



REPÚBLICA DEMOCRÁTICA DE TIMOR LESTE
MINISTÉRIO DAS FINANÇAS
GABINETE DA MINISTRA



Memo to: HE Emilia Pires, Minister of Finance
Subject: **Single Source approval for Interpretative Guidelines & Design New Tax Forms for Chapter IX TDA Regulations and TBUCA Regulations**

Rationale

Opus & Best LLC is the company that we hired for writing the TDA & TBUCA Regulations. The draft Regulations was completed 3 weeks ahead of the schedule. The Regulations contains excellent Legislative procedures and was roundly commended by the taxpayers and the public. We have had discussions with their representatives and they are willing to assist us in preparing full-blown Interpretative guidelines as well as the new tax forms mandated under the TBUCA and TDA Regulations.

Here are the reasons why we propose Opus & Best as the single source for the Interpretative Guidelines for Chapter IX TDA regulations and TBUCA Regulations:

- i. Demonstrable ability to get the job done timely as they did in respect of the TDA & TBUCA Regulations;
- ii. familiarity with the provisions of the TDA and TBUCA Regulations;
- iii. leverage existing relationship with the Contractors that was developed during the drafting stages of the TDA and TBUCA Regulations;
- iv. highly qualified personnel with solid educational background and experience in legislative drafting ;
- v. solid multi-disciplinary law and economics services firm with lawyers, accountants and economists
- vi. solid experience in oil and gas and recognized in the industry; and
- vii. urgent requests from taxpayers (see Exhibit A)

We hereby request your Excellency to kindly approve the single source for the Interpretative guidelines and new Tax Forms for TBUCA and TDA Regulations.

Procurement Permanent Bidding & Quotation Committee

1. DG of Corporate Services, Januario da Gama:

2. Dr. Rui Maria de Araujo-SMA to Corporate Services:
3. Domingos Marques-Head of Admin. Department:
4. Mr. Cândia de Jesus Oliveira (DGRC):
5. Ms. Monica Rangel Da Cruz (NDPR-National Director):
6. Mr. Bobby Boye (NDPR-Legal Advisor):

Approved By:

H.E Emilia Pires
Minister of Finance

Date:



República Democrática de Timor-Leste
Ministério das Finanças



DIRRECÇÃO-GERAL DOS SERVIÇOS CORPORATIVOS

“ Adeus Conflito , Bemvindo Desenvolvimento ”

De (from):

Para (to): Sra. Emilia Pires, Ministra Das Finanças

Data (Date):

Assunto Justificação para consulta a um único fornecedor
(Subject): *Sole Source Procurement Justification*

CPV e numero da requisição:

CPV and requisition number:

Fornecedor proposto (Proposed Source):

Âmbito dos trabalhos (descreva o que é preciso procurar, i.e. bens, serviços ou trabalhos de construção civil) *Scope of works: (describe what needs to be procured i.e., good, service or civil work) ...*

1. Prepare Interpretative Guidelines for:
 - a. Chapter IX (TDA) Regulations, 2012; and
 - b. Taxation of Bayu-Undan Contractors Act (TBUCA) Regulations
2. Provide clarity to taxpayers and personnel of NDPR by way of simulated examples and or scenarios illustrating the correct interpretation of Chapter IX of the Taxes and Duties Act, including the Regulations thereunder (Chapter IX, TDA Regulations), TBUCA and the Regulations thereunder.

Capacidade exclusiva: (explique porque razão o empreiteiro ou fornecedor proposto tem uma situação de exclusividade e/ou porque que esta é a única fonte disponível. *Exclusive capability: (describe why this proposed contractor or supplier has unique capabilities and/or why this is the only source available)*

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- iv. solid experience in oil and gas and recognized in the industry; and
- v. urgent requests from taxpayers (see Exhibit A)



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1. **Que esforços foram feitos para identificar e considerar outras fornecedores para estes bens, serviços, ou pequenos trabalhos? E deve justificar a razão porque não procurou outras fontes.** *What efforts were made to identify and consider other sources for these goods, services or small works? And you must justify why you have not searched for other sources. Razao la buka tan Consultan ou empreiteir seluk*

We looked through the bidders that indicated interest in related projects to determine if any one of such bidders could be selected for the project. The timing is a major constraint and the fact that the Consultant that we are recommending for the single source has demonstrated the ability to do the job (based on a related project that the Consultant is executing now) and there is no compelling need to spend additional time looking for other sources and therefore jeopardize the additional revenue that may accrue to the government from the tax audit that the project is intended to support.

2. **Que consequências terá esta consulta a um único fornecedor em futuras consultas ou serviços de acompanhamento? Que acção é recomendada para eliminar no futuro outras situações de consulta exclusiva?** *What efforts will this sole source procurement have on future procurement or follow-up services? What is recommended action needed to eliminate additional sole source situations in the future?*

Proper planning and approval of projects on a timely basis. NDPR submitted the original proposals in October of 2011 and the project was inadvertently omitted. Furthermore, NDPR will do a more comprehensive consultation with taxpayers in advance of future Regulatory projects to avoid the omission of important parts of similar projects.

3. **Qual o custo estimado: (forneça aos aprovisionamentos uma estimativa detalhada de custos e uma breve descrição dos pressupostos e da informação usada para fazer a estimativa, i.e., cotações originais, CV)** *Provide your cost estimate: (provide procurement with your detailed cost estimate of the procurement and a brief description of assumptions made and data used to develop the estimate, i.e., original quotations, CV) kustu estimative ba Treinamento mak : USD \$*

The cost estimate is approximately \$1.4 million and it based on industry standard pricing for similar engagements. It requires the services of lawyers, petroleum engineers, accountants and economists. It will be approximately 2050 hours of billable time at an average of \$700 per person plus travel and other related expenses.

4. **Defina quantitativamente as consequências para o Governo se o fornecedor proposto não for usado para esta consulta ao Mercado.** *Define the quantitative impact(s) to the Government if the proposed source of supply is not used for the designated procurement.....*

The potential additional income to Timor-Leste from the tax audit, including new assessments is approximately US\$1 Billion. The Interpretative Guidelines will be a good resource for NDPR staffers to understand both the substantive laws and the Regulations that the Guidelines are meant to address.

5. **Se a justificação de urgência for citada como primeira razão para consultar a fonte proposta, descreva a razão porque a urgência do fornecimento é crítica para este pedido.** *If the schedule of urgency is cited as a primary basis for using the proposed*



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*source, describe why the delivery schedule is critical to this requirement. Razaun urgensia kritiku liu
ba pedido ida ne'e tamba*

It is critical because of the fact that the report is needed by the NDPR to substantiate any adjustment to income tax pursuant to the comprehensive income tax audit underway and the desire of the Minister to wrap it up by January 2013. It is also critical because of the statute of limitation that may run out against some of the tax years if the audit was not completed within the statutory period allowed under the law. Finally, it will also address some concerns raised by the taxpayers relating to the meaning and extent of several portions of the TDA & TBUCA Regulations.

Assinatura proponente
Original signature/ date

Assinatura do responsável
Minister signature/ Date

Santina JRF. Viegas Cardoso
DGSC-MdF

Sra. Emilia Pires
Ministra das Finanças