

Indonesia: Detailed Matrix: Volume II May 2024

***Preliminary note on Legal input into Matrix Pillar I, Pillar II and Pillar IV Indicator 13.** The initial collection and analysis of procurement legal framework documents was undertaken in the first half of 2020, with legal input for the Matrix substantially completed by mid-July 2020. In early 2021, the public procurement law PerPres No.16 of 2018 was amended by PerPres No.12 of 2021. Ten core implementing Regulations and related appendices were subsequently issued by the LKPP and are listed in the tables in sub-Indicator 1(a)(a). Legal input has been updated to pick up amendments made by PerPres No.12 of 2021 as well as the significant number of changes resulting from the consequential updated/new core Implementing Regulations, including new guidelines for implementation of government procurement and samples of new model procurement documents/ standard bidding documents and contract conditions published in 2021. ¹*

¹Other changes to the legal framework, which may have occurred since mid-July 2020, are not reflected in the analysis save where specifically highlighted.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

Pillar I. Legal, Regulatory, and Policy Framework

1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.

1(a) Scope of application and coverage of the legal and regulatory framework
The legal and regulatory body of norms complies with the following conditions:

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| (a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established. | <p>Hierarchy</p> <p>Article 20 of the 1945 Constitution of the Republic of Indonesia (as amended)² provides that the People’s Representative Council (Dewan Perwakilan Rakyat) “DPR” has the power to enact laws.</p> <p>The hierarchy of rules and regulations in Indonesia is set out in Article 7(1) of Law UU No.12 of 2011³, being: (1) 1945 Constitution; (2) Decree of the People’s Consultative Council (MPR); (3) Law (Undang-Undang) and Government Regulation in Lieu of Law (PeraturanPemerintahPenggantiUndang-Undang); (4) Government Regulation (PeraturanPemerintah); (5) Presidential Regulation (PeraturanPresiden); (6) Provincial Regulation (Peraturan Daerah Provinsi); (7) Regional/Municipal Regulation (Peraturan Daerah Kabupaten/Kota). Article 7(2) provides that the legal enforceability of Laws and Regulations shall be consistent with the hierarchy in Article 7(1).</p> <p>Article 8(1) of Law UU No.12 of 2011 refers to other laws and regulations lower in the hierarchy than those described in Article 7 (1). These include regulations (peraturan) set by People’s Consultative Council, House of Representatives, Regional Representatives Council, the Supreme Court, the Constitutional Court, the State Audit Board, the Judicial Commission, Bank of Indonesia, the Minister, agencies, institutions, or commissions of equivalent level established by a Law or the Government by virtue of a Law, Provincial Regional House of Representatives, Governor, Regency/Municipality Regional House of Representatives, Regent/Mayor, Village Head or equivalent. Article 8(2) provides that Laws and Regulations referred in A.8 (1) shall be recognized and have legal enforceability as long as mandated by legislation with higher authority. In the event of conflict or inconsistency between laws and regulations the decision on which provision takes precedence falls within the jurisdiction of the Supreme Court.</p> <p>Presidential Regulation No.16 of 2018 on Government Procurement (PerPres No.16 of 2018) (as amended) (“PPL”)⁴is the main law on public procurement. The PPL is a comprehensive law setting out the legal framework applying to public procurement for goods, construction works, consultancy services and other services (PPL A.3). The PPL was published in the Government Gazette of the Republic of Indonesia No.33 of 2018 and came into force on 22 March 2018, revoking Presidential Regulation No.54 of 2010 (as amended). PPL s.89 sets out transitional provisions for procurement commenced under or contracts signed on the basis of Presidential Regulation No.54 of 2010 (as amended).PPL was amended by Presidential Regulation No.12 of 2021, dated 2nd February 2021 (“PerPresNo.12 of 2021”). The PPL is a Presidential Regulation, sitting lower in the hierarchy of laws than Law (Undang-Undang), Government Regulation in Lieu of Law (PeraturanPemerintahPenggantiUndang-Undang) and Government Regulation, but higher than provincial, regional and municipal Regulations and other types of Laws and Regulations stipulated in A.8(1) of Law no.12 of 2011. PPL is a higher level, more stable instrument with more detailed implementation dealt with primarily in supporting Regulations issued by the head of the LKPP (see below).</p> <p>Analysis in this assessment focusses on the PPL and national regulations of general application implementing the PPL, issued by the Head of the LKPP pursuant to the PPL.</p> <p>PerPres No.17 of 2019 Government procurement of goods/services for acceleration of development of welfare in Papua Province and West Papua Province⁵Provides for limited derogations from the provisions of the PPL for activities and expenditure in these Papua provinces in order to provide maximum value for money and contribute to the development of welfare in those provinces, including enhancing the role of micro and small enterprises and roles for Papua Indigenous business</p> | | Criterion met | | |

² The 1945 Constitution of the Republic of Indonesia as amended by the First Amendment of 1999, the Second Amendment of 2000, the Third Amendment of 2001 and the Fourth Amendment of 2002. Certified copy <http://www.unesco.org/education/edurights/media/docs/b1ba8608010ce0c48966911957392ea8cda405d8.pdf> accessed 21 January 2020.

³Undang-UndangRepublik Indonesia Nomor 12 Tahun 2011 <https://jdih.setneg.go.id/Produk>, as amended by UU No.15 of 2019

⁴Unless otherwise specified, references to the PPL are to *Perpres* No.16 of 2018 as amended by *Perpres* No.12 of 2021.

⁵Revoking *Perpres* No.84 of 2012.

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| | <p>actors. A.27 confirms the principle that the PPL and all implementing regulations apply, save where provisions of PerPres No.17 of 2019 apply otherwise.</p> <p>Implementing Regulations</p> <p>PPL A.86 provides for Ministers, Institution Heads and Regional Heads to follow up implementation of the PPL by issuing regulations to regulate more detailed procedures and issues.</p> <p>PPL s.91 (1) sets out a list of documents and issues (a) to (y) which shall be set out in Regulations (Peraturan) of the Headof the LKPP (PerLemLKPP), no longer than 90 days from enactment of the PPL (enactment - 22 March 2018).</p> <p>Thirteen core Implementing regulations were issued by LKPP by 8 June 2018. The implementing regulations are regulations within the coverage of Article 8(1) of Law UU No.12 of 2011.As noted, above, the PPL was amended by Presidential Regulation No.12 of 2021, dated 2nd February 2021 (“PerPres No.12 of 2021”). The LKPP subsequently issued new implementing regulations (PerLemLKPP) revoking and replacing the majority of the 2018 implementing regulations and introducing some new regulations. See summary table below:</p> <table><tr><td>PerLemLKPPNo.10 of 2018</td><td>International tender selection</td></tr><tr><td>PerLemLKPPNo.13 Of 2018</td><td>Emergency procurement</td></tr><tr><td>PerLemLKPPNo.15 of 2018</td><td>Goods and services procurement agent</td></tr><tr><td>PerLemLKPPNo.16 of 2018</td><td>Procurement agency</td></tr><tr><td>PerLemLKPPNo.18 of 2018</td><td>Contract dispute settlement service</td></tr><tr><td>PerLemLKPPNo.19of 2018</td><td>Development of systems and policies</td></tr><tr><td></td><td></td></tr><tr><td>PerLemLKPPNo.3 of 2021</td><td>Self-management guidelines (Swakelola) <i>Revoking PerLemLKPP 08_2018 Self-management guidelines (Swakelola)</i></td></tr><tr><td>PerlemLKPPNo.4 of 2021</td><td>Guidance of business actors for government goods/services procurement (including provision of support to business actors, performance assessment of providers [business actors) and Blacklisting sanctions) <i>Revoking PerLemLKPP 17_2018 Blacklist sanctions</i></td></tr><tr><td>PerlemLKPPNo.5 of 2021</td><td>Exempted/excluded goods/services guidelines <i>Revoking PerLemLKPP 12_2018 [Exempted/excluded] goods/services guidelines</i></td></tr><tr><td>PerlemLKPPNo.6 of 2021</td><td>Guidelines for development and management of action plan for the fulfilment of goods/services procurement management <i>New</i></td></tr><tr><td>PerlemLKPPNo.7 of 2021</td><td>Human resources for procurement of goods/services – including certification <i>Revoking PerlemLKPP 06_2019 Certification of government goods and services – with transitional provisions in period to January 2022 – see A.32 PerLemLKPP 07_2021</i></td></tr><tr><td>PerlemLKPPNo.8 of 2021</td><td>Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects - PPP <i>New</i></td></tr><tr><td>PerlemLKPPNo.9 of 2021</td><td>Online store and electronic catalog <i>Revoking PerLemLKPP 11_2018 Electronic catalog</i></td></tr><tr><td>PerlemLKPPNo.10 of 2021</td><td>Goods/services procurement work units (UKPBJ), including Appendix I Electronic procurement service management function Appendix II Measurement of maturity level of Goods/services procurement work units (UKPBJ)</td></tr><tr><td>PerLemLKPPNo.11 of 2021</td><td>Planning of procurement for goods and services Appendix – Planning Guidelines <i>Revoking PerLemLKPP 07_2018 Planning of procurement for goods and services</i></td></tr></table> | PerLemLKPPNo.10 of 2018 | International tender selection | PerLemLKPPNo.13 Of 2018 | Emergency procurement | PerLemLKPPNo.15 of 2018 | Goods and services procurement agent | PerLemLKPPNo.16 of 2018 | Procurement agency | PerLemLKPPNo.18 of 2018 | Contract dispute settlement service | PerLemLKPPNo.19of 2018 | Development of systems and policies | | | PerLemLKPPNo.3 of 2021 | Self-management guidelines (Swakelola) <i>Revoking PerLemLKPP 08_2018 Self-management guidelines (Swakelola)</i> | PerlemLKPPNo.4 of 2021 | Guidance of business actors for government goods/services procurement (including provision of support to business actors, performance assessment of providers [business actors) and Blacklisting sanctions) <i>Revoking PerLemLKPP 17_2018 Blacklist sanctions</i> | PerlemLKPPNo.5 of 2021 | Exempted/excluded goods/services guidelines <i>Revoking PerLemLKPP 12_2018 [Exempted/excluded] goods/services guidelines</i> | PerlemLKPPNo.6 of 2021 | Guidelines for development and management of action plan for the fulfilment of goods/services procurement management <i>New</i> | PerlemLKPPNo.7 of 2021 | Human resources for procurement of goods/services – including certification <i>Revoking PerlemLKPP 06_2019 Certification of government goods and services – with transitional provisions in period to January 2022 – see A.32 PerLemLKPP 07_2021</i> | PerlemLKPPNo.8 of 2021 | Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects - PPP <i>New</i> | PerlemLKPPNo.9 of 2021 | Online store and electronic catalog <i>Revoking PerLemLKPP 11_2018 Electronic catalog</i> | PerlemLKPPNo.10 of 2021 | Goods/services procurement work units (UKPBJ), including Appendix I Electronic procurement service management function Appendix II Measurement of maturity level of Goods/services procurement work units (UKPBJ) | PerLemLKPPNo.11 of 2021 | Planning of procurement for goods and services Appendix – Planning Guidelines <i>Revoking PerLemLKPP 07_2018 Planning of procurement for goods and services</i> | | | | |
| PerLemLKPPNo.10 of 2018 | International tender selection | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.13 Of 2018 | Emergency procurement | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.15 of 2018 | Goods and services procurement agent | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.16 of 2018 | Procurement agency | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.18 of 2018 | Contract dispute settlement service | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.19of 2018 | Development of systems and policies | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| PerLemLKPPNo.3 of 2021 | Self-management guidelines (Swakelola) <i>Revoking PerLemLKPP 08_2018 Self-management guidelines (Swakelola)</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.4 of 2021 | Guidance of business actors for government goods/services procurement (including provision of support to business actors, performance assessment of providers [business actors) and Blacklisting sanctions) <i>Revoking PerLemLKPP 17_2018 Blacklist sanctions</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.5 of 2021 | Exempted/excluded goods/services guidelines <i>Revoking PerLemLKPP 12_2018 [Exempted/excluded] goods/services guidelines</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.6 of 2021 | Guidelines for development and management of action plan for the fulfilment of goods/services procurement management <i>New</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.7 of 2021 | Human resources for procurement of goods/services – including certification <i>Revoking PerlemLKPP 06_2019 Certification of government goods and services – with transitional provisions in period to January 2022 – see A.32 PerLemLKPP 07_2021</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.8 of 2021 | Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects - PPP <i>New</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.9 of 2021 | Online store and electronic catalog <i>Revoking PerLemLKPP 11_2018 Electronic catalog</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerlemLKPPNo.10 of 2021 | Goods/services procurement work units (UKPBJ), including Appendix I Electronic procurement service management function Appendix II Measurement of maturity level of Goods/services procurement work units (UKPBJ) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PerLemLKPPNo.11 of 2021 | Planning of procurement for goods and services Appendix – Planning Guidelines <i>Revoking PerLemLKPP 07_2018 Planning of procurement for goods and services</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | <div><div>PerLemLKPPNo.12 of 2021. “PPR 2021”</div><div>Guidelines for implementation of government procurement of goods/services through providers [referred to in this analysis as “PPR 2021”], with appendices, including standard bidding documents (approximately 6,000 pages in total) <i>Revoking PerLemLKPP 09_2018 Guidelines for implementation of government procurement of goods/services through providers.</i> These Guidelines and standard bidding documents also replace standards and guidelines issued in 2020 by the Ministry of Public Works and Housing relating to construction works, construction consultancy services and integrated construction works.⁶⁷</div></div> | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>The LKPP also issues Institutional Regulations, Decisions of both the Head and Principal Secretary of the LKPP as well as Decrees of the Deputies and Circulars, all of which are published on the LKPP website. The number of such documents is substantial.</p> <p>The main procurement guidelines and model procurement documents are set out in Regulations, PerLemLKPP 12_2021 Guidelines for implementation of government procurement of goods/services through providers (PPR 2021), comprising approximately 6,000 (six thousand) pages.Although the title refers toGoods and Services procurement,the appendices provide guidelines and model documents for procurement of goods/other services/non-construction consultancy services, construction services and integrated design and build construction works. There are 6 Appendices, listedbelow. The appendices contain both Guidelines and a comprehensive collection of Standard Bidding Documents. See indicators 2(a) to 2(d) for further detail on Guidelines and Standard Bidding Documents. <i>For clarity, each of the Appendices has been allocated a short reference in the righthand column which is used elsewhere in this matrix.</i></p> <table><tr><th colspan="2">Appendices I to VI PerLemLKPPNo. 12 of 2021 (PPR 2021) Guidelines for implementation of government procurement of goods/services through providers</th></tr><tr><th>Guidelines</th><th>Shortref.</th></tr><tr><td>Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S Regs</td></tr><tr><td>Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i></td><td>W&CS Regs</td></tr><tr><td>Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i></td><td>ID&B Regs</td></tr><tr><th colspan="2">Model documents</th></tr><tr><td>Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S SBD</td></tr><tr><td>Appendix V Documents for the procurement construction services through providers</td><td>W&CS SBD</td></tr><tr><td>Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers</td><td>ID&B SBD</td></tr></table> <p>Background noteon transfer ofresponsibilities to LKPP - Works (construction), integrated design and build, and construction related consultancy services: Prior to the 2021 amendments to the PPL in Perpres No.12 of 2021, the Guidelines and standard documents for the procurement of works (construction) and construction related consultancy services were issued by the</p> | | Appendices I to VI PerLemLKPPNo. 12 of 2021 (PPR 2021) Guidelines for implementation of government procurement of goods/services through providers | | Guidelines | Shortref. | Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | Model documents | | Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | Appendix V Documents for the procurement construction services through providers | W&CS SBD | Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers | ID&B SBD | | | | |
| Appendices I to VI PerLemLKPPNo. 12 of 2021 (PPR 2021) Guidelines for implementation of government procurement of goods/services through providers | | | | | | | | | | | | | | | | | | | | | | | | |
| Guidelines | Shortref. | | | | | | | | | | | | | | | | | | | | | | | |
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| Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | | | | | | | | | | | | | | | | | | | | | | | |
| Model documents | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix V Documents for the procurement construction services through providers | W&CS SBD | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers | ID&B SBD | | | | | | | | | | | | | | | | | | | | | | | |

⁶Perpres No.12 of 2021, amending the PPL, allocates responsibility to the LKPP for publication of future guidelines on procurement of construction works and construction consultancy services. Perpres No.12 of 2021 s. 89 Transitional provisions provide that, pending publication of LKPP guidelines, the Ministry of Public Works Guidelines PermenPUPR No.14 of 2020 and PermenPUPR No.1 of 2020 (as amended) will continue to apply. PerLemLKPP No.12 of 2021 Guidelines for implementation of government procurement of goods/other services/non-construction consultancy services through provider, includes Guidelines and Model Documents for procurement of construction services and integrated design and build construction works.

⁷PermenPUPR No.14 of 2020 Standards and Guidelines for procurement of construction services through providers & PermenPUPR No.1 of 2020 (as amended by PermenPUPR No.25 of 2020) Standards and Guidelines for Procurement of Design-Build Integrated Construction Works through Providers.

