotiation skills. This places GoTL at a disadvantage when negotiating contracts and has the potential to expose the government to the risk of sub-optimal performance by suppliers and inadequate recourse to address potential contractual disputes.

We were informed that where contract negotiation has taken place, it has usually been addressed by an Advisor rather than a GoTL employee.

**Onerous and inflexible contract terms:** We inspected standard terms and conditions for the small goods and services, minor works, major works and consultancies. These contracts appear to be based on standard World Bank contracts and there is an opportunity to review their suitability for use in Timor Leste particularly when local contractors are appointed.

**Inconsistencies regarding performance bonds and bank guarantees:** We were informed that for some contracts there is a requirement to obtain a performance bond and bank guarantee. Although the procurement law requires performance bonds to be set for contracts with a value greater than \$10,000, we were unable to ascertain the principles used in practice to set bonds or guarantees.

We were informed that many locally owned suppliers do not have the funds to pay a performance bond or to obtain a bank guarantee and this may deter them from submitting proposals. This has negative implications for Timor-Lestes' social and economic development and could be resolved through a clearly articulated review and change of policy.

**Example: Performance Bond and poor contract management practice**

*One of the largest contracts let by the government is with Tafui Oil Company Ltd for the supply of fuel which on average exceed over \$1.2m per month. Despite the size of this contract, which covers the major source of fuel supply for the country, no performance bond appears to have been set. This contract is currently under investigation by a legal expert whose preliminary findings indicate that, in addition to failing to request a performance bond, poor management practices relating to the contract include:*

- *A failure to follow open tender processes*
- *Breaches of delegation authorities in the letting of the contract*
- *Lack of authority to extend the contract*
- *Failure to properly inform the Minister of certain aspects of the contract*
- *Failure to validate payment requests*
- *Failure to identify/recover significant over payments.*

**Inconsistencies regarding mobilisation payments:** There are no clear guidelines for setting mobilisation payments. This issue faces similar challenges to that of performance bonds and guarantees (refer above). With regards to international suppliers we noted some apparent inconsistencies in relation to performance bonds and mobilisation payments.

**Example: Mobilisation payment**

*An Indonesian supplier, PT Gunung Kijang was awarded a construction contract for \$888,888.88 and was required to provide a bank guarantee for 20% (\$177,778) of this amount. The supplier immediately requested a mobilisation payment for \$177,778. This request was declined but an amount of \$87,111 for mobilisation costs was immediately paid and 14 days later a further \$87,111 was remitted as a progress payment, ie it appears as if 20% of the contract price was effectively paid as a mobilisation cost as requested by the supplier.*

**No legal review of major contracts:** We noted that a Legal Adviser has recently been appointed to review specific contracts. However these reviews are essentially forensic in nature and, had they been proactively commissioned, disputes or instances of poor performance may not have arisen.

The current processes do not require major contracts to be reviewed by a competent legal practitioner and/or panel. By failing to obtain a legal opinion on such contracts there is a risk that the government may be exposed to sub-optimal performance and additional costs and limited opportunities for recourse in the event of dispute.

**Contract register lacks integrity:** A contract registry is maintained by the Procurement Department in a handwritten loose-leaf file. It contains a number of fields that, if completed would not provide adequate information about the nature and terms of contract. Many fields remain uncompleted and the handwriting is often illegible.

In addition, we noted some inconsistencies in contract numbering. Contracts are required to be issued with a purchaser order. Some contract numbers can be readily identified with a purchase order while others can not.

**Non sequential and duplicate purchase orders:** Standard practice in most organisations is to allocate unique and sequential numbers to every purchase order. This facilitates the control, tracking and management of purchases. All purchase orders are allocated a sequential number by the Free Balance general ledger. However these numbers can be changed during data capture and as a result 288 (5%) of the 6,144 purchase orders issued during the 2006/07 year were missing from the numerical sequence.

We also noted numerous instances where two different purchase orders may have been used to procure the same item or services twice. Some examples are presented in the table below:

**Example: Potential duplication of purchase orders**

*The following is a sample of purchase orders that may have been duplicated because they have been paid to the same supplier on the same date and are for the same amount.*

PO	Date	Supplier	Goods	Value (USD)
74868	Nov-07	Dealer Forte	Motor vehicle	99,000
74869		Dealer Forte	Motor veiculos	99,000
72484	Feb-07	Ministerio Saude	Rehab of big.	60,000
72486	Feb-07	Ministerio Saude	Rehab of big.	60,000
75688	Jun-07	Toms Buidling Company	Construction	30,000
75689	Jun-07	Toms Buidling Company	Rehabilitation	30,000
70748	Nov-07	Belak Fuels	Vehicle fuel	20,000
70787	Nov-07	Belak Fuels	Vehicle fuel	20,000
76080	Jun-07	Samdoria unipessoal	Construction	20,000
76094	Jun-07	Samdoria unipessoal	Construction	20,000
76315	Jun-07	Samdoria unipessoal	Construction	20,000
76404	Jun-07	Wedito Unipessoal. Ld	Construction	20,000
76426	Jun-07	Wedito Unipessoal. Ld	Construction	20,000
73822	May-07	I Market	Equipment	20,000
73880	May-07	I Market	EDP Equipment	20,000

**Failure to notify unsuccessful bidders:** As a matter of transparency, courtesy and to encourage unsuccessful bidders to compete in future tenders, most organisations notify unsuccessful bidders of the result of the evaluation process. It is not the practice of the GoTL to inform unsuccessful bidders of the outcome of tender evaluations and contract awards.



