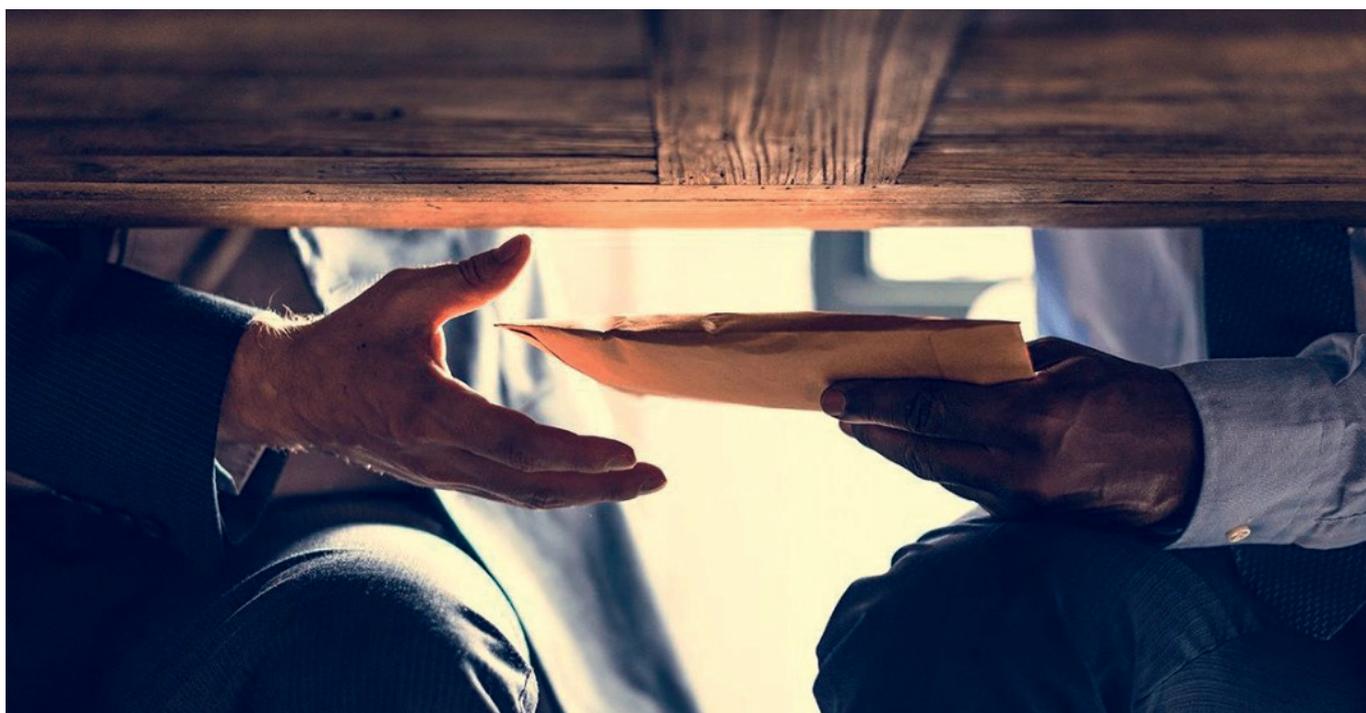


SERIES: STOP THE ANONYMITY! (No. 1)

Secrecy in beneficial ownership driving corruption in public procurement

- The absence of beneficial ownership transparency is undeniably a significant factor perpetuating the misappropriation of public funds by corrupt political and economic elites through the public procurement process. Capitalizing on the existing “secrecy” about the final beneficiaries of the companies that provide goods and services to the State, corruption in public procurement has become a multimillion-dollar industry with high rates of return and low risk of liability.





Background

The Government of Mozambique has the commitment to reinforce the legal framework for the central registration of the beneficial owner by 2024¹. The generation of consensus for the success of the future and the ever-closer regime is seen as imperative for it to effectively lay foundations for ending anonymity, requiring the creation of a central register that is easily accessible and applied to dissemination throughout the economy of information about the final beneficiaries of legal entities operating in the country.

This is the first in a series of *briefings* aimed at raising awareness of the importance of beneficial ownership transparency with the aim of generating national consensus on the matter and ending anonymity in the use of legal entities in the country. The series of *briefings* is part of a broader advocacy campaign “**STOP THE ANONYMITY!**”, promoted by the CDD.

¹ Center for Democracy and Development. (2022). Ministry of Justice wants specific legislation on the beneficial ownership. Retrieved from <https://cddmoz.org/wp-content/uploads/2020/07/Ministry-of-Justice-wants-specific-legislation-on-the-beneficial-ownership-approved-within-the-next-two-years.pdf>



Rooted corruption in public procurement is one of the main factors making the beneficial ownership law an imperative

Corruption is a phenomenon already normalized in public procurement processes. Annually, billions of meticals are diverted in contracts that are not very transparent and harmful to the public treasury. Resources come from the pockets of millions of Mozambicans that, instead of being channeled to improve the quality and quantity of public goods and services, benefit a handful of people from the country's corrupt political and economic elite.

Corruption cases have become the rule in public procurement processes. A recent example of these cases is the controversial announcement of awards made by the Technical Secretariat for Electoral Administration (STAE) of Cabo Delgado, which went viral on social media and in the press last month.

The controversial announcement revolved around five contracts valued at €260 million for the supply of meals, the rent of a helicopter to move brigades in areas of difficult access, the provision of car rental services, and the purchase of megaphones. Among the five, the public tender n°1/STAE/UGEA/2023 was awarded to *Omar Rent a Car* for the provision of rental services for 21 4x4 vehicles, at the "absurd" amount of more than 88 million meticais.