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| | <p>Minister of Public Works and Housing (“MPWH”): PermenPUPR No.14 of 2020 Standards and Guidelines for procurement of construction services was promulgated on 18 May 2020⁸, revoking its predecessor regulation, Ministerial Regulation PermenPUPR No.7 of 2019.For integrated construction works, the Minister of Public Works issued PermenPUPR No.1 of 2020⁹ (as amended by PermenPUPR No.25 of 2020) Standards and Guidelines for Procurement of Design-Build Integrated Construction Works through Providers.</p> <p>Perpres No.12 of 2021 allocated responsibility to the LKPP for publication of future guidelines on procurement of construction works and construction consultancy services, including transitional provisions.</p> <p>Other sources of regulations/documents concerning sector specific public procurement:</p> <p>PPL A.86 provides for Ministers, Institution Heads and Regional Heads to follow up implementation of the PPL by issuing Regulations.</p> <p>There are also, for example, Ministerial regulations concerning application of procurement in specialized areas such as:Ministry of Foreign Affairs issued Regulation no.1 of 2019 regulating procurement abroad; Minister of State-Owned Enterprises issued Minister of State-owned Enterprises Regulation No. PER-08/MBU/12/2019 General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises (Procurement Guidelines for SOEs);¹⁰ Ministry of Energy and Mineral Resources which has issued regulations concerning build-own operate transfer (BOOT) schemes for Power Purchase Agreements (MEMR Reg no 49/2017) and renewable energy projects MEMR Reg no.12/2017), also applicable to SOEs active in this sector.</p> <p>Other organizations also issue regulations having an impact on public procurement. A recent example is Central Information Commission (KIP):Information Commission Regulation Perki No.1 of 2021 concerning Public Information Service Standards (SLIP). (See indicator 1(k)(a))</p> | | | | |
| (b) It covers goods, works and services, including consultancy services for all procurement using public funds. | <p>PPL s.1(1) provides that “Procurement” is the term used to describe “Government Procurement”, which is defined as “activities of Procurement by Ministries/Institutions Regional Apparatuses, the process of which commences from identification of needs to the handover of the work results.” PPL s.3 provides that procurement in the PPL covers Goods, Construction Works, Consultancy Services and Other Services. PPL s.1 defines “Goods”, “Construction Works”, “Consultancy Services” and “Other Services”. The definitions are broadly drafted. PPL A.3(3) provides that the procurement of Goods, Construction Works, Consultancy Services; and other services may be carried either through a self-management procurement mechanism (Swakelola) or through a provider.</p> <p>The scope of the PPL is set out in PPL s.2 with reference to State Budget and Regional Budget and covers procurement (a)within Ministries/Institutions/Regional Apparatuses using the State Budget/Regional Budget; (b) using the State Budget/Regional Budget including Procurement partially or wholly financed by domestic loans and/or grants received by the Government and/or Local Government; and (c) using the State Budget/Regional Budget partially or wholly financed by foreign loans or foreign grants. There are also definitions of “Ministry”, “Institution” and “Regional Apparatus”.</p> <p>Exclusions from the PPL and Special Procurement</p> <p>PPL Chapter VIII ss.59 to 64 Special Procurement covers exceptions to PPL and Special Procurement.</p> <p>PPL s.61lists four exclusions from the provisions of the PPL.The provisions concerning these exclusions are elaborated in PerLemLKPP No.5 of 2021 Guidelines for procurement of Goods/Services excluded from Public Procurement.¹¹ The four listed exclusions are:</p> <p>Procurement by Public Services Agency(Badan LayananUmum (BLU))& Regional Public Services Agency (Badan LayananUmum Daerah (BLUD)). ¹²BLU/D isa self-management unit in central or local government responsible for delivering public goods/services and which may also have a commercial purpose or generate income from third party sources, for example, local hospitals and schools. PPL s.61(2) provides that BLU/D procurement is governed separately by regulations of the Head of the relevant Public Service Agency/Regional Public Services Agencyor by the PPL where there are no separate regulations.PerLemLKPP No.5 of 2021 Guidelines for procurement of Goods/Services excluded from Public Procurement, Appendix I, s.2 sets out more details concerning procurement using this route.Regulation of the Minister of Finance No.08/PMK 02/2006confirms that for BLU procurement, where the PPL does not apply the provisions stipulated by the Head of the BLU must be followed, in accordance with the principles of transparency, fairness/non-discrimination, accountability</p> | | <p>Criterion partially met <i>See GAPS below</i></p> <p>Minor GAP – may be considered as non-substantive.</p> | | <p>Recommendations <i>See below</i></p> |

⁸Available from Ministry of Public Works and Housing website <https://jdih.pu.go.id/detail-dokumen/2749/1> , accessed 15 July 2020.

⁹Available from Ministry of Public Works and Housing website https://jdih.pu.go.id/Pencarian-produk-hukum/1/8#abstrak_9, accessed 21 March 2021.

¹⁰PER-08/MBU/12/2019: Revoking Minister of State-owned Enterprises Regulation No. PER-05/MBU/2008 on General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises – as amended by Minister of State-owned Enterprises Regulation No. PER-05/MBU/2012 (Procurement Guidelines for SOEs. <http://jdih.bumn.go.id/lihat/PER-08/MBU/12/2019> accessed 26 January 2019.

¹¹ Revoking PerLem No.12 of 2018 Excluded goods/services guidelines.

¹²PPL s.61(1)(a) amended by *Perpres* No.12 of 2021..

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| | <p>and healthy business practices. Permendagri 79/2018 applies to sub-national BLU ((Badan LayananUmum Daerah (BLUD))). Each local government unit shall issue its own regulation from procurement by its BLUD. Procurement by BLUD which is financed from the local government budget (APBD) may continue to use the procedures specified in the PPL ¹³. Procurement by BLUD financed from other sources (own services, unsolicited grant, business cooperation with other entity and BLUD’s own revenues) is flexible.</p> <p>Procurement of goods/services carried out based on tariffs widely published to the public- PerLemLKPP No.5 of 2021 Guidelines for procurement of Goods/Services excluded from Public Procurement, Appendix I, s.3(and Appendix II) sets out a non-exhaustive list of goods/ services in this category, being: electricity, telephones/telecoms, clean water, fuel gas or, oil. Procurement of these requirements must involve planning, preparation and contract execution but not open competition. Purchase is direct from the provider.</p> <p>Procurement of goods/services according to established business practices - PerLemLKPP No.5 of 2021 Guidelines for procurement of Goods/Services excluded from Public Procurement, Appendix I, s.4provides further explanation, referring, for example, to where there is existing fair business and the government/association has set standards for the price of the goods/services or prices have been published publicly official; where demand exceeds supply and/or has its own market mechanism; for professional services with standard remuneration; and for art and culture and/or created industries – in each case further detail is provided on process to be followed. Appendix II s.2 sets out examples of these established business practices.</p> <p>Procurement regulated in the provisions of other legislation - PerLemLKPP No.5 of 2021 Guidelines for procurement of Goods/Services excluded from Public Procurement, Appendix I refers to procurement for goods/services regulated by provisions in other laws and regulations including those exempted from the PPL. Appendix I, s.5 provides that the procurement of goods/services regulation by other laws and regulations is carried out in accordance with provisions as stipulated in each of those laws and regulations. Appendix 2 s.3 sets out at (a) to (r), a non-exhaustive list of other laws and regulations regulating goods/services procurement.</p> <p>PPL ss.59, 60, 62, 63 and 64 cover Special Procurement situations, as follows</p> <p>PPL s.59 Emergency situations: PPL s.59 Procurement in the handling of emergency situations allows for direct award of contracts to the nearest provider performing similar procurement or another Economic Operator that is deemed capable and qualified to carry out the similar procurement. This is permitted in specified conditions only - for the handling of emergency conditions where necessary for the safety/protection of Indonesian people or citizens residing within the country and/or abroad the implementation of which cannot be postponed and must be carried out immediately. PPL s.59(2) sets out a non-exhaustive list of “emergency conditions”. Emergency conditions concerning natural disasters, disasters other than natural disasters and/or social disasters is to be determined by provisions of legislation.</p> <p>These provisions are elaborated inPerLemLKPP No.13 of 2018Procurement under Emergency Situations. PerLemLKPP No.13 s.5 defines Emergency Criteria, referring to natural disasters, non- natural disasters and social disasters as well as declared states of emergency. There is further explanation in Appendix 1, PerLemLKPP No.13 of 2018. Procurement without competition is envisaged whilst respecting the need to ensure value for money based on principles of efficiency, transparency and accountability (Appendix 1, para.1.1).</p> <p>Immediate Emergency response to COVID-19: On February 29, 2020, the Head of the National Disaster Management Agency (BNPB) issued Decree Number 13.A of 2020 concerning the Extension of the Status of Specific Emergency Disasters due to Corona Virus in Indonesia stipulated an extension of the status of certain conditions of disaster emergency outbreaks due to Corona Virus (COVID-19) in Indonesia.</p> <p>On March 20, 2020, Presidential Instruction No.4 of 2020 was issued concerning refocusing activities, budget reallocation and procurement of goods and services, in order to accelerate the handling of the response to COVID-19. This required: (i) prioritizing the use of existing budget allocations for activities to handle the COVID-19 crisis ; (ii) accelerating refocusing of activities and reallocation of budgets through the mechanism of revision of the budget; (iii) speeding up the implementation of procurement of goods and services; (iv) carry out the accelerated procurement of goods and services, by involving the LKPP and BPKP (Finance and Development Supervisory Agency)¹⁴; and (v) carry out procurement of goods and services for health equipment and medical devices for handling COVID-19 by paying attention to goods and services in accordance with standards set by the Ministry of Health. Article 6 point 3 required the Minister of Public Works and Housing to accelerate the preparation and development of infrastructure needed to respond to the COVID-19 crisis. Article 6 point 6 required the Chairman of the LKPP to assist in the acceleration of implementation of procurement of goods and services required to respond to the COVID-19 crisis.</p> <p>On March 23, 2020 the LKPP Chairman issued circular note No.3 of 2020 which was an explanatory note on procurement in Emergency management situations under PPL s.59 and PerLemLKPP No.13 of 2018. This note summarized the procedural requirements concerning the direct appointment and payment of providers, procurement of goods and construction works</p> | | | | |

¹³ September 2021: Permandagri 79/2018 not checked for updated cross referencing to PerLemLKPP No.5 of 2021 (revoking and replacing PerLemLKPP No.12 of 2018).

¹⁴BPKP hasissued circular no. SE- 5/K/D2/2020 providing guidance concerning prioritization, review and reallocation of budgets.

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| | <p>required for the handling of the COVID-19 emergencies as well as requirements for post payment audit to ensure fairness of prices. Specific provisions note that the parties involved in this procurement must comply with the procurement ethics. A list of names and contact details of counsellors for advice and support on emergency procurement was published. LKPP also issued a simplified booklet explaining the provisions of circular note No.3 of 2020 including contact details to obtain assistance from the LKPP on emergency procurement.</p> <p>The LKPP also issued circular note No.4 of 2020 setting out guidelines for Procurement Actors, to apply during the COVID-19 outbreak, in carrying out proof of qualification / clarification and negotiations on the selection of providers in the light or requirements to maintain safety and social distancing requirements.</p> <p>Vaccine procurement in response to the COVID-19 pandemic is excluded from coverage by the PPL and subject to the provisions of PerPres No.99 of 2020 concerning Vaccine Procurement and Vaccination Implementation in the Context of Combating the 2019 Corona Virus Disease (COVID-19) Pandemic and its amendments.</p> <p>PPL s.60 Procurement abroad: PPL s.60 provides that procurement abroad shall apply the provisions of the PPL, but where this is not possible the provisions shall be adjusted to the provisions on procurement of the relevant country. Further provisions regarding Procurement Abroad are regulated by a minister administering government foreign affairs following consultation with the LKPP. The Ministry of Foreign Affairs has issued Regulation no.1 of 2019 regulating procurement abroad.</p> <p>PPL s.62 Research: This provision permits the appointments of researchers on the basis of either a competition or appointment using single or multi-year budgets. The Minister of Research and Technology and Higher Education has issued Regulation no.20 of 2018 further regulating procurement of research.</p> <p>PPL s.63-64 International Tender/Selection and Foreign Loans or Foreign Grants. PPL s.63 provides for use of international tender/selection for:</p> <ul style="list-style-type: none">• Construction works over RPH 1,000,000,000,000 (one trillion Rupiah)• Goods and other services over RPH 50,000,000,000 (fifty billion Rupiah)• Consultancy services over RPH 25,000,000,000 (twenty-five billion Rupiah)• Procurement financed by Export Credit Guarantor or a Foreign Private Creditor <p>PPL s.63(3) provides that foreign business entities participating in international tender/selection shall cooperate with national business entities in the form of a consortium, subcontract or other forms of cooperation. PPL S.63(4) provides those foreign businesses providing goods and construction work must cooperate with the domestic industry in the manufacture of spare parts and the performance of after-sales service. There are also particular provisions concerning advertising and language of bidding documents for international tender/selection. The provisions on international tender/selection are elaborated in PerLemLKPP No.10 of 2018 Guidelines for International Tender/Selection. (See indicator 1(d)(b) Barriers to entry).</p> <p>Self-management procurement mechanism (Swakelola) PPL s.1(23) defines self-management procurement as a mechanism to procure goods/services “through internal resources within Ministries/Institutions/Regional Apparatuses, by other Ministries/Institutions/Regional Apparatuses, civil society organization or community groups.” In 2020, aggregated spending through Swakelola was 27% of planned procurement expenditure¹⁵, which represents a significant percentage of overall government procurement expenditure while in 2021, the percentage of swakelola in SIRUP is 27.4% based on LKPP Profil Pengadaan 2021.</p> <p>The provisions on self-management procurement mechanism (Swakelola) are further elaborated in PerLemLKPP No.3 of 2021 Self-Management Guidelines.¹⁶The reasons for using self-management are set out in s.1.3 of the Self-Management Guidelines and are, in summary, to (a) fulfil the need for goods/services that are not provided by business actors; (b) filling the needs for goods/service that are not of interest to business actors because the value is small or location is difficult to reach; (c) fulfil the need for goods/services by optimizing resources owned by the ministries/agency/regional apparatus; (d) improve technical capabilities of ministries/agency/regional apparatus; (e) increase participation of community organization/ community groups; (f) increase effectiveness/efficiency of implementation; (g) fulfil need for confidential goods/services that can be provided by relevant ministry/agency/regional apparatus;</p> <p>There are four types of Swakelola described in PPL s.18(6): Type I Self-management Procurement planned, implemented and supervised by the Ministry/Institution/Regional Apparatus responsible for the budget; Type II Self-management Procurement (internal government procurement) planned and supervised by the Ministry/Institution/Regional Apparatus responsible for the budget and implemented by another Ministry/Institution/Regional Apparatus responsible for Self-management Procurement implementation; Type III Self-management Procurement planned and supervised by the Ministry/Institution/Regional Apparatus responsible for the budget and implemented by a civil society organization responsible for Self-management Procurement implementation; Type IV Self-management Procurement planned by the</p> | | <p>GAP Sub-indicator 1(a)(b) Coverage Self-management procurement mechanism (Swakelola)</p> <p>Self-management procurement mechanism (Swakelola) is used for a significant percentage of government procurement expenditure, but there is a lack of detailed information and data on its use, including how and to what extent competitive procurement is applied within Swakelola. Due to lack of detailed data and information, it has not been possible to assess the impact of Swakelola, including its impact on the development and operation of competitive markets or value outcomes.</p> | | <p>Recommendation Sub-indicator 1(a)(b) Coverage Self-management procurement mechanism (Swakelola)</p> <p>Identify relevant data and information necessary for a detailed study/analysis of the use of self-management procurement mechanism (Swakelola) and to provide greater public transparency. This should include, as a minimum: breakdown of aggregate data including levels of use of each of the four types of Swakelola; reason given in each case to justify use of Swakelola in accordance with Self-Management Guidelines; whether and to what extent competitive methods are applied within Swakelola. Undertake a study/analysis to assess the use of Swakelola and, in particular, what impact it has on the development and operation of competitive markets and value outcomes in</p> |

¹⁵ LKPP ProfilPengadaan 2020.

¹⁶ Replacing and revoking PerLemLKPP No.8 Of 2018.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria) | Step 2: Quantitative analysis | Step 3: Gap analysis / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | <p>Ministry/Institution/Regional Apparatus responsible for the budget and/or on the basis of a Community Group’s proposal and implemented and supervised by the Community Group responsible for Self-management Procurement implementation.</p> <p>Whilst there is no obligation to use competition within Swakelola, there is a significant level of regulation concerning planning, budget, cost, delivery and monitoring of Swakelola. PerLemLKPP No.3 of 2021 Self-Management Guidelines s.7 Sanctions, refers to obligation to comply with procurement ethics, obligations on implementers in prevailing laws of contract and imposition of sanctions. Most competition is seen in Type III procurement¹⁷.</p> <p>There is no detailed breakdown of data available on the number or value of self-management (Swakelola) procurements by type or on use of competitive, less-competitive and non-competitive procedures within Swakelola.</p> <p>Procurement by SOEs: As of 2021 Indonesia had 108 SOEs, wholly or partly owned by the government, with 800 subsidiaries and affiliates, covering six core economic sectors: energy, mineral extraction, financial service, highway infrastructure/construction, property (real estate) and food. SOEs are either (i) wholly state-owned General /Public Companies (Perum-Perusahaan Umum) public-benefit corporation with the ultimate goal of serving the public interest through providing high quality goods or services, with civil service employees; or (ii) Limited Liability Companies (Persero) with varying levels of state ownership, subject to company law, often traded on the stock exchange and whose objectives are primarily commercial. SOEs in Indonesia have important public policy mandates and deliver significant levels of public services using public funds.</p> <p>Procurement by SOEs: is not subject to the PPL. It is, however, subject to procurement specific Ministerial regulation: Minister of State-owned Enterprises Regulation No. PER-08/MBU/12/2019 General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises (Procurement Guidelines for SOEs G&S).¹⁸ Procurement Guidelines for SOEs and supplementary guidelines promote the creation of synergies and prioritize business cooperation among SOEs, their subsidiaries and affiliated companies, permitting direct appointment by the SOE without tender. In order to gain additional insight into procurement by SOEs, the MAPS assessment has included a desk review of SOEs’ procurement framework based on a sample of two SOEs, active in the electricity and port services sectors. The SOE Review is attached at Volume III Appendix 7</p> <p>See indicator 1(I)(a)</p> | | <p>GAP Sub-indicator 1(a)(b) Coverage Procurement by SOEs</p> <p>Procurement by SOEs is not subject to the PPL. It is unclear what the impact is, in particular on competition, transparency and value for money outcomes, of the separate procurement regime for procurement by SOEs and the promotion of synergies and prioritizing business cooperation among SOEs, their subsidiaries and affiliated companies.</p> | | <p>procurement. Put into place necessary measures requiring submission and publication of relevant information and data.</p> <p>Recommendations Sub-indicator 1(a)(b) Coverage Procurement by SOEs</p> <p>Consider conducting a study to assess the impact of the separate procurement regime for procurement by SOEs and the operation of that regime in practice and also to assess the impact of promotion of synergies and prioritizing business cooperation among SOEs, their subsidiaries and affiliated companies - with particular reference to competition, promotion of integrity and delivery value for money outcomes.</p> |
| (c) PPPs, including concessions, are regulated. | <p>Procurement of PPPs is regulated by a separate regime. The PPL does not apply. The main legal documents for the PPP legal framework are:</p> <p>(i) Presidential Regulation No. 38 of 2015¹⁹ concerning Cooperation Between Government and Business Entities in Procurement of Infrastructure (PPP Regulation) which established a cross-sector regulatory framework for implementing PPPs.²⁰; PPP Regulations A.5 lists the types of economic infrastructure and social infrastructure covered including: Transportation infrastructure; Road infrastructure; Water resources and irrigation infrastructure; Drinking water infrastructure; Centralized waste water management infrastructure systems; Local waste water management infrastructure systems; Waste management infrastructure systems; Telecommunications and informatics infrastructure; Electric power infrastructure; Oil and gas and renewable energy infrastructure; Energy conservation infrastructure; Urban facilities infrastructure; Education facilities infrastructure; Facilities and infrastructure for sports and art; Area infrastructure; Tourism infrastructure; Health infrastructure; Penitentiary Infrastructure; and Residential infrastructure. PPP Regulation A.5(5) provides that further provisions regarding other types of economic and social infrastructure may be stipulated by the Minister responsible for administering matters in the field of national development planning.</p> <p>(ii) the Ministry of National Development Planning / National Development Planning Agency (BAPPENAS) Regulation No. 4 of 2015 (amended by Minister of BAPPENAS Regulation No.2/2020 and LKPP Regulation 29/2018) concerning Procedure for Cooperation between Government and Business Entities in Procurement of Infrastructure (“BAPPENAS 4”).</p> <p>(iii) the Government Goods and Services Procurement Policy (LKPP) Regulation No. 19 of 2015 as substantially amended by PerLemLKPP No.29 of 2018 (“PerLemLKPP No.19 of 2015”) concerning Procurement Procedure for Partnership between</p> | | Criterion met | | |

¹⁷Information provided by LKPP at meeting on 30 November 2020.

