

**Defence contracts: Evading public scrutiny**  
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SPECIAL REPORT Three major factors restrict scrutiny of Malaysia's defence transactions which have amounted to some RM180 billion over the last 23 years:

1. Information is not disclosed on the basis of 'defence secrets' and 'national security'.
2. Price-related information is limited in the defence market and involves many technical issues and specifications that complicate the process of evaluation and comparison.
3. Although the Defence Ministry has regulations and an internal mechanism to prevent irregularities, there is no external independent scrutiny.

NONEDefence researcher Lam Choong Wah (left) said procurement is carried out in one of three ways currently - through direct negotiation, open tender and quotation.

A former journalist who specialised in defence issues, Lam is now editor of defence portal KL Security Review. His first book tentatively titled 'Uncovering Malaysia's Defence' is scheduled to be launched next month.

A Finance Ministry circular issued in 2007 stipulates that a tender must be called for all government procurements priced above RM500,000.

azlanDirect negotiation is the least transparent method of the three, but the number of procurements completed via this process has increased in recent years.

Lam explained that direct negotiation is allowed under specific circumstances: when only one company can provide the equipment or service; to standardise the specifications of equipment; emergency needs; and due to strategy and political considerations, such as bilateral relationships between countries.

According to a parliamentary written reply by the Defence Ministry in March last year, the number had almost doubled from 52 in 2006 to 100 in 2009, going up in value from RM2.1 billion to RM4.4 billion over the period.

#### Best management practices

Auditor-general Ambrin Buang stressed that the Defence Ministry is obliged to adhere to the objective of public procurement which is "to ensure all procurements are best managed (efficient and effective, enhancing access, competition and fairness) to get the best value for money".

In an email interview, he listed how this objective is to be achieved:

- \* Government officials are responsible for their actions and decisions in relation to procurement and for the resulting outcomes, and thus are answerable for such activity.
- \* To promote transparency, the Treasury has issued 'Guidelines on Evaluating Tenders' which are easily accessible to the public on its web portal.
- \* When streamlining the process and procedures on procurement through direct

negotiations, Controlling Officers are required to sign a Letter of Undertaking that the agreed price is reasonable and offers the best value for money.

\* Tender/quotation/e-bidding documents are required to include four new paragraphs to remind bidders that corruption is a criminal offence under the Malaysian Anti-Corruption Commission Act 2009.

\* The Finance Ministry has launched a procurement information centre portal - MyProcurement - to step up transparency and to disseminate information to the public.

\* All bidders for government contracts are required to sign an Integrity Pact by way of a Bidder Declaration Letter asserting that no bribe was offered to influence public officials in evaluating the bid. The successful bidder is required to sign another declaration that his successful bid was not due to bribery.

\* The government recently decided that procurements exceeding RM100 million are subject to scrutiny by an independent review panel to be set up by the Economic Planning Unit.

\* Each ministry is required to set up an Internal Audit Unit. The Defence Ministry has an Internal Audit and Public Investigation Division with a total of 110 personnel. The division reports to ministry secretary-general.

'No external monitoring'

A long-standing complaint is that it is extremely difficult to scrutinise direct negotiated deals in a system that classifies such details as 'official secrets' almost all of the time.

sibu forum penang 260510 liew chin tong DAP Bukit Bendera MP Liew Chin Tong (left), who has been tracking defence issues, pointed out that the Defence Ministry's reluctance to divulge information has prevented MPs on both sides from arriving at a consensus on the defence policy.

Such a consensus would have enabled them to debate related matters based on a mutually-acceptable benchmark.

"We don't even know what weapons meet the requirements of our defence policy, so how can we monitor the procurements effectively?" he asked.

"So we hentam (criticise) everything. When they buy something expensive, we tend to think there is some hanky-panky."

Asked if there is an external monitoring mechanism, Lam shot back: "Absolutely none".

The parliamentary Public Accounts Committee (PAC) only investigates a transaction if an element of fraud is suspected.

Lam noted that it is impossible for the media and civil society to monitor all defence transactions because the authorities keep a tight grip on information.

He cited the acquisition of a Czech-made VERA-E passive surveillance radar in 2007.

dr abdul latiff ahmad Although a defence magazine later reported the purchase, the

government refused to comment on this until Deputy Defence Minister Abdul Latiff Ahmad (right) confirmed in the Dewan Negara last week that the acquisition cost Euro 17.6 million (RM73.7 million).