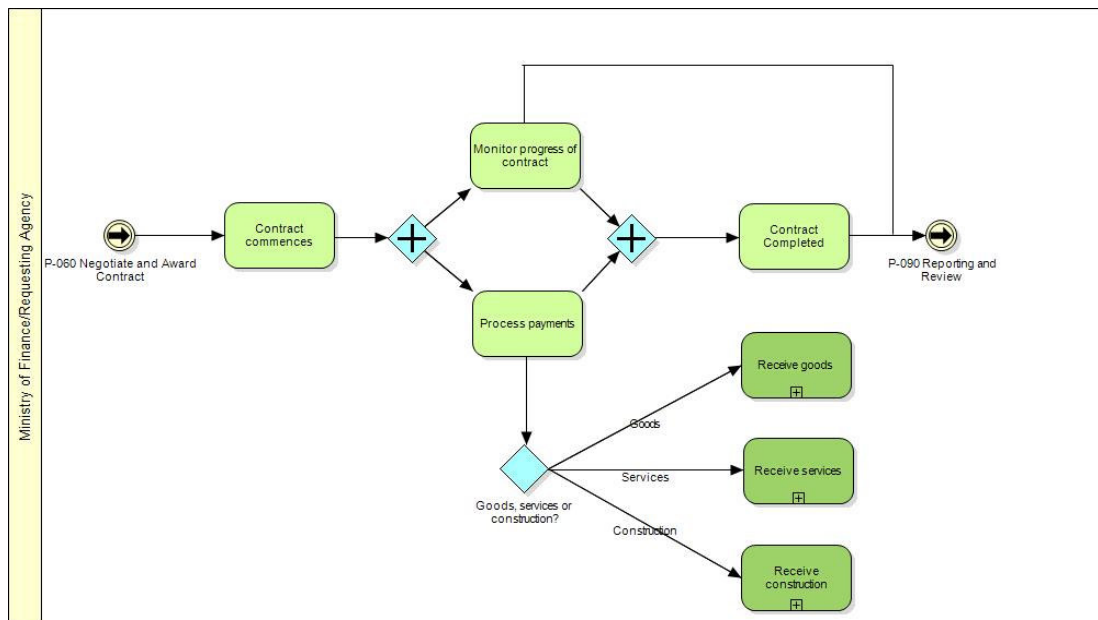
## 2.7 MANAGEMENT OF CONTRACTS

Contract management includes activities undertaken from the commencement of the contract to its termination. While different techniques are required for different contracts, all contract management techniques are essentially related to the principles of risk management. There are at least two levels of risk associated with contracted service delivery:

- contract risk—the risk that the service is not delivered in accordance with the requirements of the contract in terms of time, cost, quality and quantity; and
- contract management risk—the risk associated with the management of the contract.

Contract management activities should therefore be aimed at addressing these risks. Failure to manage the risks can result in poor procurement outcomes, regardless of how well a project may have been specified and a supplier selected.

A summary of the activities involved in contract management is presented below along with a table of the key risks and issues identified during the review:



Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inadequate contract management skills	H	H	H
Inadequate contract risk management activities	H	H	H
Delays in contract commencement	H	M	H
Inconsistent works certification	H	H	H
Inadequate evidence of receipt of goods	H	H	M
Delays in contract completion	H	M	H
Failure to process invoices quickly	H	M	L
Photocopied authorisation on payment vouchers	H	H	L
Failure to record payee in accounting records	H	H	L
Failure to perform supplier evaluations	M	H	M

**Inadequate contract management skills:** Good contract management requires a range of knowledge and skills that can only be acquired over time. Some of the skills and attributes required of a contract manager are summarised in the table below<sup>3</sup>:

Skills and attributes	Factors to consider
Experience	<ul style="list-style-type: none"> <li>• Knowledge and experience of the organisation's overall business</li> <li>• The level in the organisation the manager will hold</li> </ul>
Technical skills	<ul style="list-style-type: none"> <li>• Understands service elements</li> <li>• Can specify variations</li> <li>• Ability to appraise performance of service delivery</li> </ul>
Management skills	<ul style="list-style-type: none"> <li>• Experience/training in contract management</li> <li>• People management (contract management team and other staff)</li> <li>• Skills in financial/cost management (budgeting, costing, asset management) and accountability framework</li> </ul>
Communication skills	<ul style="list-style-type: none"> <li>• Ability to present information in writing and orally</li> <li>• Negotiation skills</li> <li>• Facilitation skills</li> <li>• Conflict resolution skills</li> <li>• Networking within the organisation and with industry peers</li> </ul>
Personal attributes	<ul style="list-style-type: none"> <li>• Interpersonal skills</li> <li>• Flexibility</li> <li>• Earns/maintains respect</li> </ul>

As discussed previously in this report, procurement staff have not been exposed to sufficient training to enable them to operate effectively. The list of skills and attributes above could be considered when developing the training programmes discussed in part 2.1 of this report.

**Inadequate contract risk management activities:** The procurement plans for each contract should include contract risk management activities. These activities should include the assessment of risks associated with each of the contracts. This will assist procurement staff to develop and implement appropriate controls to mitigate the risks identified. Current contract risk management activities are very limited.

**Delays in commencement of contract:** Contracts should be commenced in accordance with the terms of the contract. Failure to do so may result in the contract not being completed by the completion date. Delays in commencement may result in increases in the price of raw materials which the contractor may try to pass on to the government and may also result in contracts not being completed.

<sup>3</sup> Extracted from "Contract Management Better Practice Guide", Australian National Audit Office, 2001.

We were informed that delays in commencement are often due to local suppliers encountering difficulties in raising funds for a performance bond or bank guarantee. If this is the case a more pragmatic approach to this aspect of contract risk management might result in better outcomes for GoTL and contractors.

**Example: Contract commencement delays**

*Based on information provided by Advisors we estimate that at 30 November 2007 there were 225 contracts/purchase orders that had passed their expiry date but had not commenced. Some of the largest of these were:*

P. Order Number.	P.Order Date	Compl. date	Supplier name	Description	location	value (USD)
75118	Jun-07	Nov-07	Perola de Timor	Construction	Baucau	190,250
75119	Jun-07	Nov-07	Imelbenrik	Construction	Maliana	185,620
76372	Jun-07	Oct-07	Buras	Construction	Not stated	90,405
76282	Jun-07	Oct-07	Lidel - edicoes	Construction	Portugal	185,559
74370	May-07	Sep-07	Maka'sae constr.	Construction	Baucau	130,311
74011	May-07	Sep-07	Aifunan timor	Furniture	Not stated	122,996
74289	May-07	Aug-07	Eljaguna Bros.	Construction	Baucau	136,307
74568	May-07	Jun-07	Rozi	Refurbishment	Baucau	140,000
76324	Jun-07	Jun-07	Honalo	Construction	Ermera	107,148
<b>Total</b>						<b>1,288,596</b>

**Inconsistent works certification:** Works certification should be completed by staff who are technically competent to undertake such a certification. The certification process is an essential activity that ensures the government pays only for construction or work that has actually been performed. There is only limited capacity within GoTL to conduct works certifications so the risk of paying for substandard or incomplete work is high. In addition, we were informed that certifying officers are often offered "commissions" by contractors to certify their work. This raises issues of conflict of interest and exposes the government to significant potential fraud.