¹⁸PER-08/MBU/12/2019: Revoking Minister of State-owned Enterprises Regulation No. PER-05/MBU/2008 on General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises – as amended by Minister of State-owned Enterprises Regulation No. PER-05/MBU/2012 (Procurement Guidelines for SOEs. <http://jdih.bumng.go.id/lihat/PER-08/MBU/12/2019> accessed 26 January 2019

¹⁹Presidential Regulation No.38 of 2015. English translation accessed at: <https://thomaspn.files.wordpress.com/2016/04/english-presidential-regulation-38-2015.pdf>

²⁰ Public-Private Partnership Systems in the Republic of Korea, the Philippines, and Indonesia, Asia Development Bank Working Paper No.561 October 2018 <https://www.adb.org/publications/ppp-systems-korea-philippines-indonesia>

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| | <p>Government and Business Entities for Procurement of Infrastructure.²¹ In 2021, the LKPP issued PerlemLKPP No.8 of 2021 Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects. (see indicator 1(l)(b)).</p> <p>Further sector specific Regulations have been issued pursuant to PPP Regulations including: Minister of Public Works and Public Housing Regulation No 21/PRT/M/2018 regarding Procedures for Implementation of PPP in Infrastructure Provision in Ministry of Public Works and Public Housing; Minister of Transportation Regulation No 58/2018 regarding Procedures for Implementation of PPP in Transportation Infrastructure Provision in Ministry of Transportation. The Ministry of Energy and Mineral Resources has issued regulations concerning, for example, build-own operate transfer (BOOT)schemes for Power Purchase Agreements (MEMR Reg no 49/2017) and renewable energy projects MEMR Reg no.12/2017), also applicable to SOEs active in this sector.</p> | | | | |
| (d) Current laws, regulations and policies are published and easily accessible to the public at no cost | <p>Current laws, regulations and policies for procurement of goods, services and consultancy services are published on the LKPP website and can be downloaded at no charge. The laws, regulations, policies and other support documents such as SBDs comprise an extensive collection of documents which creates a heavily regulated and complex environment for stakeholders. The information available on-line is searchable only to a limited degree and not all documents are in a machine-readable format.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Indicator 1(a)(d) Accessibility of legal framework documents</p> <p>Whilst information is available on-line from a dedicated website (LKPP), it is not presented in a user-friendly format, not all documents are machine readable and the on-line search function is not sophisticated enough to permit easy identification of all laws, regulations, guidelines and other issuances and information concerning a particular issue. The collection of procurement related legal framework documents is very extensive, creating potentially complex interfaces. These factors combine to reduce the clarity and practical accessibility of the legal framework as a whole for stakeholders seeking to easily understand which rules apply in a particular situation or to gain an easily understandable overview of the operation of the system as a whole.</p> <p>See also, indicators 2(a)(b) and 2(d)(a).</p> | | <p>Recommendation</p> <p>Indicator 1(a)(d) Accessibility of legal framework documents</p> <p>Consider ways to improve presentation of procurement legal framework documents and methods for on-line searches, to assist in identification of relevant documents and specific parts of documents pertinent to particular issues, for practical use and application by stakeholders. Consider also incorporating into the centralized collection of procurement legal framework documents access/links and search functions for procurement related regulations and guidelines issued by ministries and other organizations such as those relating to archiving, access to information and anti-corruption activities.</p> <p>See also, indicators 2(a)(b) and 2(d)(a).</p> |

1(b) Procurement methods

The legal framework meets the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used. | <p>PPL s.38 lists the bidding methods for procurement of goods, construction works and other services. These are, in order of presentation in PPL s.38(1): e-Purchasing, Direct Procurement, Direct Appointment, Quick Tender and Tender. PPL sets out financial thresholds or conditions apply to determine which procedure may be used (see sub-indicator 1(b)(b) for further detail). In terms of hierarchy, e-Purchasing, Direct Procurement, Direct Appointment and Quick Tender take precedence as PPL s.38(7) provides that the Tender method is to be used where the other methods cannot be used.</p> <p>Consultancy Services: PPL s.41 lists the bidding methods for providers of consultancy services to include; Selection, Direct Procurement and Direct Appointment. Financial thresholds or conditions apply to determine which procedure may be used.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Sub-indicator 1(b)(a) Hierarchical presentation of procurement methods and standard method of procurement</p> | | <p>Recommendation</p> <p>Sub-indicator 1(b)(a) Hierarchical presentation of procurement methods and standard method of procurement</p> |

²¹WBGroup Benchmarking Report on Procuring Infrastructure Public-Private Partnerships 2018 in Indonesia
<https://pppknowledge.org/countries/indonesia>

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | | | (Open competitive) Tender is not sufficiently clearly presented in the legislation as the standard procurement method, as specified in the MAPS methodology. In PPL s.38(7), other procurement methods are listed as taking precedence, including non-competitive methods of direct procurement for low value contracts and direct appointment, where conditions are met. The order of presentation of the procurement methods to be used is in danger of creating the impression that the (open competitive) tender method is not the standard method of procurement. (See also, sub-indicator 1(b)(d)) | | Consider changes to PPL to ensure that (open competitive) tender is clearly presented as the standard procurement method, in preference to direct appointment, in particular. (See also, sub-indicator 1(b)(d)) |
| (b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity. | <p>PPL s.6 lists basic principles applying to government procurement. Government procurement must be efficient, effective, transparent, open, competitive, fair and accountable.</p> <p>PPL s.38(1) lists the following procurement methods: e-Purchasing, Direct Procurement, Direct Appointment, Quick Tender and Tender.</p> <p>e-purchasing is conducted for the procurement of goods, construction works and other services through an electronic catalog or an Online store (Toko Daring) (PPL s.1(35) Definition of electronic purchasing)²². PPL s.50(5) provides that e-purchasing shall be conducted for goods/services to meet national and/or strategic needs determined by a minister, head of institution or head of region. PerLemLKPP No.9 of 2021 On-line store and Electronic Catalog²³ elaborates on the operation of the online store and electronic catalog.</p> <p>Direct Procurement (PengadaanLangsung) applies for procurement of goods, construction works and other services of a value up to Rp 200,000,000 (200 million Rupiah) (Aprox USD 14,600)</p> <p>PPL s.50(7) provides that Direct Procurement shall be conducted through either direct purchase/payment to the provider for procurement of goods/other services using a proof of purchase or payment receipt or, in the case of works by requesting a proposal and technical and cost clarifications and negotiations.</p> <p>Direct Appointment (PenunjukanLangsung) is permitted for the procurement of goods, construction works and other services under specified circumstances listed in PPL s.38(5)(a) to (i)²⁴which are, in summary; unforeseen activities involving international commitment where the President/Vice-President is present; goods/services which are confidential in nature in the interest of the state including intelligence, witness protection, protection of current and former President/Vice President and their families, state guests or other goods and services treated as confidential by laws and regulations; construction works integral to a construction system and responsibility for risk of structural failure cannot be previously planned/calculated; goods/construction works/other services which can be provided by only one capable economic operator; procurement and distribution of high yielding seeds to improve food security; public infrastructure, facilities and utilities in residential areas for low- income communities provided by relevant developers; goods/construction works/other services where there are patent or license holders; where a re-tender for goods/construction works/other services has failed; continuation of procurement of goods/construction works/other services in the case of contract termination.</p> <p>PPL s.50(6) provides that Direct Appointment shall be conducted by inviting one selected Economic Operator for technical and cost negotiations.</p> <p>Quick Tender (Tender Cepat) is conducted where the economic operator is qualified in the Provider Performance Information System (SistemInformasi Kinerja Penyedia “SIKaP”); either the specification and volumes of work have been determined in detail; or where it is possible to specify trademarks for spare parts or part of an existing system.²⁵</p> <p>PPL s.50 provides that Quick Tender shall include the following steps: bidders are qualified under the Provider Performance Information System; bidders submit cost bids, cost bids are evaluated through an application, the contract is awarded to the lowest cost bid.</p> <p>Tender takes place if the other bidding methods (e-Purchasing, Direct Procurement, Direct Appointment, Quick Tender) cannot be used (PPL s.38(7)). PPL A.50 lists the basic requirements of a tender process including qualification, an announcement and/or invitation, submission and evaluation of proposal, award decision, announcement, and objection, with an additional step for appeal of objection applying in the case of construction works.</p> <p>Procurement of consultancy services</p> <p>PPL s.41 lists the bidding methods for providers of consultancy services; Selection, Direct Procurement and Direct Appointment.</p> | | Criterion met | | |

²²Definition of electronic purchasing/e-purchasing amended by *Perpres* No.12 of 2021.

²³Replacing and revoking PerLemLKPP No.11 of 2018 Electronic Catalog.

²⁴Additional circumstance (i) added by *Perpres* No.12 of 2021.

²⁵Amendment to PPL s.38(6) Quick tender made by *Perpres* No.12 of 2021.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

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| | <p>Selection shall be conducted for Consultancy Services above the value of Rp 100,000,000 (one hundred million Rupiah). PPL s.50 provides that the bidding process for selection of consultancy services shall include clarifications and negotiations of technical and cost bids upon completion of the objection period.</p> <p>Direct procurement applies for procurement of goods, construction works and other services of a value up to Rp 100,000,000 (100 million Rupiah) (Approx.USD 7,300)</p> <p>Direct appointment is permitted for the procurement of consultancy services under specified circumstances listed in PPL s.41(5)(a) to (h) which are, in summary: the services can only be provided by one competent Economic Operator; where there are copyright issues limiting the market to one provider; legal consultancy services; repeat order (provided that that the provider can be directly appointed no more than twice); unsuccessful previous reselection of consultancy services; continuation of consultancy services in the case of contract termination; confidential consultancy services according to laws and regulations; expert services in a Construction Dispute Board.²⁶</p> <p>The provisions in the PPL on procurement procedures are elaborated upon in implementing regulations issued by the LKPP (PerLemLKPP) and, in particular in the Appendices to PerLemLKPP No.12 of 2021 (PPR 2021).</p> <table><tr><th colspan="2">Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers</th></tr><tr><th>Guidelines</th><th>Shortref.</th></tr><tr><td>Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S Regs</td></tr><tr><td>Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i></td><td>W&CS Regs</td></tr><tr><td>Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i></td><td>ID&B Regs</td></tr><tr><th colspan="2">Model documents</th></tr><tr><td>Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S SBD</td></tr><tr><td>Appendix V Documents for the procurement construction services through providers</td><td>W&CS SBD</td></tr><tr><td>Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers</td><td>ID&B SBD</td></tr></table> | Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | Guidelines | Shortref. | Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | Model documents | | Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | Appendix V Documents for the procurement construction services through providers | W&CS SBD | Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers | ID&B SBD | | | | |
| Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | | | | | | | | | | | | | | | | | | | | | | |
| Guidelines | Shortref. | | | | | | | | | | | | | | | | | | | | | | |
| Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | | | | | | | | | | | | | | | | | | | | | | |
| Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | | | | | | | | | | | | | | | | | | | | | | |
| Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | | | | | | | | | | | | | | | | | | | | | | |
| Model documents | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix IV Documents for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | | | | | | | | | | | | | | | | | | | | | | |
| Appendix V Documents for the procurement construction services through providers | W&CS SBD | | | | | | | | | | | | | | | | | | | | | | |
| Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers | ID&B SBD | | | | | | | | | | | | | | | | | | | | | | |
| (c) Fractioning of contracts to limit competition is prohibited. | <p>PPL s.20(2)(d) prohibits splitting into several packages for the purpose of avoiding a tender/selection of a consultant.</p> <p>There are also provisions in PPL s.20 (2)(a) to (c), prohibiting combining of several procurement packages where, in summary: the should be implemented at local sites, or the nature of type and nature of the work means they should be separate or they should be allocated to small enterprises.</p> | | Criterion met | | | | | | | | | | | | | | | | | | | | |
| (d) Appropriate standards for competitive procedures are specified. | <p>The legal framework sets out conditions applying to use of less competitive and non-competitive methods. Thus, there are limits on the discretion available to public bodies and individual procurement officers in deciding which procurement method to use, reducing the availability of procurement methods that limit competition. However, open (competitive) tender is not clearly presented in the legislation as the standard procurement method (see indicator 1(b)(a))</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Sub-indicator 1(b)(d) Standards for competitive procedures</p> <p>(Open competitive) Tender is not sufficiently clearly presented in the legislation as the standard procurement method. As mentioned in sub-indicator 1(b)(a), there is a danger of creating the impression that the open tender method is not the standard method of</p> | | <p>Recommendation</p> <p>Sub-indicator 1(b)(d) Standards for competitive procedures</p> <p>Consider changes to PPL to ensure that (open competitive) tender is clearly presented as the standard procurement method, in preference to direct appointment, in particular. (See also, indicator 1(b)(a)).</p> | | | | | | | | | | | | | | | | | | |

²⁶ Amendments made to PPL s.41 by *Perpres* No.12 of 2021.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|--|---------------------|-----------------------------------|
| | | | procurement. This may result in public bodies and individuals being more likely to use non-competitive or less competitive procurement methods. (See also, indicator 1(b)(a)). | | |

1(c) Advertising rules and time limits
The legal framework meets the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|
| (a) The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)). | <p>Opportunities are publicly advertised on the national procurement portal, INAPROC. PPL s.50(1) provides that the bidding process through tender/selection shall include Announcement and/or Invitation. A.6 PPR 2021 provides that the implementation of Government Procurement of goods/services through providers is carried out through the application of the Electronic Procurement System (SPSE) and the support system. SPSE is the term used to describe the standard e-procurement system, which is installed on the 700-plus local e-procurement systems, “LPSE”. In practice, procuring entities post procurement opportunities on their local e-procurement systems (LPSE) which automatically link through to INAPROC.</p> <p>For the procurement of goods, other services and non-construction consultancy services G&S Regs s.4.1.1 provide that a pre-qualification announcement is made through SPSE and can be added to the website of the Ministries/institutions /local governments, official bulletin boards for communities, newspapers and/or other media. For tenders using post-qualification tender or selection of individual non-construction consultancy service. s.4.2.2 requires that an announcement is made at the beginning of the selection process through the SPSE and can be added to the website of the Ministries/institutions /local governments, official bulletin boards for communities, newspapers and/or other media. Equivalent provisions are included for procurement of construction works, construction related consultancy services (W&CS Regs s.4.1 & s.4.2) integrated design and build construction work (ID&B Regs s.4.1 & s.4.2)</p> | | Criterion met | | |
| (b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited. | <p>For the procurement of goods, other services and non-construction consultancy services,G&S Regss.3.9 sets out the time schedules for stages in the conduct of procurement processes. These timescales vary according to the type of procurement process used are adjusted to needs according to the type of procurement and complexity of the contract (G&S Regs s.3.x)For example, for a single stage tender process with post-qualification, the minimum time period from announcement of tender to submission of bids is five calendar days, which may be extended where briefing is conducted to allow at least three calendar days to elapse after minutes of briefing have been issued(G&S Regs s.3.9 b.2)). Other minimum timescales for different types of less competitive procedures are set out in tables in G&S Regs s.3.9.</p> <p>For the procurement of construction works, construction related consultancy services, W&CS Regs, s.3.7 sets out the time schedules for conduct of procurement processes. These timescales vary according to the type of procurement process used and are adjusted to needs according to the type of procurement and complexity of the contract (W&CS Regs s.3.6). For example, for construction works using a two-file method with prequalification, a minimum of seven days is allowed for submission of prequalification documents. The selection stage involves issuing an invitation to participate, with a briefing to be held within three calendar days (conducted on workdays and in working hours) and then submission of bids at least three calendar days after the minute of explanations have been published (W&CS Regs s.3.7.1 (1) & (2)).</p> <p>PerLemLKPP No.10 of 2018 Guidelines for International Tender/Selection provides at s.2.2.2 for significantly longer timescales for international tender: minimum of 30 days and maximum of 60 days, with advertisement on the website of the ministry/institution/local government, national procurement portal, official website of the country/institution of partners, international community websites, international newspapers and/or other media where necessary.</p> | | Criterion met | | |
| (c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers). | <p>Opportunities are publicly advertised on the national procurement portal, INAPROC which is easily accessible at no cost and does not involve technological barriers. For the procurement of goods, other services and non-construction consultancy services G&S Regs s.4.1.1 provide that a pre-qualification announcement is made through SPSE and may be added to the website of the Ministries/institutions /local governments, official bulletin boards for communities, newspapers and/or other media. For tenders using post-qualification tender or selection of individual non-construction consultancy service. s.4.2.2 requires that an announcement is made at the beginning of the selection process through the SPSE and may be added to the website of the Ministries/institutions /local governments, official bulletin boards for communities, newspapers and/or other media.</p> | | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| | Equivalent provisions are included for procurement of construction works, construction related consultancy services (W&CS Regss.4.1& s.4.2) integrated design and build construction work (ID&B Regs s.4.1 & s.4.2) [See Analysis at indicator 7 for practical issues identified concerning the operation of links between national procurement portal INAPROC and LPSEs.] | | | | |
| (d) The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one. | The content published includes sufficient information for potential bidders. Open Tender for goods and other services: G&S Regs, s.4.1. requires that pre-qualification announcement contains at least: Name and address of the Selection Working Group, brief description of the job/work, Owner’s Cost Estimate and Budget Ceiling value, qualification requirements, a qualifying document download schedule and a schedule of submission of qualification documents. G&S Regs s.4.2 requires that an announcement made at the beginning of the selection process contains at least: Name and address of the Selection Working Group, brief description of the job/work, Owner’s Cost Estimate and Budget Ceiling value, participant requirements, time of registration and downloading of bidding documents and time of submission of bid documents. Equivalent provisions apply in respect of procurement of construction works, construction related consultancy services (W&CS Regs s.4) and integrated design and build construction work (ID&B Regs s.4) | | Criterion met | | |