It took some three years for this to be revealed.

The National Audit Department (NAD), which audits large purchases and publishes the findings in its annual report, conceded that it cannot audit all defence transactions.

ambrin buang "The Defence Ministry has hundreds of procurement transactions in any one year, covering goods or services including consultancies and professional services, construction, maintenance and material supply contracts..." Ambrin (left) pointed out.

"... We also carry out other types of audit... the NAD normally conducts a maximum of six performance audits a year. In addition to our normal workload, we undertake special audits if there are requests from the Finance Ministry and PAC."

Lam said defence procurements not like "buying vegetables in the market" where one can compare prices and quality from different vendors. Weapons manufacturers only reveal their price and specifications when a buyer approaches them.

Also, there are no identical defence procurement packages as "a minor change in specification could lead to a huge difference in price".

"Some weapons-exporting countries quote their price based on political factors. So it is very hard to do price comparisons," explained Lam.

'Priority vendors'

One factor that has drawn considerable flak is the role of the local agent, often suspected of being paid an enormous commission to facilitate defence transactions and thereby inflating the cost of procurement.

Lam said the ministry has claimed that this enables technology transfer, nurtures local enterprise and helps to monitor foreign companies operating in Malaysia.

pkfz port klang ong tee keat lee hwa beng paul low seng kuan pc 100609 02 However Transparency International-Malaysia president Paul Low (right) begged to differ with the practice.

"Why do we need a middle man? If supplier wants to provide service, it is for them to set up operations here. It can be 100 percent owned by them, not a joint-venture company," he argued.

Also criticised is the practice of hiring retired top ministry officials as directors or senior managers of companies involved in defence-based business.

Lam claimed that the ministry gives priority to companies owned by former personnel when making purchases.

"This policy has its advantages because veterans are familiar with the requirements of the armed forces, but it also gives rise to allegations of cronyism and nepotism," he said.

Low said the existence of the "revolving door", which enables senior officers to move from government agencies to the business sector, could build an unhealthy relationship even before they retire.

"These persons are responsible for evaluating tender (documents). The company could hold out an offer of a job (at such a time that) they retire, in order to win the tender," he cautioned.

"We can't stop (the officials). They have the right to look for a job (on) retirement. It is hard to stop this practice."

Who's who in companies

A number of high-profile retired defence officials have been recruited by several companies that have extensive business links with the Defence Ministry. Those named here are in no way implicated in any wrongdoing in relation to information in this three-part series.

Subhan Jasmon, former Defence Ministry secretary-general

NONEHe was appointed chairperson of Sapura-LTAT Communications Technologies Sdn Bhd when he retired. The company had won a RM500 million contract to supply 3,000 communication sets to the armed forces while Subhan was still the Defence Ministry secretary-general.

He is also the non-executive chairperson of MTU Services (Malaysia) Sdn Bhd. It bagged a RM537 million contract in February 2009 to supply spare parts, services and training to the Royal Malaysian Navy for five years.

Zahidi Zainuddin, former chief of defence forces

NONEHe was appointed a director of DRB-Hicom Bhd on June 1, 2005, one month after he retired. A subsidiary of the company - Deftech Sdn Bhd - received a government Letter of Intent to acquire 257 armoured personnel carriers for RM8 billion. An opposition MP later claimed that this was far above the market price.

Ramlan Mohamed Ali, former navy chief

NONEHe is the director of Boustead Yachts Sdn Bhd, a company under Boustead Holdings Bhd which is one of the largest defence companies in Malaysia.

It is a government-linked company with the Armed Forces Fund Board, a statutory body, as its major shareholder.

Ramli Mohd Nor, former navy chief

NONEHe is the managing director of Boustead Naval Shipyard and executive deputy chairperson/group managing director of Boustead Heavy Industries Corporation Bhd. Both companies are under Boustead Holdings Bhd.

Mohd Shahrom Nordin, former army chief

NONEHe is the executive director of SME Ordnance Sdn Bhd, the rifle supplier to the army.

The company is a subsidiary of National Aerospace and Defence Industries Sdn Bhd.

Ismail Nik Mohamed, former air force chief

NONEHe is consultant to Zetro Aerospace Corporation Sdn Bhd. The company manages three government contracts.

Among these are the maintenance and repair of aircraft radios, airborne radar, air traffic control and air defence communications, radar and navigational aids.

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