**Example: inconsistent works certification**

*The construction of an auditorium was commissioned by the Department of Education. The project was certified by a departmental inspector as complete at a value of \$34,000. Shortly afterwards a second inspector performed a site inspection and identified over \$14,000 of uncompleted work.*

**Failure to match goods received to goods ordered:** Goods received should be matched to details on invoices and purchase orders to ensure that the government has actually received what it ordered and what it will pay for. We noted numerous instances where there was no evidence of a goods received note or of checking of goods received against an invoice. We also noted several instances where details on purchase orders and/or invoices were too general to specify exactly what had been ordered and delivered.

**Example: No details of items ordered or paid for**

*A payment of \$29,916 was made to a local supplier, Land Bird Company on 10 January 2007 for the supply of "anti riot gear". Neither the supporting contract, purchase order nor invoice provided any details of what items were actually ordered.*

*Other unusual characteristics relating to this transaction were that the gear was presumably specialised and probably not manufactured within Timor Leste. If so it may have been less costly to source directly from the overseas supplier rather than an agent. Secondly, the only other identified payment made to this company appears to have been for junior school education materials. Thirdly, both of the above payments were coded to "no vendor" in the FreeBalance system.*

**Delays in contract completion:** Contract management practices should ensure that progress is monitored and that delays can be identified early and resolved quickly. We identified many open contracts that had passed their completion date and were informed that this is a common occurrence.

Delays in contract commencement and completion have the potential to significantly damage the governments' social and economic agendas, particularly in view of the fact that this is a common rather than exceptional occurrence.

**Example: Delays in contract completion**

*Based on information provided by Advisors we estimate that at the end of December 2007 there will be over 600 open contracts and purchase orders that have passed their completion date. The value of the unexpired portion of these contracts is estimated to be in the region of \$32million. Some of the larger contracts are as follows:*

P. Order Number.	P.Order Date	Compl. date	Supplier name	Description	location	Amt Paid	% of conrt val.
76322	May-07	Jul-07	Multiple vendors	Prof. services	Not stated	45,131	4%
76334	Jun-07	Nov-07	Honalo	Roads	Ermera	13,983	11%
75649	Jun-07	Nov-07	Malibo	Construction	Same	33,240	20%
74387	May-07	Oct-07	Marabia	Roads	Lolotoe	142,464	20%
75148	Jun-07	Oct-07	CO Country	Roads	Oe-cussi	33,088	20%
73692	Apr-07	Sep-07	Leo Hilin	Prison rations	Baucau	11,902	36%
73691	Mar-07	Aug-07	Soin Lorosae	Prison rations	Dili	56,149	37%
75688	Jun-07	Oct-07	Toms Building	Construction	Dili	12,815	42%
72977	Mar-07	Aug-07	Startec Enterpr.	Solar cells	Not stated	1,410,200	63%
75042	Jun-07	Sep-07	Whitestone	Flood control	Ermera	46,592	66%

There is also a risk that mobilisation payments may be made to contractors who have no intention or no capacity to commence a contract. It is possible that the contractors in the table above who have received 20% of their contract price may fall into this category. Other examples where exactly 10% of the contract price has been paid on contracts past their completion date are presented below.

**Example: expired contracts where 10% of contract value has been paid**

*Many contracts/purchase orders were identified for which only 10% of the contract price has been paid and which have now passed their completion dates. Some of these contracts are as follows:*

P. Order Number.	P.Order Date	Compl. date	Supplier name	Description	location	Contr.Val (USD)
75943	Jun-07	Aug-07	Ensul	"Services"	Not stated	220,000
76090	Jun-07	Nov-07	Fideets	Roads	Viqueque	164,861
76228	Jun-07	Oct-30	Flecah	Roads	Ermera	248,135
75025	Jun-07	Sep-07	Terminator	Roads	Baucau	198,889
75113	Jun-07	Sep-07	Rivasio	Roads	Not stated	130,460
74973	Jun-07	Sep-07	Rivio Constr.	Roads	Baucau	123,711

*These contracts may represent instances where mobilisation payments have been paid to contractors who have no intention or no capacity of performing the required work.*

**Failure to process invoices on time:** Invoices received by suppliers should be date stamped and recorded in the system as soon as practicable after receipt. Late payment of suppliers may result in their declining to bid for future work or in their submitting duplicate invoices or being tempted to bribe officers to expedite payment of their accounts.

Our own experience as a supplier of services to GoTL is that payment are often received more than 90 days after date of invoice.

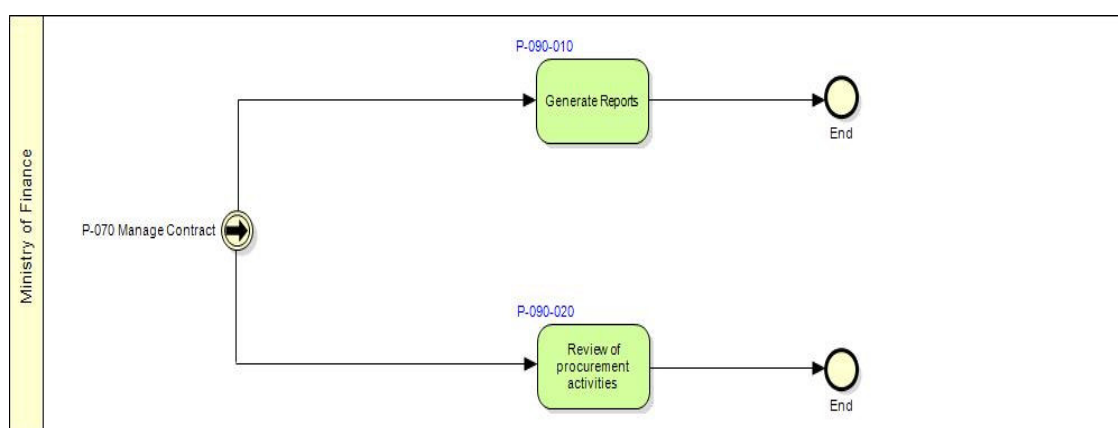
**Photocopied authorisation on payment vouchers:** We noted that some of the payment vouchers supporting payments were partially photocopied. The portion containing signatures was photocopied but the fields requiring payee, amount and description of the goods and services were subsequently completed on the photocopied document. This represents a significant breakdown in internal control and has similar implications to issuing blank cheques and significantly increases the risk of fraud.