The adjudication, published in the press as if it were a lawful process, generated great indignation among Mozambicans. There was so much opposition that the Ministry of Economy and Finance (MEF) was forced to cancel the aforementioned tender². In fact, the 88 million meticais awarded to *Omar Rent a Car* would be more than enough not only for renting said vehicles but also for their definitive acquisition.

Like other cases of corruption in the public *procurement process*, the treasonous contract granted to *Omar Rent a Car* becomes comprehensible only when examining the ultimate beneficiaries associated with the company. It was only when we discovered that, after all, the owner of the said company is a politically influential businessman with very

close relations to the Provincial Director of STAE in Cabo Delgado that things begin to become clear³. It was, in fact, yet another attempt to squander Mozambicans' taxes through corruption in the public procurement process.

Tenders like *Omar Rent a Car* are part of the day-to-day public procurement process in the state, but many of them are neither exposed nor investigated. This situation is perpetuated, in part, by the fact that the "owners" of the companies that recurrently win published tenders are not easily identifiable.

The legal entities that operate in the country are still characterized by a "secrecy" that allows people to control and benefit from them without, however, being known. Due, in part, to the lack of a reliable, up-to-date and publicly accessible database on the final beneficiaries of legal entities (companies, partnerships, foundations, among others) in the country, a handful of individuals go on generating hundreds of millions of meticais amid anonymity.

The lack of beneficiary transparency is undoubtedly one of the factors that contribute to the public procurement process continuing to be one of the privileged means for the misappropriation of public funds by the country's corrupt elite. Overbilling, direct adjustments and the choice of politically influential competitors and/or relationships with politically exposed persons have become a practice for squandering public funds in public procurement processes.

Capitalizing on the existing "secrecy" about the final beneficiaries of companies that provide goods and services to the State, corruption in public *procurement* has become a multimillion-dollar industry with high rates of return and low risk of punishment. That is why no one was surprised by the information recently provided by the Attorney General's Office (PGR) according to which only five criminal cases related to corruption in public procurement were filed in 2022, despite the prevalence, and increasingly growing, of this type of crime.

² Letter from Mozambique. (2023, May 5). Last minute: Max Tonela cancels the STAE tender aimed at renting 21 vehicles for 88 million MTs . <https://www.cartamz.com/index.php/economia-e-negocios/item/13631-ultima-hora-max-tonela-manda-cancelar-concurso-do-stae-que-visava-o-aluguer-of-21-veiculos-for-88-million-mts>

³ Business of the Elections: STAE awards millionaire contracts to businessmen with connections to the Frelimo party – <https://www.cipmoz.org/wp-content/uploads/2023/04/Negocio-das-Eleicoes-2.pdf>

There is no doubt: ending anonymity would be a good first step to fighting corruption in public procurement in Mozambique. By requiring companies to disclose the ultimate beneficiaries of their dealings with the public sector, creates a situation of greater accountability and significantly reduces the risk of embezzlement of funds. By making this information widely accessible, the public procurement process becomes more transparent, allowing citizens, the press and authorities to closely scrutinize transactions and identify potential conflicts of interest or corrupt practices. That is, more cases like the *Omar Rent a Car* tender would be triggered and judged.

For the benefit of individuals who profit from corruption in the public sector, the existing scattered legislation on beneficial ownership in the country is ineffective. The existing provisions in the Commercial Code and in the Law to Prevent and Combat Money Laundering and Terrorism Financing⁴ are still not sufficient to ensure the establishment of a reliable, up-to-date, and publicly accessible database on the final beneficiaries of the legal entities that operate in the country.

It is due to the ineffectiveness of the existing legal framework that it was not possible, for example, to determine the identity of the shareholders of the companies benefiting from the various direct adjustments carried out in the context of the COVID-19 pandemic⁵. In practice, in addition to long and complex chains of ownership⁶, many companies adopt the regime of limited liability companies to make public scrutiny of the real sharehold-

ers more difficult.

The harmful results of corruption in public *procurement* in terms of overcharging for goods and services, often of low quality, contracted by the State, sacrificing resources that could be very well applied in the social sectors (education, health and social protection), justify greater efforts in fighting ownership opaqueness. This need is particularly pressing considering that more than a third of public expenditure is used in the acquisition of goods and services and the contracting of public works.

Under the commitments assumed by the Government within the scope of the program with the International Monetary Fund (IMF) and also as part of the actions for the removal of the country from the gray list of the Financial Action Task Force (FATF), the legal framework on the matter should be urgently improved. It is imperative for it to effectively create bases for true beneficial ownership transparency, requiring the creation of a central register that is easy to access and applied to the dissemination throughout the economy of information on the ultimate beneficiaries of legal entities operating in the country.

This is a necessary and urgent step not only to curb corruption in public procurement processes but also to combat other leakages that undermine the resource mobilization process and the country's development, such as tax evasion, illicit financial flows, and laundering money. However, this is a step that must be taken decisively and unanimously by generating consensus at the national level to reflect on the expectations of Mozambicans from all walks of life.

⁴Law n.º 11/2022: Revises Law n.º 14/2013, of August 12, Law for the Prevention and Combat of Money Laundering and Financing of Terrorism.

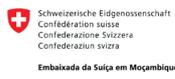
⁵Budget Monitoring Forum. (2020). Analysis of awards in the health and water and sanitation sectors in the context of covid-19: direct awards represent a high risk of corruption. <https://cipmoz.org/wp-content/uploads/2020/10/AJUSTES-DIRECTOS-COVID-FINAL.pdf>

⁶Schemes in which one legal entity is owned by another, which in turn is owned by another, configuring a complex web and making it even more difficult to detect its final beneficiaries.



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