1 (d) Rules on participation

The legal framework meets the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions. | PPL s.44 confirms that “Qualification is the evaluation of competencies, business capabilities and fulfilment of requirements as provider”. Qualification may take the form of “post-qualification”, conducted at the same time as bid evaluation using a pass/fail system or “pre-qualification” conducted prior to bid submission. The circumstances when each type of qualification is to be used are set out in PPL s.44. If an Economic Operator is qualified under the national Provider Performance Information System [SIKaP-Sistem Informasi Kinerja Penyedia] then no more verification of qualification is required. Registration is a relatively straight forward process for national firms who register with their local LPSE which vets registration information. Once registered the firm can register in SIKaP. The SPSE ICB for donor funded procurement for public works allows contractors to register without local permits or certifications. For the procurement of goods, other services and non-construction consultancy services, G&S Regs s.3.4 sets out general requirements concerning qualification criteria. It provides that the Selection Working Group shall develop the supplier qualification requirements by reference to the type, value and requirements of the subject matter of the procurement. They shall prepare qualification requirements to ensure the Economic Operators have the ability to provide the goods/services and qualification requirements must be consistent with administration/legality, technical and financial requirements. In determining the supplier qualification requirements, the Selection Working Group is prohibited from adding discriminatory or unobjective qualification criteria which may inhibit or restrict the participation of Economic Operators in the procurement process. G&S RegsS.3.4 sets out a non-exhaustive list of the requirements for administration/legality of goods/services, technical qualification and financial ability. G&S Regs, s.3.4.1 (a) to (i) lists Administration/legality requirements for businesses, including consortia including; business licenses (not required for individual business); registration; fulfilment of tax obligations; legal capacity and provision of an Integrity Pact Statement. There are specified requirements for administration/legality in the case of individuals supplying goods/services. G&S Regs, s.3.4.2 Technical Qualification lists technical qualification requirements relating primarily to evidence of similar work (with requirements as to financial value of similar work distinguishing between small suppliers and others) and availability of human resources and equipment. There are specified requirements for administration/legality in the case of individuals supplying goods/other services/non-construction consultancy services. There are similar, detailed provisions on qualification requirements for the procurement of construction works, construction related consultancy services in W&CS Regs s.3.4 and integrated design and build construction work in ID&B Regs s.3.4) | | Criterion met | | |
| (b) It ensures that there are no barriers to participation in the public procurement market. | The legal framework includes provisions creating potential barriers to participation in the public procurement market, particularly for foreign bidders. Foreign bidders’ participation in procurement: PPL s.63-64 International Tender/Selection and Foreign Loans or Foreign Grants. The provisions on international tender/selection are elaborated in PerLemLKPP No.10 of 2018 Guidelines for International Tender/Selection | | Criterion not met GAP – may be considered as substantive. The risk is high. | YES | Recommendation |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| | <p>Thresholds triggering requirement for international tender/selection are:</p> <ul style="list-style-type: none">Construction works over RPH 1,000,000,000,000 (one trillion Rupiah)Goods and other services over RPH 50,000,000,000 (fifty billion Rupiah)Consultancy services over RPH 25,000,000,000 (twenty-five billion Rupiah) <p>PPL s.63(3) provides that foreign business entities participating in the International Tender / Selection must establish business cooperation with national business entities in the form of a consortium, sub-contract, or other forms of cooperation.</p> <p>PPL s.63(4) provides that foreign business entities that carry out procurement of goods / construction work, must cooperate with domestic industries in the manufacture of spare parts and the implementation of after-sales services.</p> <p>Domestic products: PPL s.4(b) lists increased use of domestic products as a purpose of procurement. PPL s.5(f) refers to promoting the use of domestic goods/services and Indonesian National Standards (SNI) as a procurement policy. This objective and policy flows through the PPL with, for example, provisions in PPL s.19 preparation of technical specifications requiring use of domestic products and SNI-certified products.</p> <p>PPL s.65 requires Ministries/Institutions/Regional Apparatuses to use products domestically produced by small enterprises and cooperatives and to allocate at least 40% (forty percent) of their budget expenditure on goods/services. The procurement of Goods/Construction/Other Services with a fixed budget of up to Rp 15 million, shall be earmarked for small enterprises and cooperatives, save for work that requires technical skill which small enterprises and cooperatives cannot fulfil. PPL s.66 obliges Ministries/Institutions/Regional Apparatuses to use domestic products in cases where certain criteria are met and requires use of domestic products to be considered in procurement planning, procurement preparation or bidding process.²⁷ The provisions in the PPL on domestic products flow through into the PPR 2021.</p> <p>Price Preference: PPL s.67 provides that price preference may apply to procurement of goods/services above Rp 1,000,000,000 (one billion rupiah); for goods/services with at least 25% Domestic Component Level. Price preference is up to 25% for goods/services and 7.5% for construction works using an international tender. PerLem LKPP No.10 of 2018 s.1.11 include provisions on price preference applying to international tenders in line with PPL referred to above.</p> <p>Equivalent provisions on foreign bidder participation, domestic products and price preference apply to procurement by SOEs (see indicators 1(a)(b) and SOE Review Volume III Annex 7)</p> | | <p>Sub-indicator 1(d)(b) Barriers to participation Business cooperation requirements for foreign business entities</p> <p>Provisions in PPL s.63 requiring foreign business entities participating in the International Tender / Selection to establish business cooperation with national business entities constitute barriers to entry for foreign businesses seeking to participate in public procurement processes. These barriers risk promoting oligopolistic or monopolistic conditions, rather than promoting local industry and effective competition.</p> <p>GAP – may be considered as substantive. The risk is high.</p> <p>Sub-indicator 1(d)(b) Barriers to participation Domestic products</p> <p>Requirements for use of domestic products have the potential to deter competition and reduce efficiency and value for money outcomes in the expenditure of public funds.</p> <p>See, for example, IMF publication on policy-driven geo-economic fragmentation. https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2023/01/11/Geo-Economic-Fragmentation-and-the-Future-of-Multilateralism-527266</p> | | <p>Sub-indicator 1(d)(b) Barriers to participation Business cooperation requirements for foreign business entities</p> <p>Consider removing requirements on foreign business entities to establish business cooperation with national business entities.</p> <p>Recommendation</p> <p>Sub-indicator 1(d)(b) Barriers to participation Domestic products</p> <p>Consider conducting a study/assessment of the impact of domestic product provisions in practice, particularly in terms of impact on competition and whether, and to what extent, domestic product provisions promote efficiency and improve value for money outcomes. Consider identification and collection of relevant data and information necessary in order to assess the impact of domestic product provisions in practice.</p> |
| <p>(c) It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.</p> | <p>PPL s.44 provides for qualification, which is the evaluation of competencies, business capabilities and fulfilment of requirements as a provider. PPR 2021 contain detailed requirements concerning the determination of qualification of providers, including administrative requirements and legal requirements which providers must satisfy. There are no provisions in the PPL referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences as commonly found in other jurisdictions. There are provisions for administrative debarment subject to due process.</p> <p>For the procurement of goods, other services and non-construction consultancy services, G&S Regs s.3.4.1 (a) to (i) lists in detail the administration/legality requirements. There are similar provisions for the procurement of construction works, construction related consultancy services (W&CS Regs s.3.4.) and integrated design and build construction work (ID&B Regs s.3.4)</p> <p>Administrative debarment/blacklisting</p> <p>PPL ss.78-83 include provisions on administrative debarment/blacklisting covering both the grounds for debarment/blacklisting and the process to be applied. Perlem LKPP No.4 of 2021²⁸ Guidance of business actors for government goods/services procurement, Appendix II, elaborates upon the provisions in the PPL.</p> <p>PPL s.78 contains a non-exhaustive list of sanctionable activities attributable to participants during the selection stage and contract delivery, which are subject to sanctions.</p> <p>PPL s.1(49) defines “Blacklist Sanction” as “a sanction imposed on selection participants/Providers in the form of a prohibition from participating in the Procurement within all Ministries/Institutions/Regional Apparatuses for a certain</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Indicator 1(d)(c) Rules on participation – exclusion for criminal and corrupt activities</p> <p>The PPL/PPR do not explicitly exclude bidders on grounds of conviction by final judgment for participation in a criminal organization; terrorist offences or offences linked to terrorist activities or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences. There are no provisions in the PPL referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for offences relating to: participation in a criminal organization, terrorism, money laundering, child labor, or human trafficking.</p> | | <p>Recommendation</p> <p>Indicator 1(d)(c) Rules on participation – exclusion for criminal and corrupt activities</p> <p>Consider adding provisions to legal framework explicitly referring to exclusion of bidders on grounds of conviction by final judgment for participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences - with reference to relevant national, international legislation and agreements where appropriate.</p> |

²⁷PPL s.66(3a) introduced by *Perpres* No.12 of 2021.

²⁸Replacing and revoking PerLemLKPP no.17 of 2018 Blacklisting guidelines

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|--|
| | <p>period of time.” The duration of Blacklist Sanction may be one or two years, according to the sanctionable act/measure (PPL s.78(5)). The sanctions are listed in PPL s.78(4): disqualification from selection; bonds liquidated sanction; blacklist sanction; compensation for damages; and/or fines. PPL s.78(5) goes on to set out which sanctions apply to each of the sanctionable activities. PPL s.80 list acts or measure which are subject to sanctions in the catalogue process and e-purchasing processes.</p> <p>Process of Blacklist Sanction: PPL s.79. provides that the Blacklist Sanction is determined by PA/KPA (Budget holder/Authorized Budget Holder with power of delegation) on the recommendation of the Procurement Officer/Selection Working Group/Procurement Agent or PPK (Commitment Making Official). Proposed blacklisting decision is subject to external checks by a body independent of the PA/KPA: Perlem LKPP No.4 of 2021 Guidance of business actors for government goods/services procurement, Appendix II covers detailed procedural requirements including examination and confirmation or refusal by the Government Internal Supervisory Apparatus (APIP) of proposal by budget holder/authorized budget holder to blacklist, conducted prior to blacklisting. There are also provisions on suspension/postponement of a blacklisting sanction based on decision of a court as well as standard forms for use in the blacklisting process.</p> <p>A participant/service provider may apply to the Administrative Court (PTUN) for cancellation of a blacklisting decision and sanctions. The blacklisting decision remains in place until a final decision of the court unless suspension is granted pursuant to an interim application.</p> <p>PPL s.83 National Blacklist requires the PA/KPA (Budget holder/Authorized Budget Holder) to disclose information on blacklisted providers on the National Blacklist²⁹, which is maintained by the LKPP and is accessible on-line.³⁰PerlemLKPP No.4 of 2021³¹ Guidance of business actors for government goods/services procurement, Appendix II sets out further detail on the information to be provided to the LKPP.2020 data published by LKPP refers to 294 blacklisted firms/individuals, with 201 being from the construction works sector³². The most common reason for blacklisting, in 247 cases, is failure to “perform services/works, complete the works, being terminated by the Client for non-performance.”</p> | | | | |
| (d) It establishes rules for the participation of state-owned enterprises that promote fair competition. | <p>State-owned enterprises are permitted to participate as bidders in public procurement.</p> <p>There is a restriction on SOEs participating as bidders for construction works, based on a threshold contract value: PerlemLKPP no.11 of 2021 Government Procurement Planning Guidelines, appendix, section 2.4.4 (b) limits participation of state-owned enterprises participating as bidders for construction works, to projects with a budget ceiling value above one hundred billion Rupiah.</p> <p>There are no rules regulating the participation of state-owned enterprises as bidders for other types of procurement or other requirements or guidelines concerning SOE participation as bidders.</p> <p>PerlemLKPP No.8 of 2021 Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects provides those state-owned enterprises and regional owned enterprises may apply to be appointed to Business Entity Panels to deliver PPP projects. There are general requirements concerning suitability of Business Entity Panel members.</p> <p>See additional information and comments in SOE Review in Annex 7 of Volume III of the Assessment Report</p> | | <p>Criterion not met</p> <p>GAP – may be considered as substantive. The risk is Medium.</p> <p>Indicator 1(d)(d) Rules for participation of state-owned enterprises</p> <p>There is specific provision in the legal framework restricting participation by state-owned enterprises as bidders for construction works, to high-value projects. There is no rules regulating the participation of state-owned enterprises as bidders for other types of procurement.</p> | NO | <p>Recommendation</p> <p>Indicator 1(d)(d) Rules for participation of state-owned enterprises</p> <p>Consider introducing rules, with supporting guidelines, if necessary, for participation of state-owned enterprises as bidders in all types of public procurement, to ensure a level playing field and promote fair competition.</p> |
| (e) It details the procedures that can be used to determine a bidder’s eligibility and ability to perform a specific contract. | <p>PPL s.44 concerns the evaluation of competencies, business capabilities and fulfilment of requirements as a provider. PPR 2021 contain detailed requirements on the qualification of providers, including administrative & legal requirements (see indicator 1(d)(c) above) and technical qualification requirements.</p> <p>For the procurement of goods, other services and non-construction consultancy services, G&S Regs s.3.4.2 lists technical qualifications relating to experience and evidence of technical competence (where relevant), sufficiency of human resources and availability of equipment including after-sales service (if needed).</p> <p>For the procurement of construction works, construction related consultancy services, W&CS Regs s.3.4.2 Technical Qualification of Providers lists (in summary): experience and capacity, with special provisions for small businesses established less than three year and measures for assessing medium and large businesses by reference to business entity certificate (SBU) classification; and certification for complex/high risk and/or large business qualifications: Quality Management Certificate, Environmental Management Certificate, Occupational Health and Safety Certificate. There are also provisions concerning technical qualification of individuals providing works and construction consultancy services.</p> <p>The provisions for procurement of integrated design and build construction work ID&B Regs s.3.4.2 are less detailed, referring to experience, ability and certification: Quality Management Certificate, Environmental Management Certificate, Occupational Health and Safety Certificate.</p> | | Criterion met | | |

²⁹PPL s.83 amended by *Perpres* No.12 of 2021.

³⁰<http://inaproc.id/daftar-hitam>

³¹ Replacing and revoking PerLemLKPP no.17 of 2018 Blacklisting guidelines.