**Failure to record payee in accounting records:** It is standard practice in any accounting system to record the names of payees in the ledger and the FreeBalance ledger requires the name of the payee to be inserted for all payments. This control has however been overridden and we noted that 54% by value of all GoTL payments for the 2006/07 financial year were attributed to a payee called "No vendor". This has resulted in a significant loss of transparency and impairment of the audit trail and provides a high risk that fraudulent payments will become difficult to trace. Fortunately we were able to obtain a list of payments and payees from the governments' banker, the Banking and Payments Authority (BPA) and these have been provided to GoTL for further analysis and review.

**Failure to perform supplier evaluations:** Systematic evaluation of suppliers helps to ensure that an organisation only contracts with reputable organisations. This is an essential component of risk management and reduces the risk of poor contract performance and outcomes. The current procurement processes do not include any supplier evaluation activities.

## 2.8 REPORTING AND REVIEW

Reporting and review provide important opportunities for understanding organisational performance, promoting accountability and facilitating continuous improvement. There is essentially no reporting or review process in place within the Procurement Services Division and a summary of the key risks identified during this review are presented in the table below:



Key risks and issues	Systemic risk	Risk of fraud	Complexity to address
Inadequate contract management skills	H	M	L
Inadequate contract risk management activities	H	M	L
Delays in contract commencement	M	M	M

**Limited reporting on operational activities:** A reporting framework is an accepted prerequisite for any business activity in any organisation and is used as a tool to promote accountability and performance. The Procurement Services Division has not developed a reporting framework and this may be one reason why there are so many anomalies across the process.

**No use of performance indicators:** The use of performance indicators is an accepted technique commonly used across all disciplines of management in most organisations. Performance indicators can provide a simple yet effective method of measuring and monitoring performance and if used correctly can assist management to proactively identify trends or problems which can be addressed before they become critical. We were unable to identify any performance indicators that were regularly or consistently used by the Procurement Services Division.

The development of performance reporting activities should consider three areas, viz the development of the performance reporting framework, the measurement and management of data of data and the presentation of information. Key considerations that could be used in developing this process are summarised in the table below.<sup>4</sup>

Performance Reporting Framework
<ul style="list-style-type: none"> <li>• Specify desired outcomes (including any intermediate outcomes)</li> <li>• Address any shared outcomes and provide information on the Procurement Services Division's contribution</li> <li>• Identify measurable performance indicators for effectiveness of outcomes and operational activities</li> <li>• Use valid, accurate and reliable measures and maintain information on methodology and sources</li> <li>• Establish links between financial and non-financial performance information and assess the efficiency and cost effectiveness of the Procurement Services Division</li> <li>• Use researched and realistic targets, standards and bases for comparison including multi-year targets where necessary.</li> </ul>
Data Measurement and Management
<ul style="list-style-type: none"> <li>• Clear definition of performance indicators</li> <li>• Sound data assurance arrangements</li> <li>• Performance data should be the basis for internal and external reporting, including management and analysis</li> </ul>
Presentation of Information
<ul style="list-style-type: none"> <li>• Present achievements and analysis of performance</li> <li>• Assess performance against targets or other points of reference</li> <li>• Present trends in performance</li> <li>• Demonstrate that evaluations are conducted and used appropriately</li> <li>• Provide a coherent picture of performance that:               <ul style="list-style-type: none"> <li>- links to commitments in the Budget</li> <li>- demonstrates consistency between years</li> <li>- addresses all matters required by Management, the Ministry and the Government</li> </ul> </li> </ul>

**No independent review:** Due to the high inherent risk of the procurement process, most organisations that have an internal audit function will experience at least one procurement related review each year. Independent reviews should be an integral part of the management process. Procurement activities are inherently high risk in any organisation and the advantages of regular reviews far outweigh the costs. Internal audit reviews should be an integral part of the continuous improvement process and, as demonstrated in the findings of this report there is significant scope for simple internal audits to identify anomalies and recommend improvements to the process.

<sup>4</sup> Adapted from "Better Practice Performance Reporting" Australian National Audit Office 2004.

**2.9 CONCLUDING OBSERVATION**

At the time of our review a number of initiatives were underway to strengthen the procurement process. These included legal investigations and assessments of organisational structure, responsibilities, processes and computer functionality. The findings of this report and these initiatives should be consolidated and viewed holistically to ensure that a pragmatic action can be developed to strengthen the overall process.









### 3.0 SUMMARY OF FINDINGS INCLUDING RECOMMENDATIONS

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
		<b>Absence of coherent procurement strategy:</b> In its simplest terms a procurement strategy identifies the best way of achieving procurement objectives. It may articulate these objectives, in terms of value for money, transparency, accountability and operational efficiency. It would also indicate the timing of planned procurements, the type of process involved eg invitation to bid (ITB), request for quotation (RFQ) or request for tender (RFT), responsibilities and organisational and market constraints and risks.	Continue to refine the 2008 procurement strategy document currently being developed by Advisors. Identify opportunities to merge smaller procurement on a whole of government basis and to introduce panel contracts or increase the use of prequalification bids. Publish the elements of the strategy that relate to timing of procurement and ensure that this is updated on a quarterly basis to reflect revised estimates.	
		<b>Inadequate training of procurement staff:</b> It is a widely accepted principle that all procurement staff should have undergone appropriate training. Almost no training has been provided to staff in the Procurement Services Division. In 2005 a series of five half-day workshops was held. Some staff have since attended ad hoc courses but there is no formal training plan and no formal record of training despite a competency based training course being sponsored by the Asian	Evaluate opportunities to introduce competency based training within the Procurement Services Division. Perform a training needs analysis and set reasonable expectations as to timeframes over which training can be implemented and the outcomes that will be achieved. Ensure that all training activities, including attendance, are documented. Consider providing all training in Tetum to ensure that it is well understood.	
		<b>Lack of procurement procedure manuals:</b> No documented procedures are in place to communicate managements expectations of performance standards and procedures. A standard requirement of any competent procurement function is to have well documented procedures. These help to provide an understanding of work standards, assist in training and to ensure a consistent approach to procurement.	Develop procedure manuals covering all aspects of procurement. These manuals should use simple and concise language and incorporate the use of flowcharts and other graphical representations. They could be introduced through a training and awareness programme and could be provided in Tetum and English or Portuguese.	

