

**DECREE LAW NO. 18/2001
OF 6 MAY**

DECENTRALISED DEVELOPMENT PROGRAMMES I AND II

Local development and increment of business network in districts can be promoted by awarding civil construction works to local companies, which will build and rehabilitate infrastructure on the basis of technical knowledge and sense of responsibility.

The Decentralised Development Programme is an essential step for strengthening the economy in the districts and for encouraging the emergence and development of local companies for building and rehabilitate infrastructure at the district level. Implementation of similar programmes in previous years enables a more efficient execution of the provisions of this statute.

It is in this sense that the present statute was approved. It provides for rules relating to the Decentralised Development Programmes I and II and translates a procedure for awarding civil construction works to local companies headquartered involving amounts up to \$150,000 and \$500,000 to local companies headquartered in districts and sub-districts, respectively.

This measure materialises the desideratum contained in the Constitution of the Democratic Republic of Timor-Leste when, pursuant to article 115.2(n) and 115.2(m), it determines that it is incumbent upon the Government to support private economy initiatives and to undertake measures deemed necessary for the economic and social development leading to the satisfaction of the needs of the Timorese community.

Thus,

The Government, pursuant to article 115.3 and to subparagraph (d) of article 116 of the Constitution of the Republic, enacts the following to have the force of law:

Article 1

1. This statute shall regulate the special procedure for awarding civil construction works involving amounts of up to \$150,000, and from \$150,001 to \$500,000, hereinafter referred to as PDD I (Decentralised Development Programme I) and PDD II (Decentralised Development Programme II), respectively.
2. The Ministry for State Administration and Territorial Planning shall be responsible for the management of PDD I.
3. The National Development Agency shall be responsible for the management of PDD II in close coordination with the Ministry for State Administration and Territorial Planning.

Article 2
Publicity of the special procedure

1. Publicity of projects to be carried out shall be ensured by communication sent to district administrators or through publication in at least one of the largest circulation newspapers.
2. After the communication referred in the preceding paragraph has been made, district administrators shall divulge the information throughout the district and shall convene a meeting to be conducted by him or her with a view to taking note of the interests of the companies headquartered in the respective district.

Article 3
Requirements for admission of interested companies

1. Interested companies shall possess a registered business certificate or a copy thereof authenticated by the relevant services of the Ministry of Tourism, Commerce and Industry, as well as a certification of payment of taxes relating to the last trimester.
2. No company that has been the subject of a sanction for committing fraud or corruption shall be accepted to participate.
3. Interested companies shall demonstrate professional competence, technical capacity, commercial feasibility and capacity to promote local development.

Article 4
Classification of companies

1. Companies susceptible of admission in PDD I must be headquartered in the sub-district where the works are to be undertaken and shall be evaluated and classified as follows, depending on the amount of money to be awarded:
 - a) Group A, up to \$15,000;
 - b) Group B, from \$15,001 to \$75,000;
 - c) Group C, from \$75,001 to \$150,000.
2. Companies susceptible of being admitted in the PDD II must be headquartered in the district where the civil construction works are to be undertaken and shall be evaluated and classified as belonging to Group D where the amount to be awarded is between \$150,001 and \$500,000.
3. The special procurement procedure relating to Groups A and B shall take place at the community level with a view to awarding a community contract.
4. The special procurement procedure relating to Group C shall take place at the sub-district level where the project is to be carried out.

5. The special procurement procedure relating to Group D shall take place at the district level where the project is to be carried out.

Article 5
Criteria for classifying companies

The following are criteria for classifying the companies:

- a) Technical capacity and professional competence:
 - i. Capacity to meet the essential requirements for receiving the funds;
 - ii. Capacity to execute the project;
 - iii. Certified professional experience;
 - iv. Quality of works undertaken previously, notably during the Referendum Package, PDD 2010, as well as in other construction works.
- b) Commercial feasibility:
 - i. Owned company;
 - ii. Good evaluation in the execution of previous projects with the Government;
 - iii. Capacity to comply with the terms of the contract;
 - iv. Capacity to comply with project's plan and specifications.
- c) Capacity of the company to contribute to local development:
 - i) Strengthening of the company and of local development in the district, notably in terms of capacity-building of national manpower;
 - ii) Use of local resources, notably products and services acquired from local suppliers;
 - iii) Enable the creation of local work posts;
 - iv) Enable the professional training and transfer of know-how.

Article 6
District Development Commission

1. The classification of the companies shall be conducted by a District Development Commission composed of the following:
 - a) The District Administrator, who shall preside over;
 - b) The District Secretary;

- c) The representative of the Ministry for Infrastructure;
 - d) The representative of the relevant Ministry;
 - e) The representative of the suco or village where the project is to be carried out;
 - f) The Administrator of the sub-district where the project is to be carried out.
2. The District Development Commission may request the support of technicians.

Article 7

Companies selection procedure

1. The Ministries shall organise a list of the projects to be carried out by district accompanied by the respective costs estimates and specifications.
2. The selection of the companies shall be conducted by the team referred to in the preceding article on the basis of the criteria and procedures established in this decree law with the participation of a representative of the National Development Agency and a representative of the Ministry for State Administration and Territorial Planning.
3. After the selection, the District Development Commission shall meet with each selected company in order to agree on the plan, specifications and development stages of the respective project.

Article 8

Conflict of interests

The following regime of conflict of interests shall be observed:

- a) No projects shall be awarded to a candidate where other projects have been awarded to relatives of that candidate;
- b) A person who is a relative of a candidate interested in a project shall not be part of the jury.

Article 9

Reports end evaluation

1. The District Development Commission shall prepare project development monthly and shall evaluate the company with a view to ensuring that payments are only made where the stages of development of the projects and the expected quality of their execution have been met.
2. The District Development Commission may request the presence of technical personnel for the preparation of the technical progress report.

Article 10
PDD I and PDD II Payments

1. Any funds to be paid in the framework of this statute shall be made within the year of the execution of the project and in accordance with the development plan, the specifications and the quality of the works as defined for the project.
2. Requests for payment shall be forwarded to the District Development Commission.
3. The District Development Commission shall verify the progress of the works and, depending on whether it is a PDD I or a PDD II project, shall propose the Ministry for State Administration and Territorial Planning or the National Development agency to effect the respective payment.
4. In exceptional cases where the payment is made in a given year but the works are not completed in that same year the company shall provide a bank guarantee, the objective of which is to guarantee the completion of the works.
5. The funds provided for in this statute shall only be paid to local companies and local community groups.
6. No sub-contracting shall be allowed.
7. Payment to companies may be made in the form of advanced payments or reimbursements.
8. Advance payments shall take place as follows:
 - a) Group C and D companies may request up to 25% of the total project cost in writing to the District Development Commission, which shall decide;
 - b) Group A and B companies may request advance payment of up to 50% of the project total cost;
 - c) No advance payments shall be allowed for covering costs relating to the last quarter of the project life;
 - d) In the cases community contracts, a payment of up to 75% of the project total costs may be requested from the District Development Commission.
3. Payments relating to PDD I and PDD II shall be made through two bank accounts authorised pursuant to the law.

Article 11
Entry into force

This statute shall enter into force on the day after its publication.

Approved by the Council of Ministers on 29 March 2011.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Finance,

Emília Pires

The Minister for State Administration and Territorial Planning

Arcângelo Leite

Enacted on ...

For publication.

The President of the Republic

José Ramos-Horta