³²Source: LKPP Public Procurement Profile Fiscal Year 2020.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>The use of additional technical qualification requirements is permitted provided those do not conflict with procurement principles, procurement ethics and statutory provisions (W&CS Regs s.3.5.5, ID&B Regs s.3.5.3)</p> <p>There are also provisions permitting the submission of bids by consortium, operational cooperation, partnerships and other form of cooperation (G&S Regs s.3.5) and joint operation (W&CS Regs s.3.4.1 & ID&B Regs s.3.4.)¹</p> <p>The electronic SIKaP system (Provider Performance Information System/Sistem Informasi Kinerja Penyedia) was originally introduced in 2015 for use in accelerated tender method and must now be used for all methods of procurement, in particular procurements using pre-qualification and post-qualification and for goods, services and works procurements.</p> | | | | |

1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|--|
| (a) It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement. | <p>PPL s.1(43) defines Bidding Documents as “a document determined by a Selection Working Group/Procurement Officer/Procurement Agent, which contains information and provisions that must be complied with by the parties in selecting a Provider”.PPL s.46provides that Bidding Documents shall include: Qualification Documents and Tender/Selection of Consultant/Direct Appointment/Direct Procurement Documents. PPR 2021 sets out further detail on the content of procurement documents as well as arrangement for preparation and review of those documents, where relevant. PPL s.91 (1)(n) requires the Head of the LKPP to issue Bidding Documents.</p> <p>Other provisions in the PPL require inclusion in Bidding Documents (or within the contract included with the Bidding Documents) of specified information such as: PPL s.29(3) advance payment arrangements; PPL s.37 price adjustments; PPL s.66 domestic preference; These and other requirements are further elaborated upon in PPR 2021 Annexes I to III – Guidelines.PPL s.63(6) requires Bidding Documents through international tender/selection to be in at least two languages (Indonesian and English).</p> <p>A comprehensive collection of standard bidding documents is included in PPR 2021, Annexes IV, V and VI. Full bidding documents are available to interested bidders following a simple process logging onto the e-procurement system. Bidding documents are uploaded to the LPSE, which can be accessed directly or via the INAPROC portal. [See Analysis at indicator 7 practical issues identified concerning the operation of links between national procurement portal INAPROC and LPSEs.]</p> | | Criterion met | | |
| (b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate. | <p>PPL s.5(f) Procurement Policies lists “encouraging the use of domestic goods/services and Indonesian National Standard” (SNI)³³ as a procurement policy.SNI is a member of ISO and standards are thus harmonized with international standards. PPL s.19(1) requires that the preparation of technical specifications/Terms of Reference uses domestic products, SNI-certified products, products from micro and small enterprises and cooperatives for domestic production and green products (labelled as green products PPL s.19(4)). A “Product” is defined at PPL s.1(29a) as a good produced or a service provided by a Business Actor (economic operator).</p> <p>PPL s.19(2) provides that in preparing technical specifications/ToR: it is possible to state trademarks of: components of goods/services, spare parts, part of an existing system, goods/services in an electronic catalogue and goods/services in an electronic catalog or online shop.</p> <p>PPL s.38(6) provides that Quick Tender may be used where the business actor (economic operator) is qualified in the Provider Performance Information Systems or where it is possible to specify trademarks for spare parts or part of an existing system.</p> <p>For the procurement of goods, other services and non-construction consultancy services, G&S Regs.2.1/3.1 concerning review of technical specifications to ensure that they refer to SNI. Equivalent provisions are included for the procurement of construction works, construction related consultancy services ((W&CS Regs) and integrated design and build construction work (ID&B Reg).</p> <p>The appropriate use and preparation of functional specifications is addressed through the competency standards framework for procurement actors (officials) based on the Decree of the Minister of Manpower No.70 of 2016.</p> | | Criterion partially met Minor GAP – may be considered as non-substantive. Indicator 1(e)(b) Functional specifications There is no clear provision of general application in the legal framework (PPL/PPR 2021) referring to the use of output-based (functional) specifications, where appropriate. Use of output-based (functional specifications) is of particular relevance where procurement seeks to promote innovation. | | Recommendation Indicator 1(e)(b) Functional specifications Consider including Include specific provisions of general application in the legal framework permitting and encouraging the use of output-based (functional) specifications, where appropriate and, in particular, to promote innovation. |
| (c) It requires recognition of standards that are equivalent, when neutral specifications are not available. | <p>There is no clear provision of general application in the legal framework (PPL/PPR 2021) requiring the recognition of standards that are equivalent, when neutral specifications are not available.</p> | | Criterion not met GAP – may be considered as substantive. The risk is medium. | NO | Recommendation |

33 The Indonesian National Standards Organization (Badan Standardisasi Nasional (SNI)) is a member body of the International Standards Organization. ISO website accessed 29 January 2020 <https://www.iso.org/member/1798.html> . SNI website accessed 29 January 2020 <https://www.bsn.go.id/>

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|--|
| | | | Indicator 1(e)(c) Recognition of equivalent standards There is no clear provision of general application in the legal framework (PPL/PPR 2021) requiring the recognition of standards that are equivalent, when neutral specifications are not available. A requirement for recognition of equivalent standards where neutral specifications are not available encourages wider bidder participation and helps to reduce discriminatory behaviors. | | Indicator 1(e)(c) Recognition of equivalent standards Consider including specific provisions of general application in the legal framework requiring the recognition of equivalent standards where neutral specifications are not available. |
| (d) Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing) | For the procurement of goods, other services and non-construction consultancy services, G&S Regs s.4.2.4 Briefing/explanation, provides for a media/question forum between the tender/selection participant and the Selection Working Group for briefing/explanation regarding the scope of the procurement package and terms and conditions. The clarification process is conducted through the electronic procurement system (SPSE). There are specified timescales for response and questions and answers are collated in the minutes of the pre-bid meeting (BAPP) Any resulting changes in the bidding documents must be stated in the Addendum to Bidding Document and in the case of changes relating to Technical Specifications, ToR, Owner Estimate or contract design the changes must be approved by the PPK. There are similar provisions for the procurement of construction works, construction related consultancy services ((W&CS Regs s.4.2.4) and integrated design and build construction work (ID&B Regs s.4.2.3) | | Criterion met | | |

1(f) Evaluation and award criteria
The legal framework mandates that:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) The evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents. | For the procurement of goods/other services and non-construction consultancy services, G&S Regs s.3.6provides that the bid evaluation method is prepared by the selection working group taking into account scope/complexity and applied by the [electoral working group] in evaluating bid documents. The Bid evaluation method (value system, life-cycle costing, lowest price) including criteria and weightings to be used in evaluation must be set out in the tender documents and the assessed elements must be quantitative or quantifiable. G&S Regs 2021 s.4.2.7(b) prohibits changes to the published evaluation criteria. G&S Regs 2021 s.4.2.9(a) confirms that the winning bidder is selected in accordance with the evaluation method set out in the tender documents. Similar provisions apply for the procurement of construction works, construction related consultancy services (W&CS Regs s.3.5 – quality & cost, quality, budget ceiling, lowest cost methods) and integrated design and build construction work ID&B Regs s.3/5 - value system and lowest price with threshold methods). | | Criterion met | | |
| (b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions. | PPL s.39(1) provides that evaluation of bids from Providers of Goods/Construction Works/Other Services shall be based on one of three methods: (1) Value System (Sistem Nilai) (Scoring system), (2) Economic Life Cycle Cost evaluation; or (3) Lowest Price. PPL s.39(2) provides that the value system (scoring system) used for the procurement of Goods/Construction Works/Other Services considers technical evaluation and price. PPL s.39(3) provides that Economic Life Cycle Cost evaluation shall be used for the procurement of Goods taking account of economic life, prices, operational costs, maintenance costs and residual value. PPL s.39(4) provide that the lowest price evaluation methods applied for the procurement of Goods/Construction Works/Other Services is used at the basis for determining a winner from proposals which have fulfilled technical requirements. Further details are set out in the G&S Regs, W&CS Regs and ID&B Regs. | | Criterion met | | |
| (c) Quality is a major consideration in evaluating proposals for consultancy services, and clear procedures and methodologies for assessment of technical capacity are defined. | PPL s.42 provides that evaluation of bids from Providers of Consultancy Services shall be based on one of four methods: quality and cost, quality, budget ceiling or lowest cost, and goes on to provide a short explanation of when each method shall be used. The budget ceiling method is to be used only for simple scope of work defined clearly in ToR. The lowest cost method shall be used only for standard or routine work where the practice and standards of implementation have been established. This is expanded upon in PPR 2021, with methodologies to be applied (for example at G&S Regs.3.6.2). | | Criterion met | | |
| (d) The way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents. | The legal framework defines the way in which evaluation criteria are combined and relative weights (where relevant) are determined. For the procurement of goods/other services and non-construction consultancy services, G&S Regs, s.4.2.7 sets out the methods for technical evaluation and the methods for price evaluation with formulae provided. G&S Regs, | | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|
| | s.4.2.9 (b) sets out the methods for determining the successful bidder for goods, services and works for different types of evaluation methods where price and other factors are also assessed, with worked examples. There are similar provisions for the procurement of construction works, construction related consultancy services (W&CS Regs s.3.5) and integrated design and build construction work (ID&B Regs s.3.5). | | | | |
| (e) During the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process. | PPL s.7 Procurement Ethics requires that all parties involved in Procurement are required to keep information strictly confidential as its nature requires in order to prevent violations in procurement. There are no additional specific, detailed provisions concerning the non-disclosure of information during the evaluation period, but the principle is clear. In practice, evaluators record their evaluation using the e-procurement system (SPSE) with security measures in place to ensure that information is visible only to the evaluation team and others officially involved in the evaluation process. | | Criterion met | | |

1(g) Submission, receipt, and opening of tenders

The legal framework provides for the following provisions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|---|
| (a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission. | The legal framework defines the process and timing of bid opening, which is conducted electronically. For example, G&S Regs, s.4.2.6 concerns opening of the tender document using the electronic procurement system following closing date for bid submission and sets out limited circumstances in which the time for submission may be extended. Works PPR s.85 provides that the Selection Working Group may not reject the bid at the time of bid opening. The offer may be rejected where the bid file cannot be opened, and a relevant official statement has been provided by the e-procurement service provider or LKPP. Standard Bidding Documents refer to submission of encrypted tender documents which may only be downloaded and opened after the closing date for bid submission. The e-procurement system (SPSE) requires the inputting of a schedule of activities for the particular procurement, including the timing of opening of tenders. The schedule of activities is published in the e-procurement system (SPSE) with live information on the conduct of the procurement. | | Criterion met | | |
| (b) Records of proceedings for bid openings are retained and available for review. | The e-procurement system (SPSE) includes a log of bid opening which is retained on the system. The e-procurement system allows for the uploading and publication of a separate bid opening report, which is a public facing document. Law (UU) on Archiving no.43 of 2009 covers the storage and retention of documents, including procurement archive documents. The Head of the National Archives has issued a Procurement Archives Retention Regulation, PerANRIno.13 of 2016 and Regulation on Electronic Archive Management, PerANRIno.6 of 2021. Auditors can access all bid documents including minutes of bid opening and minutes of bid evaluation. Law (UU) on Public Information Disclosure no.14 of 2008 applies to disclosure of procurement archive documents. ³⁴ | | Criterion met | | |
| (c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts. | PPL s.7 Procurement Ethics requires that all parties involved in Procurement are required to keep information strictly confidential as its nature requires in order to prevent violations in procurement. The security of electronic bid submission through the SPSE is managed through a custom utility – APPENDO – to encrypt and sign a bid submission and transfer it to the SPSE system. Prior to bid opening all bidders in the system are anonymous. | | Criterion met | | |
| (d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework. | PPL s.7 Procurement Ethics requires that all parties involved in Procurement are required to keep information strictly confidential as its nature requires in order to prevent violations in procurement. There are no additional detailed provisions concerning prohibition of disclosure of specific sensitive information. | | Criterion partially met Minor GAP – may be considered as non-substantive. Indicator 1(g)(d) non-disclosure of specific sensitive information The legal framework (PPL/PPR 2021) does not clearly regulate and prohibit disclosure specific sensitive bid/bidder information in provisions of general | | Recommendation Indicator 1(g)(d) non-disclosure of specific sensitive information Consider including relevant provisions of general application in the legal framework to clearly regulate and prohibit disclosure of |

³⁴ Information provided by LKPP, 12 April 2022.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|---|
| | | | application. In some cases, it is appropriate to prohibit disclosure of parts of bids containing specific sensitive bid/bidder information to the safeguard the legitimate interests of bidders, for example to protect trade secrets and proprietary information and also to prevent misuse of information by interested parties to distort competition in the procurement process. | | specific information legitimately identified as proprietary and commercially sensitive by a bidder. |
| (e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders. | s.3.7 Determination of Bidding Document Submission Method – sets out provisions concerning choice of method for bid submission, including a summary table.s.3.9 sets out the timetable including for downloading and submission of bid documents. In practice, all tender documents (other than bid security documents in some limited cases) are submitted electronically. | | Criterion met | | |

1(h) Right to challenge and appeal

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity. | <p>Right to challenge (objection)</p> <p>Participants in the procurement have a right to file an objection with the procuring entity in respect of decision or actions taken by the procuring entity. PPL s.50(1)(h) provides that the bidding process through a tender/selection shall include the opportunity for “objection” (variously referred to, according to the English translation available, as “objection” or “disclaimer”). The objection is submitted to the procuring entity through the SPSE. There is no right of objection and review [appeal] in respect of procurement conducted using Quick Tender method (G&S Regs s.3.2.1(b), W&CS Regs s.3.2.1(b)).</p> <p>For the procurement of goods, other services and non-construction consultancy services, G&S Regs provide for a right of objection (disclaimer) at two stages: (1) G&S Regs s.4.1.1(i) on the result of the qualification stage; and (2) G&S Regs s.4.2.13 at the “selection” tender award stage, following the determination of the winner.</p> <p>For the procurement of construction works, construction related consultancy services and integrated design and build construction work, W&CS Regs and ID&B Regs provide for a right of objection at two stages (1) W&CS Regs s.4.1.1/ ID&B Regs s.4.1.1 (i) on the result of the pre/qualification stage; and (2) W&CS Regs s.4.2.12/ D&B Regs 4.2.10 at the “selection” tender award stage, following the determination of the winner.</p> <p>Internal appeal in the context of procurement of contracts related to construction works: In the case of procurement related to construction works, PPL s.50(2) provides for an additional step “Appeal of Objection” against an objection decision made by Selection Working Group. The appeal is not, however, to a body independent of the procuring entity. The appeal is to the authorized budget user (KPA), budget user (PA) or to a Minister/Chairman of Institution/Governor/Head of District.</p> <p>The LKPP emphasized, in discussions with the MAPS Assessment team, the importance in practice of various alternative routes which are available to stakeholders who wish to raise and resolve concerns about the conduct and outcomes of procurement procedures. The following information briefly outlines the other main routes of complaint, in order to provide a wider picture of the operation of the procurement system and to tie in with further analysis of the right of appeal against a decision on objection in indicator 1(h)(b.) It is not intended to make a case that these routes meet the requirements for complaint review mechanism as outlined in the MAPS methodology.</p> <p>LKPP complaints procedure: PPL s.77(7) provides for the LKPP to develop a complaint system for procurement. The LKPP receives and investigates written complaints from various sources, including bidders. Complaints are submitted on-line at https://pengaduan.lkpp.go.id/ In 2021, LKPP received 868 complaints, 90 % of which related to administrative violations.³⁵ Valid complaints are referred on to internal auditors and the LKPP will, in practice, provide a steer to internal auditors as to which Regulation to consider in assessing compliance for audit purposes. This is not part of the formal objection (bid protest) process.³⁶</p> <p>The LKPP offers a pre-contract consultancy service (advocacy service) to provide advice or options on issues arising prior to signing the contract. The LKPP provides an Expert Information Service to provide expert information for PKA personnel on criminal, civil and administrative processes in court.³⁷</p> | | Criterion met | | |

³⁵Information provided by LKPP on 12 April 2022.

³⁶Information provided by LKPP at meeting of 30 November 2020.

³⁷information in written clarification document received from LKPP, dated 31 January 2021

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|--|
| | <p>Public Complaints: PPL s.77(1) to (6): PPL s.77(1) provides that the public may submit complaints to the Government Internal Supervisory Apparatus (APIP). PPL s.77(2) provides that a law enforcement officer forwards complaints submitted by the community to the APIP for follow up. Upon receipt of a complaint the APIP follows up on complaints in accordance with its authority and reports the results to the minister/head of institution/head of local government. In the case of indications of corruption, collusion and nepotism which causes damage to the state finances, the minister/head of institution/head of local government reports to the authorized institution. (see indicator 14 for further assessment of provisions relating to corruption, collusion and nepotism.)</p> <p>Whistleblowing – direct to LKPP: there is a ‘whistleblowing system’ for reporting concerns direct to the LKPP: https://wbs.lkpp.go.id/</p> <p>There is also the possibility of submission of procurement related complaints to the Ombudsman (who in certain cases may exercise quasi-legal/judicial powers)³⁸, the KPPU (Business Competition Supervisory Commission), and passing on of matters to police, prosecutors or KPK (Corruption Eradication Commission) for matters falling within their respective jurisdictions.</p> | | | | |
| (b) Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review. | <p>There are no provisions in the PPL/PPR concerning the possibility of responding to a challenge (objection) with administrative review by an independent body with authority to suspend the award decision and grant remedies. A bidder who is unhappy with a final decision on objection by the procuring entity (budget holder) has a number of potential routes available to respond to the decision on objection, including using the LKPP complaints procedure and the public complaints procedure described in Indicator 1(h)(a). These routes do not, however, satisfy all of the requirements of the MAPS methodology for administrative review of a challenge and/or are limited to specified types of complaint such as competition or corruption.</p> <p>There is no specialist independent administrative procurement review body. There is, however, the possibility of making an application in respect of a decision on objection to the Administrative Court. This possibility is provided for in Law No. 30 of 2014 on Government Administration and Law No. 5 of 1986 on Administrative Court (as amended) (“Law on Administrative Court”).³⁹ The procedure for the application and proceeding in the Administrative Court is governed by the Law on Administrative Court. The Administrative Court has the power to suspend the award decision pending final decision in the case, in response to a request for suspension submitted by the applicant. The Administrative Court has power to grant remedies including revocation of the decision, requiring the procuring entity to issue a new decision and payment of compensation (A.97(7) Law on Administrative Court).</p> <p>Some data is available, for example, on the outcomes of the LKPP complaints procedure, but that procedure does not satisfy all of the requirements of the MAPS methodology for administrative review of a challenge. There is no meaningful data or information available on the actual use, operation of and decisions by the Administrative Court as a route of review of a decision on objection.</p> <p>The Law on Administrative Court provides for the right of higher review (judicial review) of decisions made by the local and provincial Administrative Court.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The procurement legal framework (PPL/PPR) does not clearly designate a route of challenge to an independent body that has the authority to suspend the award decision and grant remedies. A bidder who is not satisfied with a decision on challenge and wishes to appeal or apply for review of that decision is faced with a potentially complex and confusing choice of options to consider. This is likely to have a negative impact on stakeholder confidence in the integrity and credibility of the procurement system and reduce the opportunities to strengthen the procurement compliance and accountability environment. It is unclear whether, and to what extent, applications to the Administrative Court are used in respect of a decision on objection and whether the procedural requirements, fees and timescales for submission of applications to the Administrative Court, mean that this constitutes an efficient and realistic process. Local/provincial Administrative Court does not publish full decisions and this limits the ability of interested parties to be informed of consistency and fairness in the process and to use as precedents.</p> | | <p>Recommendation</p> <p>Consider undertaking a critical review of the various routes currently available to bidders who are unhappy with a final decision on objection with the aim of identifying whether one of the existing routes may be adapted to meet the MAPS methodology requirements for an efficient and functionally independent administrative review process, or whether a new approach is required such as the establishment of a specialist independent procurement review body.</p> <p>In preparation for the critical review, consider what information and data which is required in order to better understand the functioning of the current arrangements, undertake a critical review and how relevant data can be collected, for example by requiring procuring entities to provide to LKPP information on applications to and decisions of the Administrative Court.</p> |
| (c) Rules establish the matters that are subject to review. | <p>The grounds for challenge (matters subject to review) are set out in the PPR 2021.</p> <p>Grounds for Challenge – “objection” or “disclaimer” to the procuring entity ⁴⁰</p> <p>For the procurement of goods, other services and non-construction consultancy services G&S Regs provide for a right of objection (disclaimer) at two stages: (1) G&S Regs s.4.1.1(i) on the result of the qualification stage; and (2) G&S Regs s.4.2.13 at the “selection” tender award stage, following the determination of the winner.</p> <p>Pre/Qualification stage - Grounds for objection: G&S Regs, s.4.1.1(i) provides that participants who submit qualification documents may file an objection , through the SPSE, in respect of prequalification if they find: errors in evaluation, deviations from the provisions of the PPL and related rules, and provisions in the bidding documents, conspiracy [collusion] to prevent the occurrence of fair business competition and/or abuse of authority by the Selection Working Group, UKPBJ leaders, PPK PA/KPA and/or regional heads.</p> | | <p>Criterion met</p> | | |

³⁸A.24(3) Constitution and Law no. 48 of 2009 on Judicial Power.