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	M	<p><b>Organisational structure:</b> The Procurement Services Division comprises a Director with oversight of 43 staff divided into four teams with each team being responsible for either contract administration, evaluation, tendering or administration. This structure might be appropriate in an environment where staff are well trained and have access to clear procurement guidelines. However, due to the lack of training and absence of procedure manuals the Procurement Services Division is dysfunctional. The division is supported by three Advisors, one of whom commented that he spends significantly more time performing line responsibilities than in previous advisory positions in other countries.</p>	<p>Consider introducing experienced procurement professionals into line positions within the procurement process, including positions within agencies that have authority to perform their own purchasing operations. Allocate a counterpart to each of these professionals and provide clear benchmarks regarding expectations of knowledge and skills transfer.</p>	L
H	H	<p><b>Poor reporting and performance measurement:</b> There are no consistent or regular reports produced or provided to management to assist them in managing the procurement process. No performance indicators such as tender cycle times are in place. It is therefore not possible to obtain an accurate picture of the status or trends in procurement activities.</p>	<p>Develop a simple performance reporting system based on easily measurable performance indicators. Consider utilising information currently available on FreeBalance to achieve this. The reporting system could include daily or weekly reports to assist managers and staff to perform their operational responsibilities and monthly and quarterly reports to enable management to report at ministerial level and to monitor and address trends in performance indicators.</p>	L

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
H	H	<b>Inadequate filing system:</b> A comprehensive and complete filing system is fundamental to ensuring that records of decisions, payments and supplier performance are maintained and so that the procurement process can demonstrate its transparency.	Develop filing protocols and provide training to staff to raise the awareness of the importance of maintaining a good filing system. As a minimum the filing protocols should provide guidance on file numbering, use of cover sheets, contents etc storage protocols and archiving.	L
H	M	<b>Complex bid and Contract Documentation:</b> In common with most procurement functions, standard bid and contract documentation is used by the Procurement Services Division. However these are written in English which is a language that is not well understood by most people working within GoTL or most Timorese contractors. Most contract documentation is based on World Bank procedures and is overly bureaucratic and complex for use in an	A review of contract documentation is currently underway. The purpose of this review is to identify opportunities to simplify the documentation. The recommendations of this review should be considered and implemented as appropriate. Consider making all standard contract documents available in a choice of Tetum, English and Portuguese. This will help ensure that it is always understood by the people using it.	M

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
H	H	<p><b>No clear ethical or fraud control guidance:</b> Although the government has a code of ethics this has not been widely circulated. The principles it enshrines are appropriate but many public servants may find it difficult to understand as it is written in English and uses bureaucratic language.</p> <p>Similarly, there is no guidance concerning fraud identification and prevention.</p>	Develop a clear and simple code of ethics specifically for staff within the Procurement Services Division. In view of the inherently high risks of any procurement process a fraud control policy should also be developed as a matter of urgency.	H
H	M	<p><b>Inflexible legislative framework:</b> Procurement legislation prescribes how the procurement process should be conducted. This is unusual and provides very little opportunity for the procurement process to be refined without having to amend national legislation.</p>	Review the current DecreeLaw framework with the objective of streamlining the procurement process. This may entail setting out principles in either legislation or decree law and issuing, through another authority, policies which are binding on buyers and suppliers.	M
H	H	<p><b>Technical competence of staff:</b> Highly technical knowledge requirements are often required for construction and other projects and the consequence of issuing sub-standard specifications can result in reduced life and higher maintenance costs for infrastructural assets. There is a shortage of appropriate technical skills available to support centralised procurement and we understand the situation is worse in those agencies empowered to undertake decentralised procurement.</p>	Evaluate opportunities to introduce competency based training within the Procurement Services Division. Perform a training needs analysis and set reasonable expectations as to timeframes over which training can be implemented and the outcomes that will be achieved. Ensure that all training activities, including attendance, are documented. Consider providing all training in Tetum to ensure that it is well understood.	H







Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
		<p><b>Development of specifications in English:</b> The development of tender specifications in English can result in additional problems if the staff involved are not fluent English speakers. Most of the specifications developed by GOTL are written in English but most of the staff developing these specifications cannot confidently speak, read or write in this language. If specifications are not clearly articulated, vendors cannot reasonably be expected to provide an appropriate response at the tender stage.</p>	<p>Consider introducing technical specifications in a language that is more familiar to local contractors and GoTL staff than English.</p>	
		<p><b>Lack of national standards framework:</b> A significant issue impacting upon the ability of GOTL to issue clear tender specifications is the lack of a national standards framework. Such frameworks normally provide a commonly understood set of criteria against which quality or performance can be determined and measured. They may also refer to levels of professional competence required to perform certain tasks. Timor Leste does possess some basic standards eg for the construction of schools, but the framework is not extensive. Sometimes international standards or standards from another country are specified but there is a risk that these may not be fully understood by locally based suppliers.</p>	<p>Consider adopting another country's national standards framework or a suit of internationally recognised standards that would cover most procurement requirements. This initiative may need to be supported by the provision of locally available training and accreditation of suppliers who undertake that training.</p>	







Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
H	H	<b>Failure to plan all requirements:</b> In some contracts it is evident that the full expectations of GOTL are not articulated in writing. In these instances there is a risk that a vendor will not be informed of GOTL's expectations and will not deliver, or be contractually bound to deliver on these expectations.	Specification of contract requirements should be incorporate into the procurement risk analysis framework. Where requirements become technical they should be vetted by an appropriately qualified person. In the short to medium term this may mean a qualified expatriate if locally available skills are not available.	H
M	M	<b>Opportunity to aggregate requirements:</b> A common practice for most procurement operations is to identify the organisations total need for a specific product or service (eg photocopy paper) and to aggregate this need into a single order or a small number of large orders. This can create opportunities to negotiate quantity discounts and to properly schedule deliveries and significantly reduce the amount of procurement effort required to obtain the required quantity of goods or services. This practice is not commonly employed by GOTL and thus opportunities to improve procurement efficiency and reduce overall costs are lost.	Consider adopting simple strategic sourcing principles. These include the aggregation of similar procurement requirements into one large or a few medium sized orders. The use of panel contracts or preferred supplier system should also be considered. In order to implement this recommendation it will be necessary to develop a more comprehensive procurement plan and obtain a stronger ability to schedule requirements for goods and services..	H
M	L	<b>Bureaucratic CPV authorisation process:</b> The proper authorisation of a CPV requires six separate signatories who can be situated in three different departments. This can cause considerable delays in their processing.	The transitional budget team has developed a simplified authorisation process for CPVs which could be incorporated as part of GoTLs standard practice.	L

