

GOVERNMENT RESOLUTION No. 43 /2017

of 5 July 2017

**PREPARATION OF TECHNICAL DOCUMENTS IN
PROCUREMENT PROCEDURES FOR EXECUTION OF PUBLIC WORKS**

Considering that under the terms of article 62 of the Procurement Legal Regime, approved by Decree-Law no. 10/2005, of November 21, in the wording given by Decree-Law no. 38/2011, of August 17, the adjudicating public services are responsible for providing tender documents to the bidders.

Taking into account that in the field of public works, preparation of specifications, with the greatest possible detail, containing the description of the project and, specifically, the requirement for technical specifications of the construction methodology and the quality of materials, represents an essential tool that ensures the quality control of the projects by public entities, and that must reflect public needs according to the existing financial resources;

Considering that in certain situations public entities resort to the provision of services from entities with specialized knowledge in the preparation of projects and technical specifications in the area of public works;

Considering the principle of transparency and publicity foreseen in article 7 of the Procurement Legal Regime, which makes it mandatory for the acts performed by public entities during procurement procedures to be known by all competitors, in equal circumstances;

Taking into account that only the provisioning procedures specifically foreseen in article 37 of the Provisioning Juridical Regime can be adopted, the use of other contracting, negotiation or relationship mechanisms between the public entities and the competitors is not admissible;

Considering the legal obligation of public entities and competitors to respect the principle of impartiality and incompatibilities, foreseen in articles 5 and 33 of the Procurement Legal Regime, it is essential to avoid any situations of benefit, distortion of competition or activities performed by the competitors with the purpose of influencing the organs in their final decision of evaluation or adjudication;

Taking into account that the referred principles must always be respected in all acts and decisions throughout the procurement procedure;

Thus, under the terms of paragraph c) of article 116 of the Constitution of the Democratic Republic of Timor-Leste, the Government determines the following:

1. The preparation and presentation of architectural and engineering projects, drawings, technical and contractual specifications, description of quantities and prices (BOQ) and other characteristics of the goods, services or works, in the scope of a procurement procedure, in particular, that imply the execution of public works, is the responsibility of the adjudicating public service that owns the work.
2. The documents referred to in the preceding paragraph may only be drawn up by other entities under the terms required by law.

3. The procurement procedure for adjudicating public work execution is not allowed to the entity that has prepared or supported the preparation of the documents, under the terms of the previous paragraph, in which they will integrate the bidding documents of the referred procurement procedure.
4. It is incumbent upon the adjudicating public service that owns the work to verify the fulfillment of the provisions of this Resolution.
5. The present Resolution enters into force on the day following its publication.

Approved by the Council of Ministers on May 30, 2017.

Be it published.

The Prime Minister,

Dr. Rui Maria de Araújo