³⁹ Law No. 5 of 1986 on Administrative Court, as amended by Law No. 9 of 2004 and Law No. 51 of 2009.

⁴⁰Translated documents use both terms: “disclaimer” and “objection” in this context.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|---|
| | <p>Tender award stage - Grounds for objection: G&S Regs, s.4.2.13 provides that selected participants who feel aggrieved over the determination of the winner may file an objection, through the SPSE, if they find: errors in evaluation, deviations from the provisions of the PPL and related rules, and provisions in the bidding documents, conspiracy [collusion] to prevent the occurrence of fair business competition and/or abuse of authority by the Selection working group, UKPBJ leaders, PPK PA/KPA and/or regional heads.</p> <p>Similar provision apply to procurement of construction works, construction related consultancy services ((W&CS Regs s.4.1.1(i) & s.4.2.12) and integrated design and build construction work ID&B Regs s.4.1.1(i) & s.4.2.10</p> <p>Appeal: A.53(2) Law of Administrative Court, provides that application to the Administrative Court may be made if the decision of the respective government administration is (a) against the applicable regulatory framework (laws and regulations); (b) against the general good governance principles.</p> | | | | |
| (d) Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body. | <p>Challenge (objection) to the procuring entity</p> <p>The time frames for submission of challenges (objection) and response to objections are set out in the PPR 2021. For the procurement of goods, other services and non-construction consultancy services G&S Regs provide for a right of objection (disclaimer) at two stages: (1) G&S Regs s.4.1.1(i) on the result of the qualification stage; and (2) G&S Regs s.4.2.13 at the “selection” tender award stage, following the determination of the winner. In each case, time frames for submission through SPSE and provision or publication of the response are specified. Similar provision apply for the procurement of construction works, construction related consultancy services (W&CS Regs) and integrated design and build construction work ID&B Regs.</p> <p>See Indicator 13(a)(d) for further analysis of timescales for submission of challenge (objection) and provision or publication of responses by the procuring entity.</p> <p>Appeal: Article 55 of Law of Administrative Court establishes the time frame for submission of application to the Administrative Court, which is ninety (90) days after the government administration decision is made. MAPS Assessment team unable to establish whether there are rules establishing time frames for Administrative Court to issue decisions.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>It is unclear whether there are rules establishing time frames for the Administrative Court to issue decisions.</p> | | <p>Recommendation</p> <p>See Indicator 1(h)(b)</p> |
| (e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information. | <p>There is no specialist independent administrative procurement review body. There is no single, centralized, reliable record of procurement-related applications to the Administrative Court and those decisions are not published in easily accessible places.</p> | | <p>Criterion not met</p> <p>GAP – may be considered as substantive. The risk is high.</p> <p>Applications for appeal to and decisions by the local/provincial Administrative Court are not published.</p> | YES | <p>Recommendation</p> <p>See Indicator 1(h)(b)</p> |
| (f) Decisions by the independent appeals body can be subject to higher-level review (judicial review). | <p>The Law on Administrative Court provides for the right of higher (judicial) review of decisions made by the Administrative Court. There are three levels of Administrative Court: Local, Provincial (Higher) and Supreme Court. The Provincial (Higher) Administrative Court considers appeals against decisions of the Local Administrative Court (A.122), with a further right of appeal to the Supreme Court (A.133).</p> | | Criterion met | | |

1(i) Contract management

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| (a) Functions for undertaking contract management are defined and responsibilities are clearly assigned, | PPL s.11 Contract Making Officer (PPK”), clearly assigns the function and responsibility for undertaking contract management to the Contract Making Officer, referring to a range of activities including those concerning “controlling the contract”, assessment of providers performance, keeping records of implementation and payment. G&S Regs Part VII, W&CS Regs Part VII and I&DB Regs Part V cover Implementation, including clear allocation of responsibilities. | | Criterion met | | |
| (b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition. | PPL s. 37 Price Adjustments sets out provisions concerning when and how price adjustments may be made to specified types of multi-year contracts (executed for more than 18 month). PPL s.37(1)(b) requires that the procedure for calculating price adjustments shall be described clearly as an integral part of the contract. PPL s.54 Contract Amendment permits a contract to be amended by mutual agreement where differences are found between actual field conditions and drawings and/or technical specifications/ToR set out in the contract. Amendments in these circumstances may be by: increasing or decreasing the volume described in the Contract; increasing or reducing types of activity; changing technical specification according to field conditions, and/or; changing the implementation schedule. In all cases the increase in value shall not exceed 10% of the price stated in the original Contract. These provisions are set out and elaborated upon in G&S Regs, W&CS Regs and ID&B Regs. | | Criterion partially met Minor GAP – may be considered as non-substantive. Indicator 1(j)(b) Contract amendments The permitted circumstances for contract amendments and limitation on contract amendments, including provisions on related increase in contract value are important safeguards. They should be sufficiently flexible to allow for appropriate amendments to contracts of different types, complexity and value. The provision in PPL s.54(2) limiting increase in contract value to less than 10% of the original contract value may not result in the best economic outcome in some cases, such as for complex, long term or high value contracts. | | Recommendation Indicator 1(j)(b) Contract amendments Consider a more nuanced approach in the PPL to the current limit on increase in contract value, for example to permit a higher % increase in cases where amendments are required to complex, long term or high value contracts, subject to appropriate safeguards. |
| (c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract. | PPL s.85 (1) Contract Dispute Resolution provides that the settlement of disputes in contract execution may be carried out by services for contract dispute resolution, arbitration, Construction Dispute Board or court proceedings. PPL s.85(2) provides that the LKPP shall provide services for settling contractual disputes (Penyelesaian sengketa kontrak) between the PPK and the Provider. PPL s.85(3) provides for the Minister of Public Works and Housing to publish regulations on contract dispute resolution through the Construction Dispute Board. ⁴¹ Contract dispute provisions are included in the General Conditions of Contract. The LKPP provides a Procurement Disputes Resolution Service ⁴² , operating outside the courts and offering support contract dispute resolution through mediation, conciliation and if conciliation is not successful, to arbitration. PerLemLKPP no.18 of 2018 Dispute resolution service for procurement of government goods/services” provides for dispute resolution by means of mediation, conciliation and arbitration. Contractual disputes conducted by authorities and disputes subject to court and/or other arbitral proceedings are excluded. PerLemLKPP no.18 of 2018 sets out details on the organization, financing and conduct of dispute resolution as well as agreement/decision. | | Criterion met | | |
| (d) The final outcome of a dispute resolution process is enforceable. | Decision on arbitration is final and is registered with the local district court. Enforcement of an arbitral award is available through the courts. Law no.30 of 1999 on Arbitration and Alternative Dispute Resolution include provisions on implementation of awards New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958: Indonesia acceded to the New York Convention on 7 October 1981. ⁴³ | | Criterion met | | |

1(j) Electronic Procurement (e-Procurement)

The legal framework provides for the following:

⁴¹PPL s.85 amended by *Perpres* No.12 of 2021.

⁴²PerLemLKPP no.14 of 2016 Establishment of Dispute Resolution Service

⁴³ New York Arbitration Convention website: <https://www.newyorkconvention.org/countries>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially. | All procurement is required to be carried out electronically. PPL s.69 provides that electronic procurement is to be carried out using the electronic procurement system (SPSE) and supporting systems. The LKPP is mandated to develop and support the SPSE and supporting system. PPL s.71 describes the scope of SPSE consisting of: Procurement Planning, Procurement Preparation, Selection of Provider, Implementation of contract, Handover of Work, Provider Management and Electronic Catalogue (further described in PPL s.72) PPL s.70 describes use of the e-marketplace in the form of electronic catalogues, online shops and selection of provider. PPL s.72a sets out provisions concerning the use of Online Shops and confirms that goods/services transacted on Online Shops are not displayed on Electronic Catalogues. PPL s.72(3) provides that management of electronic catalogues is carried out by ministries/institutions/local government or LKPP. | | Criterion met | | |
| (b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication. | PPL s.69 provides that electronic procurement is to be carried out using the electronic procurement system (SPSE) and supporting systems. The LKPP is mandated to develop and support the SPSE and supporting systems. Local procurement systems (LPSE) are standardized, using the national SPSE issued and maintained by LKPP. Access to the SPSE is via local systems, LPSE and also the national portal, INAPROC providing easy access to the system. The LKPP defines privacy, security and authentication standards for the SPSE. See analysis and Gaps/recommendation in indicator 7 for areas for improvement for data security of SIKaP and local implementation of SPSE security standards. | | Criterion met | | |
| (c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically. | PPL s.69 provides that electronic procurement is to be carried out using the electronic procurement system (SPSE) and supporting systems. All stages of the procurement process are managed electronically. | | Criterion met | | |

1(k) Norms for safekeeping of records, documents and electronic data

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access. | Procurement is conducted electronically and so, in practice, the LPSE systems retain all related data and documents associated with a procurement process. The SPSE defined database of records provides, in effect, the list of retained records. Law (UU) on Archiving no.43 of 2009 covers the storage and retention of documents, including procurement archive documents. The Head of the National Archives has issued a Procurement Archives Retention Regulation, PerkaANRI no.13 of 2016 which sets out Guidelines on Archive Retention Schedule (JRA) and retention of archive, including specifying the minimum retention period. The appendix to these regulations sets out a list of procurement documents to be retained in procurement archives (JRA). According to A.53(2) of Government Regulation No.28 of 2012 the Archive Retention Schedule (JRA) is decided by the Head of government agencies, local government, public university/college, SOE and/or local government owned enterprise, in accordance with requirements of the Head of the National Archives. Access to procurement archives is governed by the general Law (UU) on Public Information Disclosure no.14 of 2008. ⁴⁴ Each Ministry/Agency/local government procuring entity has a Managing Officer for Information and Documentation (PPID) who is authorized to determine which information may be accessed and excluded, including the procedure for requesting access. The Central Information Commission (KIP) has issued Information Commission Regulation Perki No.1 of 2021 concerning Public Information Service Standards (SLIP) (replacing Perki no.1 of 2010). Issued pursuant to Law no. 14 of 2008 on Public Information Disclosure). Perki No.1 of 2021 A.14 requires every public agency to announce periodically public information including information about procurement of goods and services. A.15(9) specifies the procurement related information concerning planning stage, selection stage and implementation stage including signed contracts and contract changes that do not contain excluded information. | | Criterion met | | |
| (b) There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of | Law (UU) on Archiving no.43 of 2009 covers the storage and retention of documents, including procurement archive documents. The Head of the National Archives has issued a Procurement Archives Retention Regulation, PerkaANRI no.13 of 2016, which sets out Guidelines on Archive Retention Schedule (JRA) and retention of archive, including specifying the minimum retention period. The appendix to these regulations sets out a list of procurement documents to be retained in procurement | | Criterion partially met Minor GAP – may be considered as non-substantive. | | Recommendation: |

⁴⁴ Information provided by LKPP, 12 April 2022.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|--|
| fraud and corruption and compatible with the audit cycles. | archives, together with designated minimum retention period and indication of whether documents may be destroyed at the end of the minimum retention period. The designated minimum retention periods in the Guidelines (Article 3) are five years for documents of legal value, information and technology and 10 years for financial use value. The appendix to the Guidelines lists most of the procurement documents for a minimum of five years. Statute of limitations and prosecution of fraud and corruption offences: The Penal Code of Indonesia, Book I, Chapter VII, Article 78 provides that the right to prosecute for criminal offenses shall lapse by time ⁴⁵ . The time period for lapsing of prosecution ranges from one to eighteen years and is determined by reference to the punishment and/or period of imprisonment (up to three years imprisonment, over three years imprisonment, life imprisonment or capital punishment). For example, the right to prosecute shall lapse in six years for crimes where imprisonment is up to three years and in twelve years for crimes where imprisonment exceeds three years. According to Law (UU) no.31 of 1999 on Corruption Eradication many offences for fraud and corruption may incur potential punishment of imprisonment in excess of three years. | | The designated minimum retention periods in the Procurement Archives Retention Regulation, PerkaANRI no.13 of 2016 require most procurement documents to be retained for a minimum of five years. The time period for lapsing of prosecution for criminal offenses (limitation period) ranges from one to eighteen years. Some fraud and corruption offenses may still be prosecuted after expiry of the five-year minimum time period for retention of most procurement documents. This raises the possibility that procurement documents of potential relevance to the prosecution of fraud and corruption cases may no longer be available at the time when a case is prosecuted. | | Review retention requirements for archiving and retention of procurement documents to ensure that the minimum period of retention aligns with the time periods for lapsing of prosecution for fraud and corruption offenses, to ensure that all relevant procurement documents are available to prosecutors. |
| (c) There are established security protocols to protect records (physical and/or electronic). | PPL s.73 (3) LKPP establishes standards for the services, capacity and security of the e-procurement system (SPSE) and the supporting system and protocols are in place. | | Criterion met | | |

1(l) Public procurement principles in specialized legislation

The legal and regulatory body of norms complies with the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|--|
| (a) Public procurement principles and/or the legal framework apply in any specialized legislation that governs procurement by entities operating in specific sectors, as appropriate. | State-owned enterprises are active in six core economic sectors: energy, mineral extraction, financial service, highway infrastructure/construction, property (real estate) and food. Procurement by SOEs is not subject to the PPL. It is, however, subject to procurement specific Ministerial Regulations. Procurement by SOEs of Goods and Services is regulated by a Minister of State-owned Enterprises Regulation No. PER-08/MBU/12/2019 regarding General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises (Procurement Guidelines for SOEs G&S). ⁴⁶ The Procurement Guidelines for SOES G&S apply to Ministerial Regulation applies to all Goods and Services Procurement carried out by SOEs whose financing source comes from the SOE Budget, including those funds sourced from state capital participation, SOE funds for the implementation of public service subsidies / public service obligations / Government assignments which are replaced from State Revenue and Expenditure Budget / Regional Revenue and Expenditure Budget, and SOE loans from government. A.3 Procurement Guidelines for SOES G&S sets out the aims of procurement including ensuring procurement of goods and service that are of the right quality, quantity, time cost location and provider, with reference amongst other factors, to creating added value, improve efficiency and value for money as well as increasing the use of domestic products and enhancing the role of national businesses. A.4 sets out procurement principles to be applied which feed through in requirements in A.5 concerning SOE procurement policy. These are, in summary: efficiency, effectiveness, competition, transparency, affording equal treatment, open to all qualified applicants and accountability. A10 refers to detailed procedures for procurement to be further regulated by SOEs Board of Directors. Other laws of more general application also impact on procurement by SOEs including laws on business competition, anti-corruption, industrial affairs, establishment of SOEs, information and electronic transactions. Given the extent of SOE activity including in specific sectors and in order to gain additional insight into procurement by SOEs, the MAPS assessment has included a desk review of SOEs' procurement framework based on a sample of two SOEs, active in the electricity and port services sectors. The SOE Review is attached at Volume III Annex 7 (see also indicator 1(a(b))) | | Criterion partially met Minor GAP – may be considered as non-substantive. Indicator 1(l)(a) Procurement by entities operating in specific sectors Public availability of SOEs' own procurement rules. Public availability of SOES' own procurement rules is mixed. Some SOEs, which are subject to the Procurement Guidelines for SOEs G&S, publish and provide access free of charge to their own procurement rules, others do not. This reduces the overall transparency of the system and hinders public oversight and accountability of procurement by SOEs. | | Recommendation Indicator 1(l)(a) Procurement by entities operating in specific sectors Public availability of SOEs' own procurement rules In order to increase transparency and improve oversight and accountability of expenditure by SOEs, consider obliging SOEs to publish and provide access free of charge to their own procurement rules. |

⁴⁵Indonesia's Global Commitments on UNCAC and G20 Anti-corruption Working Group 2012-2020 (published 27 July 2021) states that the statute of limitations cannot be suspended (p.7).

https://www.kpk.go.id/images/pdf/Buku_Komitmen_Indonesia_pada_UNCAC_and_G20_ACWG_2012-2020_english_ver.pdf

⁴⁶PER-08/MBU/12/2019: Revoking Minister of State-owned Enterprises Regulation No. PER-05/MBU/2008 on General Guidelines for Procurement of Goods and Services carried out by State-owned Enterprises – as amended by Minister of State-owned Enterprises Regulation No. PER-05/MBU/2012 (Procurement Guidelines for SOEs. <http://jdih.bumn.go.id/lihat/PER-08/MBU/12/2019> accessed 26 January 2019)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| | Public availability of SOE procurement rules: (see indicator Central Information Commission (Komisi Informasi Pusat) Regulation No.1 of 2021 (Perki No.1 of 2021, A.16 lists information to be published by state owned enterprises, region-owned enterprises and/or other entities with state ownership and includes at A.16(l) government assignment activities and/or public service obligations or subsidies' and (m) mechanism for the procurement of goods and services. In practice, at least prior to the publication of Perki No.1 of 2021, public availability of SOEs' own procurement rules was mixed. Some SOEs publish and provide access to their own procurement rules, others do not. | | | | |
| (b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate. | <p>Article 4 of the PPP Regulation, Presidential Regulation No. 38 of 2015⁴⁷ concerning Cooperation Between Government and Business Entities in Procurement of Infrastructure (PPP Regulation) , sets out basic principles applying to the conduct of PPP. This includes the principle of Competition “meaning that the procurement of a Business Entity cooperation partner is conducted, fairly, openly and transparently, with consideration to the principle of fair business competition.”</p> <p>PerLemLKPP No.29 of 2018⁴⁸ A.3 elaborates on the PPP Regulation and provides that the procurement shall be conducted in accordance with the following principles: efficiency, effectiveness, transparency, openness, competition, fairness/non-discrimination and accountability. A.3 goes on to provide further explanation of those principles including, for example, reference to the requirements for all terms and information on the procurement process to be completely and clearly publicized, clear procedures for participation and to ensure that all participants receive equal treatment.</p> <p>The PPP legal framework allows for the possibility of direct award/direct appointment only where specified criteria are satisfied.⁴⁹ The possibility of unsolicited proposals for PPP is also envisaged, followed by a competitive procurement procedure in which case the proponent Business Entity is given the following alternatives for compensation: additional value of 10%, right to match bid in relation to the best bidder or purchase of the PPP initiative by the Minister/Head of Institutions/Head of Region or by the winning bidder.⁵⁰In 2021, the LKPP issued PerlemLKPP No.8 of 2021Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects. It provides for the establishment and operation by a Minister/Head of Institution of panels of business entities (Business Entity Panel) which have been assessed as suitably qualified to deliver national strategic projects through PPP. The aim is to realize the governance of the selection of business entities in national strategic projects in accordance with ethics and selection principles and to accelerate the process of selection of a business entity.</p> | | Criterion met | | |
| (c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned. | <p>The Directorate of Development for Public Private Partnership at the Ministry of National Development Planning (“PPP BAPPENAS”) was established in accordance with A.375 of the Regulation No. 4 of 2016 on the Organization and Working Procedure by the Ministry of National Development Planning (BAPPENAS). Its main tasks are coordinating, formulating and implementing PPP policies, as well as monitoring, evaluating and controlling national development planning in the field of public and private cooperation.⁵¹</p> <p>In addition to BAPPENAS, the institutional framework for PPPs in Indonesia includes, specialist financial input from the Directorate of Government Support Management and Infrastructure Financing, Ministry of Finance.⁵²</p> | | Criterion met | | |

⁴⁷Presidential Regulation No.38 of 2015. English translation accessed at: <https://thomaspn.files.wordpress.com/2016/04/english-presidential-regulation-38-2015.pdf>

⁴⁸<https://jdih.lkpp.go.id/regulation/peraturan-lkpp/peraturan-lkpp-nomor-29-tahun-2018>

⁴⁹See PPP Regulation 39 and PerLem no.29 of 2018.