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	L	<b>Variation in times to complete CPVs:</b> The onerous authorisation process has led to variations in the time required to complete a valid CPV. The authorisation process can take up to six weeks to complete, potentially delaying the commencement of a tender, quote or bid process.	Refer above, less bureaucratic authorisation processes are likely to result in shorter processing times.	L
M	M	<b>Supplier database inadequate and lacks detail:</b> There is a supplier database in the Procurement Services Division but this has not been maintained and the information is of limited practical value. In order to be useful the supplier database should contain a suite of information including ownership, product/service range, and performance history. This information can be used to help identify potential suppliers and, if necessary blacklist poor performers. The GOTL database does not have provision for these details so even if it were maintained it would be of limited value in its current form.	Responsibility should be allocated to someone for maintaining this information.	L

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	H	<p><b>Ownership of vendor organisations unclear:</b> Due to Timor Leste’s business registration procedures and varying levels of compliance with these procedures by the business community it is not always possible to ascertain the true ownership of a business. Companies and their ownership should be registered with the Department of Justice and an annual “Certificate Dividas” is required from the Timor-Leste revenue services (TLRS) in order to register a business and to conduct business with GOTL. These certificates are only issued to businesses that are up to date with their tax assessments and payments. However, some taxpayers who have not met their tax obligations re-register their business under a new name, receive a new business licence and continue to trade under the new name. These taxpayers/businesses have therefore committed a fraud against the state.</p>	<p>Consider liaising with the department of Justice to determine the most effective method of ascertaining ownership of suppliers. Consider developing criteria that will help to identify those suppliers or business owners who have previously provided substandard services to GoTL. Investigate ways of using this information to limit the risk of contracting with questionable suppliers.</p>	H
M	H	<p><b>Middlemen and agents used in supply chain:</b> We were informed that some suppliers have exclusive supply contracts for specific goods and services to GOTL. While rationale for using agents can be valid, such arrangements can be used to perpetrate fraud by adding unnecessary profit margins for the agent.</p>	<p>Develop a clear policy on the use of agents and middlemen. Review all current arrangements with single source suppliers and reconfirm whether it is appropriate to procure goods or services using this method.</p>	M



Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
		<p><b>Bid documents prepared in English:</b> The preparation of tender documents in English and requirements that responses be written in English is not conducive to effective procurement practice in Timor Leste. This is because English is not well understood or spoken as a language of choice by most GOTL procurement staff or local suppliers.</p>	<p>Consider preparing local bid documents in tectum or a language that is widely understood within Timor-Leste.</p>	
		<p><b>Bid documents overly complex:</b> The use of standard bid documents is a widely accepted procurement practice that generally promotes quality and consistency across all procurement activities. There are standard bid documents for RFQ, ITB, RFT. These are based on World Bank pro forma documents and require a level of detail and compliance that many Timorese suppliers find difficult to comply with. In general these documents are more suited to source large scale procurements from sophisticated international suppliers rather than Timorese based businesses.</p>	<p>Consider the recommendations of the current review underway to simplify existing bid documents. Ensure that the use of simplified documents will not expose GoTL to increased levels of contractual risk.</p>	

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
		<p><b>Limited advertising of procurement opportunities:</b> It is good practice to ensure that public tenders are widely advertised to increase the chance of a competitive bid process. Requests for tenders and quotes are not well advertised by GOTL. Opportunities targeted towards local businesses are usually advertised in the national newspapers however these newspapers are not widely available in the districts. Outside of Dili GOTL often relies on notification of tender opportunities to be communicated by word of mouth. While there is a GOTL tender opportunities webpage, this is not used. International tender opportunities are generally advertised in overseas newspapers.</p>	<p>Consider advertising local tenders opportunities on local radio stations and posting copies of tender requirements in local community or church halls. Consider using internet tender search engines for advertising international tenders. use the existing GoTL procurement website to advertise tenders. This should prove a highly cost effective way to ensure wide publication of tender opportunities.</p>	
		<p><b>No lock box for receipt of tenders:</b> Lock boxes provide a simple and effective control to ensure that tenderers know where to submit their responses and to ensure that only responses submitted within the tender period are evaluated. There is no lock box for the receipt of tender submissions by GOTL As a result there have been instances when supplier submissions have been discovered on desks after other bids have been opened and recorded.</p>	<p>Install a tender lock box outside the procurement Offices and develop a procedure for opening the box and maintaining custody of its key.</p>	

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	M	<p><b>No electronic submission process:</b> This has become an increasingly common process in many organisations. The lack of electronic tender submission facilities presents challenges in the context of a country that does not have an efficient postal system. Submission of tender responses, particularly from internationally based suppliers can be a lengthy process or may entail high travel costs to physically deliver responses. These difficulties may result in some potential tenders failing to bid or failing to ensure that their responses arrive in time for bid opening.</p>	<p>Consider developing an electronic tender submission form or develop a process for accepting emailed tender documents</p>	M
M	H	<p><b>Evaluation committee does not meet regularly:</b> The tender evaluation committee of most organisations meet on a regular and pre-determined basis. This helps to ensure that members can schedule their availability and prevent backlogs in evaluation. The RTDL evaluation committee meets on an “as required” basis. This is an unusual situation for a government organisation processing a high volume of tenders. As a result there is a risk that meetings cannot be convened on a timely basis and this may have contributed towards delays in achieving the procurement plan.</p>	<p>Develop a standing agenda and meeting schedule for the tender evaluation committee. Distribute the schedule for the year to all standing members of the committee.</p>	H

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	H	<p><b>Chair of evaluation committee varies:</b> Most evaluation committees have a regular chairman with an alternate in the event he/she is unavailable. These committees normally have a fixed composition with flexibility to contain appropriate experts to support technical evaluations. Both the Chair and composition of the evaluation committee is variable. This presents a risk that the evaluation process may be inconsistent between different evaluation meetings, particularly if the composition of the meeting also changes from meeting to meeting.</p>	<p>Review the existing method of determining who should attend tender evaluation meetings. Document a new process that describes the criteria and responsibilities of individuals who sit on the evaluation committee.</p>	M
H	H	<p><b>Evidence of evaluation proceedings not filed:</b> Evidence of tender opening ceremonies, minutes evaluation committee meetings, copies of evaluation templates, recommendations to the minister etc. are not always filed. This impairs the transparency and auditability of the tender evaluation process and places GOTL in a potentially indefensible position if challenged on any aspect of the procurement process. When inspecting the Procurement Service Division archives we noted a large box full of loose tender evaluation forms. It would be very difficult to match these forms to individual evaluation decisions.</p>	<p>Develop a standard cover sheet for all tender files and allocate responsibility to someone (the secretary of the tender committee) to ensure that these files are maintained in an appropriate manner. All decisions and documents relating to tender evaluations should be kept in the relevant tender file.</p>	H







Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
L	L	<b>Failure to notify unsuccessful bidders:</b> As a matter of transparency, courtesy and to encourage unsuccessful bidder to compete in future tenders, most organisations notify unsuccessful bidders of the result of the evaluation process. It is not the practice of the GOTL to inform unsuccessful bidders of the outcome of tender evaluations and contract awards.	Develop a standard letter or other form of communication to inform unsuccessful bidders of all decisions regarding the award of tenders. This might include placing notices on noticeboards, the GoTL website and local newspapers.	L
H	H	<b>Inadequate contract management skills:</b> Good contract management requires a variety of knowledge and skills that can only be acquired over time.	Evaluate opportunities to introduce competency based contract management training within the Procurement Services Division. Perform a training needs analysis and set reasonable expectations as to timeframes over which training can be implemented and the outcomes that will be achieved. As an interim measure consider appointing a qualified person to manage those contracts requiring the greatest level of technical expertise to manage effectively.	H
H	H	<b>Inadequate contract risk management activities:</b> The procurement plans for each contract should include contract risk management activities. These activities should include the assessment of risks associated with each of the contracts. This will assist procurement staff to develop and implement appropriate controls to mitigate the risks identified. Current contract risk management activities are very limited.	Develop a simple contract risk management framework that can be applied to all contracts. In its most basic form this framework may only need to identify higher risks contracts so that their management can be allocated to someone with the most appropriate skills.	H

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
<p><b>H</b></p>	<p><b>M</b></p>	<p><b>Delays in commencement of contract:</b> Contracts should be commenced in accordance with the terms of the contract. Failure to do so may result in the contract not being completed by the completion date. Delays in commencement may result in increases in the price of raw materials which the contractor may try to pass on to the government and may also result in contracts not being completed.</p>	<p>Undertake a specific project to identify the reasons why many contracts do not commence on time. Consider the results of this investigation to develop a process that reduces the incidence of delayed contract commencement.</p>	<p><b>H</b></p>
<p><b>H</b></p>	<p><b>H</b></p>	<p><b>Inconsistent works certification:</b> Works certification should be completed by staff who are technically competent to undertake such a certification. The certification process is an essential activity that ensures the government pays only for construction or work that has actually been performed. There is only limited capacity within GOTL to conduct works certifications so the risk of paying for substandard or incomplete work is high. In addition, we were informed that certifying officers are often offered ‘commissions’ by contractors to certify their work. This raises issues of conflict of interest and exposes the government to significant potential fraud.</p>	<p>Continue to develop the certification skills of GoTL officers responsible for this task. Consider appointing a specialist who could sample the quality of inspections performed to support contract payments and ascertain substantial completion. Develop a process for dealing with officers who repeatedly prove unable to provide fair and accurate certification reports.</p>	<p><b>H</b></p>

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
M	H	<b>Delays in contract completion:</b> Contract management practices should ensure that progress is monitored and that delays can be identified early and resolved quickly. We identified many open contracts that had passed their completion date and were informed that this is a common occurrence. Delays in contract commencement and completion have the potential to significantly damage the governments social and economic agendas, particularly in view of the fact that this is a common rather than exceptional occurrence	Refer to comments relating to delayed contract commencement. Conduct an investigation of all open contracts that should have been completed by December 2007 and develop a strategy to deal with them. Outcomes might entail blacklisting serious or serial offenders, developing strategies to complete unfinished contracts or readvertising/cancelling them.	H
H	M	<b>Failure to process invoices on time:</b> Invoices received by suppliers should be date stamped and recorded in the system as soon as practicable after receipt. Late payment of suppliers may result in their declining to bid for future work in their submitting duplicate invoices or being tempted to bribe officers to expedite payment of their accounts.	Develop a performance indicator that measures the time taken to pay an invoice from its date of issue by the supplier and receipt by GoTL. Use this indicator to address bottlenecks in the approval/ payment process.	L
H	H	<b>Photocopied authorisation on payment vouchers:</b> We noted that some of the payment vouchers supporting payments were partially photocopied. The portion containing signatures was photocopied but the fields requiring payee, amount and description of the goods and services were completed on the photocopied document. This represents a significant breakdown in internal control and has similar potential results to issuing blank cheques and significantly increases the risk of fraud.	Immediately cease using photocopied signatures on any payment, requisition or other authorising document. Publicise this initiative widely and implement sanctions against anyone who fails to comply with this instruction.	L

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
<p><b>H</b></p>	<p><b>H</b></p>	<p><b>Failure to record payee in accounting records:</b> It is standard practice in any accounting system to record the names of payees in the ledger and the FreeBalance ledger requires the name of the payee to be inserted for all payments. This control has however been overridden and we noted that 54% by value of all GOTL payments for the 2006/07 financial year were attributed to a payee called "No vendor". This has resulted in a significant loss of transparency and impairment of the audit trail and provides a high risk that fraudulent payments will become difficult to trace. Fortunately we were able to obtain a list of payments and payees from the governments banker, the Banking and payments Authority (BPA) and these have been provided to GOTL for further analysis and review.</p>	<p>Instruct all officers responsible for entering payment vouchers onto FreeBalance to immediately cease using the "no vendor" and to accurately record the true payee. This information is readily available on the payment vouchers. Instruct someone with a good knowledge of local businesses to review the list of payments provided by the BPA to identify unusual or recurrent payments to individuals or businesses that may warrant further investigation.</p>	<p><b>L</b></p>
<p><b>M</b></p>	<p><b>H</b></p>	<p><b>Failure to perform supplier evaluations:</b> Systematic evaluation of suppliers helps to ensure that an organisation only contracts are placed only with reputable organisations. This is an essential component of risk management and reduces the risk of poor contract performance and outcomes. The current procurement processes do not include any supplier evaluation activities.</p>	<p>Develop criteria for evaluating suppliers and commence a programme of supplier evaluation. Commence with those suppliers most commonly used or who are contracted to provide high value goods and services to GoTL.</p>	<p><b>M</b></p>



Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
		<b>Limited reporting on operational activities:</b> A reporting framework is an accepted prerequisite for any business activity in any organisation and is used as tool to promote accountability and performance. The Procurement services division has not developed a reporting framework and this may be one reason why there are so many anomalies across the process.	Develop a suit of management reports containing financial and non financial information and which are useful to management in monitoring procurement activities. These reports should be easy to develop, produced on a regular and frequent basis, provide timely information and offer consistent comparative information between each reporting period.	
		<b>No use of performance indicators:</b> The use of performance indicators is an accepted technique commonly used across all disciplines of management in most organisations. Performance indicators can provide a simple yet effective method of measuring and monitoring performance and if used correctly can assist management to proactively identify trends or problems which can then be addressed before they become critical. We were unable to identify any performance indicators that were regularly or consistently used by the Procurement Services Division.	Refer recommendation above. Develop a suit of a performance indicators that assist in measuring achievement of procurement objectives. These should be aligned to procurement overall objectives which still have to be developed by the procurement services Division. The selected performance indicators should encompass the entire procurement process and be widely understood by all officers working in procurement services.	

Systemic risk	Risk of fraud	Finding	Recommendation	Complexity to address
<p style="text-align: center;">M</p>	<p style="text-align: center;">M</p>	<p><b>No independent review:</b> Due to the high inherent risk of procurement of the procurement process, most organisations that have an internal audit function will experience at least one procurement related review each year. Independent reviews should be an integral part of the management process. Procurement activities are inherently high risk in any organisation and the advantages of regular reviews far outweigh the costs. Internal audit reviews should be an integral part of the continuous improvement process and, as demonstrated in the findings of this report there is significant scope for simple internal audits to identify anomalies and recommend improvements to the process.</p>	<p>Identify opportunities to develop a process of internal review. Consider using the Inspections division of the Ministry of Finance or, if there is limited capacity in this area consider appointing an outsourced service provider. Such an appointment might be considered in terms of whole of government requirements for internal audit.</p>	<p style="text-align: center;">M</p> <p style="text-align: right;">0</p>

## **APPENDIX A: ABRIDGED TERMS OF REFERENCE**

### **A. BACKGROUND**

The 4<sup>th</sup> Constitutional Government of Timor-Leste was inaugurated on 14<sup>th</sup> August 2007. Since that time, the Government has been putting in place its structures, systems and processes to establish a working Government for the next term. Part of this effort has been learning of the structures, processes and operations of the previous Government. This process has been made more difficult by the lack of a comprehensive handover of matters by the previous Government.

The Government is required within a month of inauguration to present to Parliament its plan for its term of office. Within 90 days of the inauguration, it is required to have passed Organic Laws that govern the operations of each of the organs of State.

The Government will, as soon as possible put to the Parliament a "Transitional Budget" – a maintenance Budget to allow the functioning of Government prior to the formation, approval and promulgation of a new budget for the 2008 calendar year. (Note: since 1 July the government has been operating on a "supply" basis). The Government will immediately commence processes to develop the 2008 calendar year Budget with a view to having this placed before Parliament by mid November 2007

### **B. OBJECTIVES**

The government wishes to undertake a number of reviews to assist in these processes and in the ongoing development of open, transparent and accountable Government. These reviews should be designed to provide the following information to Government:

- The systems, processes and practices that govern certain key areas and activities of Government;
- The adequacy of the number and capacity of currently assigned human resources including both international advisors and national staff;
- The controls required to ensure integrity of these programs and the degree to which these already exist and are effective;
- The steps that are required to fix anomalies and deficiencies in the controls, systems and processes, and
- Identification of areas in which the operation of controls would suggest that the government has a significant exposure (potential or current) to inefficiencies, fraud and corruption.

### **C. SCOPE OF SERVICES**

The review of procurement process should, as a minimum,

- Identification and documentation of the systems, processes and practices that govern activities;

- The controls required to ensure integrity of these programs and the degree to which these already exist and are operating effectively;
- The existence of, and appropriateness of existing guidelines, practice manuals and criteria to ensure the activities achieve their intended purpose;
- An assessment of the areas in which the operation of controls would suggest that the government has a significant exposure (potential or current) to inefficiencies, fraud and corruption
- Specifically, an analysis of the consequential financial, process and systems costs that have resulted from this exposure, including any identified malpractice
- Report on the immediately evident forensic audit findings and recommend a way forward for a more detailed forensic audit
- Recommendations regarding the steps that are required to fix anomalies and deficiencies in the controls, systems and processes.

The scope of this review was modified slightly during the fieldwork stage following additional discussions with the Minister of Finance and her representatives.

## **APPENDIX B: STATEMENT OF RESPONSIBILITY**

In performing this service, Deloitte applied APS8, the Professional Statement on Management Consulting Services issued by the Australian Accounting Bodies.

Where Deloitte has provided advice or recommendations to the Government of the Democratic Republic of Timor-Leste, we are not responsible for whether, or the manner in which, suggested improvements, recommendations, or opportunities are implemented. The Government of the Democratic Republic of Timor-Leste, or their nominees, will need to consider carefully the full implications of each of these suggested improvements, recommendations, or opportunities, including any adverse effects and any financing requirements, and make such decisions, as they consider appropriate.

The work performed did not constitute an assurance engagement in accordance with Australian Auditing Standards.

The matters detailed in our report are only those which came to our attention during the course of performing our procedures and did not necessarily constitute a comprehensive statement of all the risks or issues that exist or actions that might be taken. Accordingly, management should not rely on our report to identify all risks and issues that may exist in the systems and procedures discussed. The report should be read in the context of our terms of reference. Had we performed additional procedures or had we performed an assurance engagement in accordance with Australian Auditing Standards, other matters might have come to our attention that would have been reported to you.

This report and all deliverables have been prepared solely for the use of the Government of the Democratic Republic of Timor-Leste, and should not be quoted in whole or in part without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.

Liability limited by a scheme approved under Professional Standards Legislation.

Deloitte Touche Tohmatsu is a Swiss Verein (association), and, as such, neither Deloitte Touche Tohmatsu nor any of its member firms has any liability for each other's acts or omissions. Each member firm is a separate and independent legal entity operating under the names "Deloitte," "Deloitte & Touche," "Deloitte Touche Tohmatsu," or other, related names. The services described herein are provided by the member firms and not by the Deloitte Touche Tohmatsu Verein.



## Contact us

**Deloitte**

Tel: +61 (0)8 89803000  
Fax: +61 (0)8 89803002  
Fifth Floor  
62 Cavenagh Street  
Darwin  
NT 0800  
Australia