⁵⁰See PPP Regulation 14.

⁵¹<http://pkps.bappenas.go.id/>

⁵²<http://www.djppr.kemenkeu.go.id/page/load/1223>

2. Implementing regulations and tools support the legal framework.

2(a) Implementing regulations to define processes and procedures

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--|---|---------------------|-----------------------------------|
| (a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law. | PPL s.91 (1) sets out a list of documents and issues (a) to (y) which shall be set out in Regulations of the Head of the LKPP (PerLemLKPP), no longer than 90 days from enactment of the PPL (enactment - 22 March 2018). Thirteen core Implementing regulations were issued by LKPP by 8 June 2018. As noted in Indicator 1(a)(a) the PPL was amended by Presidential Regulation No.12 of 2021, dated 2 nd February 2021 (“Perpres No.12 of 2021”). The LKPP subsequently issued new implementing regulations (PerLemLKPP) <i>to align with the amended law</i> , revoking and replacing the majority of the 2018 implementing regulations and introducing some new regulations. See summary table below: | | | | |
| | PerLemLKPP No.10 of 2018 | International tender selection | Criterion met | | |
| | PerLemLKPP No.13 Of 2018 | Emergency procurement | | | |
| | PerLemLKPP No.15 of 2018 | Goods and services procurement agent | | | |
| | PerLemLKPP No.16 of 2018 | Procurement agency | | | |
| | PerLemLKPP No.18 of 2018 | Contract dispute settlement service | | | |
| | PerLemLKPP No.19 of 2018 | Development of systems and policies | | | |
| | | | | | |
| | PerLemLKPP No.3 of 2021 | Self-management guidelines (Swakelola) <i>Revoking PerLemLKPP 08_2018 Self-management guidelines (Swakelola)</i> | | | |
| | PerlemLKPP No.4 of 2021 | Guidance of business actors for government goods/services procurement (including provision onf support to business actors, performance assessment of providers [business actors) and Blacklisting sanctions) <i>Revoking PerLemLKPP 17_2018 Blacklist sanctions</i> | | | |
| | PerlemLKPP No.5 of 2021 | [Exempted/excluded] goods/services guidelines <i>Revoking PerLemLKPP 12_2018 [Exempted/excluded] goods/services guidelines</i> | | | |
| | PerlemLKPP No.6 of 2021 | Guidelines for development and management of action plan for the fulfilment of goods/services procurement management <i>New</i> | | | |
| | PerlemLKPP No.7 of 2021 | Human resources for procurement of goods/services – including certification <i>Revoking PerlemLKPP 06_2019 Certification of government goods and services – with transitional provisions in period to January 2022 – see A.32 PerLemLKPP 07_2021</i> | | | |
| | PerlemLKPP No.8 of 2021 | Procedures for selecting business entity panels and selection of implementing business entities in national strategic projects - PPP <i>New</i> | | | |
| | PerlemLKPP No.9 of 2021 | Online store and electronic catalog <i>Revoking PerLemLKPP 11_2018 Electronic catalog</i> | | | |
| | PerlemLKPP No.10 of 2021 | Goods/services procurement work units (UKPBJ), including Appendix I Electronic procurement service management function Appendix II Measurement of maturity level of Goods/services procurement work units (UKPBJ) <i>Revoking PerLemLKPP 14_2018 Goods and services procurement work unit and PerLemLKPP 05_2019 Measurement of procurement work unit</i> | | | |
| | PerLemLKPP No.11 of 2021 | Planning of procurement for goods and services <i>Revoking PerLemLKPP 07_2018 Planning of procurement for goods and services</i> | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria) | | Step 2: Quantitative analysis | Step 3: Gap analysis / conclusions (describing any substantial gaps) | | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | |
|--|--|--|-------------------------------|--|--|---------------------|-----------------------------------|---|--|------------|------------|---|---------------------|--|----------------------|--|----------------------|---|--|--|--------------------|--|---------------------|---|---------------------|
| | <div>PerLemLKPP No.12 of 2021</div> <div>Guidelines for implementation of government procurement of goods/services through providers [PPR 2021], with appendices, including standard bidding documents <i>Revoking PerLemLKPP 09_2018 Guidelines for implementation of government procurement of goods/services through providers.</i> These Guidelines and standard bidding documents also replace standards and guidelines issued in 2020 by the Ministry of Public Works and Housing relating to construction works, construction consultancy services and integrated construction works.⁵³⁵⁴</div> | | | | | | | | | | | | | | | | | | | | | | | | |
| | <div>The LKPP also issues Institutional Regulations, Decisions of both the Head and Principal Secretary of the LKPP as well as Decrees of the Deputies and Circulars, all of which are published on the LKPP website. The number of such documents is substantial.</div> <div>The main procurement guidelines and model procurement documents/standard bidding documents are set out in PerLemLKPP 12_2021 Guidelines for implementation of government procurement of goods/services through providers (PPR 2021), comprising approximately 6,000 (six thousand) pages.Although the title refers to Goods and Services procurement, the appendices provide guidelines and model documents for procurement of goods/other services/non-construction consultancy services, construction services and integrated design and build construction works. There are 6 Appendices, set out below. The appendices contain both Guidelines and a comprehensive collection of model procurement documents/standard bidding documents.</div> <div><i>For clarity, each of the Appendices has been allocated a short reference in the right-hand column which is used elsewhere in this matrix.</i></div> <table><tr><th colspan="2">Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers</th></tr><tr><th>Guidelines</th><th>Short ref.</th></tr><tr><td>Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S Regs</td></tr><tr><td>Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i></td><td>W&CS Regs</td></tr><tr><td>Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i></td><td>ID&B Regs</td></tr><tr><th colspan="2">Model documents (Model Procurement Documents (MPD) /Standard Bidding Documents)</th></tr><tr><td>Appendix IVMPD for the procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S SBD</td></tr><tr><td>Appendix V MPD for the procurement of construction services through providers</td><td>W&CS SBD</td></tr><tr><td>Appendix VI MPD - for the procurement of integrated design and build civil works through providers</td><td>ID&B SBD</td></tr></table> | | | | | | | Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | Guidelines | Short ref. | Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | Model documents (Model Procurement Documents (MPD) /Standard Bidding Documents) | | Appendix IV MPD for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | Appendix V MPD for the procurement of construction services through providers | W&CS SBD | Appendix VI MPD - for the procurement of integrated design and build civil works through providers | ID&B SBD |
| Appendices I to VI PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | | | | | | | | | | | | | | | | | | | | | | | | |
| Guidelines | Short ref. | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | | | | | | | | | | | | | | | | | | | | | | | | |
| Model documents (Model Procurement Documents (MPD) /Standard Bidding Documents) | | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix IV MPD for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix V MPD for the procurement of construction services through providers | W&CS SBD | | | | | | | | | | | | | | | | | | | | | | | | |
| Appendix VI MPD - for the procurement of integrated design and build civil works through providers | ID&B SBD | | | | | | | | | | | | | | | | | | | | | | | | |

⁵³*Perpres* No.12 of 2021, amending the PPL, allocates responsibility to the LKPP for publication of future guidelines on procurement of construction works and construction consultancy services. *Perpres* No.12 of 2021 s. 89 Transitional provisions provide that, pending publication of LKPP guidelines, the Ministry of Public Works Guidelines *PermenPUPR* No.14 of 2020 and *PermenPUPR* No.1 of 2020 (as amended) will continue to apply. *PerLemLKPP* No.12 of 2021 Guidelines for implementation of government procurement of goods/other services/non-construction consultancy services through provider, includes Guidelines and Model Documents for procurement of construction services and integrated design and build construction works.

⁵⁴**PermenPUPR No.14of 2020** Standards and Guidelines for procurement of construction services through providers &*PermenPUPR* No.1 of 2020 (as amended by *PermenPUPR* No.25 of 2020) Standards and Guidelines for Procurement of Design-Build Integrated Construction Works through Providers

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|---|
| (b) The regulations are clear, comprehensive and consolidated as a, comprehensive and consolidated as a set of regulations readily available in a single accessible place. | The Regulations issued by the LKPP (PerLemLKPP) are comprehensive and readily available on-line via the LKPP website. In 2021, with transfer of responsibility for publication of Regulations (Guidelines for implementation and standard documents) for construction works and integrated design and build from Ministry of Public Works to LKPP, all regulations are available from the LKPP website, which is a positive development | | Criterion partially met Minor GAP – may be considered as non-substantive. Indicator 2(a)(b) Availability of regulations There are significant numbers of regulations supporting the implementation of the PPL which creates a heavily regulated and complex environment for stakeholders. Whilst information is available on line, it is not presented in a user-friendly format and the on-line search function is insufficient to permit easy and comprehensive identification of documents and relevant provisions in documents concerning particular issues. | | Recommendation Indicator 2(a)(b) Availability of regulations See recommendation at 1(a)(d). |
| (c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly. | The Regulations issued by the LKPP (PerLemLKPP) are maintained by the LKPP and are updated, as can be seen from amendments to those Regulations and replacements issued, particularly in 2021. | | Criterion met | | |

2(b) Model procurement documents for goods, works, and services

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|---|--|---|--|-----------------------------------|------------|---|---------|---|--|--|
| (a) There are model procurement documents provided for use for a wide range of goods, works and services, including consultancy services procured by public entities. | There are model procurement documents (MPDs/SBDs) for use for a wide range of goods, works and services including consultancy services and a wide range of procurement methods. There are no MPDs/SBDs for turnkey equipment contracts and no SBDs for specialized procurement such as pharmaceuticals and information technology. | | Criterion met | | | | | | | | | | | | | |
| | Model procurement documents/SBDs are set out in Regulations: PerLemLKPP 12_2021 Guidelines for implementation of government procurement of goods/services through providers, Appendices IV, V and VI. Appendices I, II and III contain procurement Guidelines. | | | | | | | | | | | | | | | |
| | Although the title refers to Goods and Services procurement, the appendices contain model documents for procurement of goods/other services/non-construction consultancy services, construction services and integrated design and build construction works. The collection of model documents is extensive and covers a wide range of goods, works and services as well as different procurement procedures, ranging from “Quick Tender” selection to construction procurement using pre-qualification and two stages. | | | | | | | | | | | | | | | |
| | <i>The content of each of the appendices is listed below. For clarity, each of the Appendices has been allocated a short reference in the right hand column which is used elsewhere in this matrix. Model Procurement Documents subject to detailed sampling analysis are asterisked*.</i> | | | | | | | | | | | | | | | |
| | <table><tr><td colspan="2">Appendices IV, V & VI PerLemLKPPNo. 12 of 2021</td></tr><tr><td colspan="2">Guidelines for implementation of government procurement of goods/services through providers</td></tr><tr><td>Model Procurement Documents (MPD)</td><td>Short ref.</td></tr><tr><td>Appendix IV MPD for the procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S SBD</td></tr><tr><td>1. MPD - Tender with Post-Qualification for the Procurement of Goods;</td><td></td></tr><tr><td>2. MPD - Tender with Pre-Qualification for the Procurement of Goods;</td><td></td></tr><tr><td>3. MPD - Quick Tender for the Procurement of Goods;</td><td></td></tr><tr><td>4. MPD - Tender with Post-Qualification for the Procurement of Other Services;</td><td></td></tr></table> | | | | | Appendices IV, V & VI PerLemLKPPNo. 12 of 2021 | | Guidelines for implementation of government procurement of goods/services through providers | | Model Procurement Documents (MPD) | Short ref. | Appendix IV MPD for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | 1. MPD - Tender with Post-Qualification for the Procurement of Goods; | | 2. MPD - Tender with Pre-Qualification for the Procurement of Goods; |
| Appendices IV, V & VI PerLemLKPPNo. 12 of 2021 | | | | | | | | | | | | | | | | |
| Guidelines for implementation of government procurement of goods/services through providers | | | | | | | | | | | | | | | | |
| Model Procurement Documents (MPD) | Short ref. | | | | | | | | | | | | | | | |
| Appendix IV MPD for the procurement of goods/other services/non-construction consultancy services through providers | G&S SBD | | | | | | | | | | | | | | | |
| 1. MPD - Tender with Post-Qualification for the Procurement of Goods; | | | | | | | | | | | | | | | | |
| 2. MPD - Tender with Pre-Qualification for the Procurement of Goods; | | | | | | | | | | | | | | | | |
| 3. MPD - Quick Tender for the Procurement of Goods; | | | | | | | | | | | | | | | | |
| 4. MPD - Tender with Post-Qualification for the Procurement of Other Services; | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <div>5. MPD - Tender with Pre-Qualification for the Procurement of Other Services;</div> <div>6. MPD - Quick Tender for the Procurement of Other Services;</div> <div>7. MPD - Selection of Consultants for the Procurement of Consulting Firm;</div> <div>8. MPD - Selection of Consultants for the Procurement of Individual Consultant;</div> <div>9. MPD - Direct Appointment of Procurement of Goods;</div> <div>10. MPD - Direct Appointment of Procurement of Other Services;</div> <div>11. MPD - Direct Appointment of Procurement of Consulting Firm;</div> <div>12. MPD - Direct Appointment of Procurement of Individual Consultant;</div> <div>13. MPD - Direct Procurement of Goods;</div> <div>14. MPD - Direct Procurement of Other Services;</div> <div>15. MPD - Direct Procurement of Consulting Firm;</div> <div>16. MPD - Direct Procurement of Individual Consultant;</div> | | | | |
| | Appendix V MPD for the procurement construction services through providers | W&CS SBD | | | |
| | <div>1. MPD - Direct Procurement of Construction Individual Consultant;</div> <div>2. MPD - Direct Procurement of Construction Consulting Firm;</div> <div>3. MPD - Direct Procurement of Construction Individual Contractor;</div> <div>4. MPD - Direct Procurement of Civil Works Firm;</div> <div>5. MPD - Quick Tender Civil Works;</div> <div>6. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm - Qualification Documents</div> <div>7. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Quality and Cost, Time-Based Contract;</div> <div>8. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Quality and Cost, Lump-Sum Contract;</div> <div>9. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Quality, Time-Based Contract;*</div> <div>10. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Quality, Lump-sum Contract;*</div> <div>11.MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Budget Ceiling, Time-Based Contract;</div> <div>12.MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Budget Ceiling, Lump-Sum Contract;</div> <div>13. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Lowest Cost, Time-Based Contract;</div> <div>14. MPD - Selection of Consultants for the Procurement of Construction Consulting Firm – Selection Document, Two Files, Lowest Cost, Lump-Sum Contract;</div> <div>15. MPD - Selection of Consultants for the Procurement of Construction Individual Consultant – Two File Selection Document, Quality, Time-Based Contract;*</div> <div>16. MPD - Selection of Consultants for the Procurement of Construction Individual Consultant – Two File Selection Document, Quality, Lump-Sum Contract;*</div> <div>17. MPD - Tender Civil Works – Tender Document, Postqualification, One File, Lowest Price System, Combined Lump-Sum and Unit Price Contract;</div> <div>18. MPD - Tender Civil Works – Tender Document, Postqualification, One File, Lowest Price System, Lump-Sum Contract;</div> <div>19. MPD - Tender Civil Works – Tender Document, Postqualification, One File, Lowest Price System, Unit Price Contract;</div> | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | | | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--|--|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>20. MPD - Tender Civil Works – Tender Document, Postqualification, Two Files, Lowest Price with Threshold System, Combined Lump-Sum and Unit Price Contract;</p> <p>21. MPD - Tender Civil Works – Tender Document, Postqualification, Two Files, Lowest Price with Threshold System, Lump-Sum Contract;</p> <p>22. MPD - Tender Civil Works – Tender Document, Postqualification, Two Files, Lowest Price with Threshold System, Unit Price Contract;</p> <p>23. MPD - Tender Civil Works – Document Qualification</p> <p>24. MPD - Tender Civil Works – Tender Document, Prequalification, Two Files, Lowest Price with Threshold System, Combined Lumpsum and Unit Price Contracts;</p> <p>25. MPD - Tender Civil Works – Tender Document, Prequalification, Two Files, Lowest Price with Threshold System, Lump-Sum Contract;</p> <p>26. MPD - Tender Civil Works – Tender Document, Prequalification, Two Files, Lowest Price with Threshold System, Unit Price Contract;</p> <p>27. MPD Direct Appointment of Civil Works – Qualification Document;</p> <p>28. MPD Direct Appointment of Civil Works – Direct Appointment Document;</p> <p>29. MPD Direct Appointment of Construction Consultancy Services – Qualification Documents;</p> <p>30. MPD Direct Appointment of Construction Consultancy Services – Direct Appointment Document.</p> | | | | | | |
| | Appendix VI MPD - for the procurement of integrated design and build civil works through providers | | | ID&B SBD | | | |
| | <p>1. MPD - Tender for Procurement of Integrated Construction Design and Build – Qualification Documents;</p> <p>2. MPD - Tender for Procurement of Integrated Construction Design and Build – Tender Document, Prequalification, Two Files, Lowest Price with Threshold System;*</p> <p>3. MPD - Tender for Procurement of Integrated Construction Design and Build– Tender Document, Prequalification, Two Files, Scoring System;*</p> <p>4. MPD - Tender for Procurement of Integrated Construction Design and Build – Draft Contracts Using Consultants Construction Management</p> <p>5. MPD - Tender for Procurement of Integrated Construction Design and Build – Draft Contracts Using Technical Team</p> | | | | | | |
| (b) At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding. | <p>The MPDs/SBDs published by the LKPPare template bidding documents for mandatory use (PPR 2021 A.4) in various methods of procurement, including in competitive bidding/tender.</p> <p>The sampled MPDs/SBDs contain standard provisions on the conduct of the bidding.For example, Goods (G&C) SBD1Model of the Post-Qualification Tender Selection Document for the Procurement of Goods comprises XI sections: Section I General; Section II Invitation; Section III Instruction to Supplier/Service Provider; Section IV Data Sheet; Section V Evaluation Criteria; Section VI General Conditions of Contract; Section VII Special Condition of Contract; Section VIII Technical Specification; Section IX Contract Agreement; Section X Bid Forms; Section XI Other Forms It includes standard clauses for open tender such as: Reference to the applicable regulation (Perpres 16/2018 and its amendment) (Section I; Selection process is carried out through e-GP (SPSE). Selection timeline is provided in SPSE system (Section II);Scope of services (IKP 1), source of funds (IKP 2), firm eligibility(IKP 3), violation of procurement rules, Sanction/black list (IKP 4), conflict of interest (IKP 5), utilization of local expert and local product (IKP 6), one proposal one firm (IKP 7), comprising of selection documents (IKP 8), pre-bid meeting (IKP 10), amendment of selection document (IKP 11), comprising of bids-two files (technical and financial) (IKP 15), proposal validity (IKP 18), proposal submission (IKP 19), deadline of proposal submission (IKP 20), bid opening (IKP 22), bid evaluation (IKP 23-24), e-reverse auction (IKP 25), notification of technical evaluation result (IKP 28), complaint period (IKP 29), failure of bid process (IKP 30), notification of contract award (IKP 32), contract signing (IKP 35).In Section V Evaluation Criteria, the weight factor for each criterion and each sub-criterion are provided along with guidance on how to evaluate The MPDs/SBDs incorporate a procurement contract with standard contractual provisions (general contract conditions (SSUK) and special contract conditions (SSKK).</p> | | | | Criterion met | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| | Implementing regulations refer to preparation of Selection Document based on the procurement preparation document determined by the PPK (G&S Regs s.3.10) and refer to the role of the PPK/procurement officer to include review of preparation documents (G&S Reg s.1.3) but these provisions do not appear to <i>mandate</i> use of the MPDs/SBDs. | | | | |
| (c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned. | Prior to 2021, responsibility for MPDs/SBDS was split between the LKPP and the MPWH, with the MPWH being responsible for publishing and maintaining the standard bidding documents for works and works consultancy services. The LKPP is now responsible for publishing and maintaining all guidelines and MPDs/SBDs for goods, services, consultancy services, construction services, works and integrated construction design and build. The documents are kept up to date. The most recent versions were published in 2021 and reflect, for example, the increased importance placed on sustainability in procurement, Micro/SME participation and use of domestic products and domestic preference. | | Criterion met | | |

2 (c) Standard contract conditions

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|
| (a) There are standard contract conditions for the most common types of contracts, and their use is mandatory. | <p>There are standard General Contract Conditions (SSUK) and Special Contract Conditions (SSKK) which are incorporated as part of the procurement contract and which cover most common types of contracts. As noted above (sub-indicator 2(b)) the MPDs/SBDs include the procurement contract and use is mandatory.</p> <p>PPL s.28 sets out the forms of Contract (receipts, invoice) work order, agreement, and purchase order) in what circumstances each form of contract is to be used and provides for with further provisions to be set out in Ministerial Regulations. PPL s.27 lists the <u>types</u> of contracts which may be used for procurement of goods/other services, construction services, non-construction consultancy services and construction consultancy services. S.27 goes on to describe the various types of contracts: lump sum, unit price, lump sum and unit price combined, turnkey, framework (“Umbrella”), cost plus fee, time based and multi-year. PPL s.27A, was introduced in 2021 to provide some flexibility for procuring entities to respond to new or innovative developments in particular and to use appropriate contractual terms in those cases. It provides that the PPK may use other types of contracts, in addition to those referred to in PPL s.27, subject to the characteristics of the work to be implemented and considering the principles of efficiency, effectiveness and conformity with laws and regulations.⁵⁵</p> <p>All sampled MPDs/SBDS include contract conditions (where relevant) on the following issues: Advance Payment;; Types and Conditions of Guarantee Certificate (Goods); Price Adjustment; Payment Terms; Modifications (amendment) – Increase/Decrease in Volume/Variation Order, Changes of Specifications/Scope of Works/Services, Schedule; Termination or Closing; Hand Over; Force Majeure; Use of Domestic Product (Local Content); Domestic Price Preference; Sustainable Procurement: economy (life cycle cost), social (MSEs, Gender Balance/Responsive; Use of Environment Friendly Product; Contract Dispute.</p> <p>In the case of Sampled Works Contracts(lumpsum & unit price), the contract comprises the contract agreement, general and special conditions of contract with standard provisions in the general conditions of contract including: Definition (GCC 1), fraud and corruption (GCC 4), parties involve in the contract (GCC 6), subcontract (GCC 8), contract period (GCC 12), Notice to commence (GCC 14), program (GCC 15), contract monitoring (GCC 21, 22), compensation (24), time extension (GCC 25), handover (GCC 27), addendum (GCC 30), Force Majeure (GCC 31), Termination of contract (GCC 32-35), rights and obligations of client (GCC 38), rights and obligations of service provider (GCC 39-40), Insurance (GCC 46), Reporting (GCC 53), Owner of documents (GCC 54), guarantees (advance payment guarantee) (GCC 57), Cost adjustment (GCC 60), Dispute resolution (GCC 67).</p> | | Criterion met | | |
| (b) The content of the standard contract conditions is generally consistent with internationally accepted practice. | The content of the standard contract conditions is generally consistent with internationally accepted practice Standard contract conditions sampled for goods, consultancy, works and design & build | | Criterion met | | |
| (c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings. | <p>Standard general contract conditions and special contract conditions (where relevant) are an integral part of the MPDs/SBDs issued to participants in the procurement proceedings.</p> <p>G&S Regs s.2.3.2 provides that the PPK shall compile a draft contract which includes a number of elements including General Contract Conditions (SSUK) as well as Special Contract Conditions (SSKK).</p> <p>G&S Regs s.2.3.2.9 provides that General Conditions of Contract (SSUK) apply to all type of contracts of each type of procurement and regulate the rights and obligation of the parties. [Completion] of the SSUK is carried out simultaneously with the preparation of the draft contract.</p> | | Criterion met | | |

⁵⁵PPL s.27 was amended by *Perpres* No.12 of 2021 and PPL s.27A was introduced by *Perpres* No.12 of 2021.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | G&S Regs s.2.3.2.10 provides for the use of Special Conditions of Contract (SSKK) in addition to the General Conditions of Contract. [Completion] of the SSUK is carried out simultaneously with the preparation of the draft contract. | | | | |

2 (d) User’s guide or manual for procuring entities

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | |
|--|--|---|---|---------------------|-----------------------------------|---|---------------------|--|----------------------|--|----------------------|--|--|--|--|
| (a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws. | <p>The main procurement guidelines are set out in Regulations: PerLemLKPP 12_2021 Guidelines for implementation of government procurement of goods/services through providers, in Appendices I, II and III. Appendices IV, V and VI contain model procurement documents.</p> <p>Although the title refers to Goods and Services procurement, the appendices provide guidelines for procurement of goods/other services/non-construction consultancy services, construction services and integrated design and build construction works. There are 6 Appendices, set out below. The appendices contain both Guidelines and a comprehensive collection of Standard Bidding Documents. See indicators 2(a) to 2(d) for further detail on Guidelines and Standard Bidding Documents.</p> <p><i>For clarity, each of the Appendices has been allocated a short reference in the right hand column which is used elsewhere in this matrix.</i></p> <table><tr><th colspan="2">Appendices I, II and III PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers</th></tr><tr><th>Guidelines</th><th>Short ref.</th></tr><tr><td>Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers</td><td>G&S Regs</td></tr><tr><td>Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i></td><td>W&CS Regs</td></tr><tr><td>Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i></td><td>ID&B Regs</td></tr></table> <p>The Guidelines cover, in detail, the procurement cycle; from identification of needs and pre-procurement planning, through choice and preparation of procurement documents and form of contract, basic content of agreement documents, conduct of the procurement, implementation of the contract and handover of works. They set out the respective roles and responsibilities including procurement officers, commitment making official (PPK), working groups and selection committees.</p> | Appendices I, II and III PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | Guidelines | Short ref. | Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Indicator 2(d)(a) Procurement Guidelines</p> <p>The procurement guidelines are comprehensive but lengthy and lack a contents list/index or overview/summary. This potentially hinders ease of use and understanding.</p> | | <p>Recommendation</p> <p>Indicator 2(d)(a) Procurement Guidelines</p> <p>Consider further improving ease of use of guidelines by inclusion of contents/index and overview/summary, which should assist in improving understanding and ensuring compliance with guidelines.</p> |
| Appendices I, II and III PerLemLKPPNo. 12 of 2021 Guidelines for implementation of government procurement of goods/services through providers | | | | | | | | | | | | | | | |
| Guidelines | Short ref. | | | | | | | | | | | | | | |
| Appendix I Guidelines on implementation of procurement of goods/other services/non-construction consultancy services through providers | G&S Regs | | | | | | | | | | | | | | |
| Appendix II Guidelines on implementation of procurement of construction services through providers <i>Covering procurement of construction works and construction related consultancy services</i> | W&CS Regs | | | | | | | | | | | | | | |
| Appendix III Guidelines on implementation of procurement of integrated design and build construction works through providers <i>Covering procurement of design & build and integrated construction works</i> | ID&B Regs | | | | | | | | | | | | | | |
| (b) Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly. | <p>The LKPP is responsible for publishing and maintaining the guidelines and standard bidding documents for goods, services and consultancy services. The most recent versions were published in 2021.</p> <p>Prior to 2021, the MPWH was responsible for publishing and maintaining the standard bidding documents for works and works consultancy service and the most documents were published in 2020. In 2021, LKPP published G&S PPR 2021 Appendix V Documents for the procurement construction services through providers and Appendix VI Documents for the procurement of procurement of integrated design and build construction works through providers.</p> | | <p>Criterion met</p> | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations.

3(a) Sustainable Public Procurement (SPP)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|--|---------------------|--|
| (a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives. | <p>Indonesia has clear national policy objectives for sustainable development and is committed to achievement of the United Nations Sustainable Development Goals. The legal and regulatory framework allows for incorporation of sustainability at all stages of the procurement cycle and there are specific measures in place (see sub-indicator 3(c)). There is no formal published detailed procurement specific policy/strategy to implement sustainable public procurement in support of broader national policy objectives.</p> <p>Indonesian Vision 2045⁵⁶ has four development pillars: (i) Human Development and mastery of science and technology; (ii) sustainable economic development; (iii) equitable development; and (iv) national resilience and governance. As part of sustainable economic development, Indonesia becomes a developed country and one of the world's largest economies, driven by investment and trade, industry, tourism, maritime and services; as well as supported by reliable infrastructure and strong resilience on food, water and energy. Commitment towards the environment is maintained for sustainable development.</p> <p>The Government of Indonesia has proactively committed to achievement of the United Nations Sustainable Development Goals. Presidential Decree No.59 of 2017⁵⁷ stipulates that both the National Action Plan and sub-National Action Plan should be formulated to promote the implementation of SDGs. The Medium-Term National Development Plan (RPJMN) 2015-2019 (the third phase of the implementation of the 2005-2023 National Long-Term Development Plan (RPJPN)) mainstreams sustainable development principles⁵⁸ and has been aligned with the 17 Sustainable Development Goals⁵⁹.</p> <p>High level information on Sustainable Public Procurement and roadmap for implementation has been disseminated publicly⁶⁰ but there is currently no formal published detailed procurement specific policy/strategy and implementation plan to implement sustainable public procurement in support of broader national policy objectives.</p> | | <p>Criterion not met</p> <p>GAP – may be considered as substantive. The risk is medium.</p> <p>Indicator 3(a)(a) Policy/strategy to implement SPP</p> <p>There is no formal comprehensive policy/strategy published to implement sustainable public procurement in support of national policy objectives.</p> | NO | <p>Recommendation</p> <p>Indicator 3(a)(a) Policy/strategy to implement SPP</p> <p>Consider preparing and adopting a comprehensive policy/strategy to implement sustainable public procurement in support of national policy objectives.</p> |
| (b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP. | <p>There are various tools in place to operationalize, facilitate and monitor certain aspect of SPP, for example to encourage use of green products in the e-catalog and tagging sustainability issues in procurement planning application of SIRUP. There is, however, currently no formal published detailed procurement specific policy/strategy and implementation plan to implement sustainable public procurement in support of broader national policy objectives.</p> <p>The result of joint assessment carried out by LKPP and MCAI in 2013 has identified that there was no specific provision on women empowerment in Government Procurement. There were only 5% women-owned businesses who participated in procurement process in six (6) SPSE compared with the men-owned businesses⁶¹. The assessment recommended a number of actions to improve the gender situation in public procurement, which includes identification of baseline (percentage) of women-entrepreneur in Government procurement; capacity strengthening, establishment of a specific field in the e-procurement system to identify the women-owned business; a proposal to the Ministry of Investment to identify the women-owned business for issuance of the business ID (NIB); collaboration with other line ministries/agencies for development of a specific program for women-business capacity strengthening.</p> <p>In 2021 and as part of Indonesia engagement along with G20 member countries to improve women's participation in the public procurement process. The engagement is within the Women-20 We Act Initiative which aims to improve women's participation in public procurement by creating products in cooperation with ITC.</p> <p>PPL s.68 Sustainable Public Procurement requires that Procurement shall take into account sustainability aspects. The gender responsiveness in government procurement is included as part of the social aspects under PPLs.68(2). Th MSME has been dominated by the women-business and is the priority sector for the Government. The Presidential Regulation (Perpres) no.2 2022 sets out the national entrepreneurship development plan of 2021 – 2024. Perpres no.2 2022, A.11 has mandated the</p> | | <p>Criterion not met</p> <p>GAP – may be considered as substantive. The risk is medium.</p> <p>Indicator 3(a)(b) Implementation plan for SPP Policy/strategy</p> <p>There is no formal detailed SPP implementation plan published</p> | NO | <p>Recommendations</p> <p>Indicator 3(a)(b) Implementation plan for SPP Policy/strategy</p> <p>(1) Consider undertaking an in-depth assessment to inform the strategic planning process for sustainable public procurement. Prepare and publish an sustainable public procurement (SPP) implementation plan, including clear objectives, indicators and targets, in support of the comprehensive SPP policy/strategy.</p> <p>(2) Increased participation of women in procurement, both as suppliers and from the procuring entity side, is an important factor in the development of economic and social aspects of sustainable public procurement, in</p> |

⁵⁶ Presentation by Minister of National Development Planning (25 Sep 2018)

⁵⁷ <https://www.sdg2030indonesia.org/page/5-Perpres>

⁵⁸ https://policy.asiapacificenergy.org/sites/default/files/National%20Medium-Term%20Development%20Plan%20%28RPJMN%29%202015%20%E2%80%93%202019_presentation%20%28EN%29.pdf

⁵⁹ <https://smeru.or.id/en/content/strengthening-framework-implementation-sustainable-development-goals-sdgs>

⁶⁰ For example: Indonesia Circular Economy Forum <https://indonesiacef.id/en/presentation/kebijakan-circular-economy-di-indonesia-sustainable-public-procurement-spp/>

⁶¹ Presentation material (Sarah Sadiqa – LKPP_ : Government Procurement as one of the strategic business opportunities for women entrepreneurs

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

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|---|--|--------------------------------------|---|---------------------|--|
| | K/L/PD to provide facilities and incentive for the entrepreneurship according to financial capacity of the state/local government and further clarifies in A.12(1)d that the facilities include prioritizing in the government procurement of goods and services. | | | | particular. GOI to consider undertaking a comprehensive assessment of the nature and level of participation of women in public procurement, to better understand the current position and to inform the development of an action plan to support increased participation of women in public procurement. |
| (c) The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement cycle. | <p>The legal framework requires sustainability considerations to be incorporated in the planning/budgeting process, preparation of technical specifications/TOR and draft contracts and in preparing bidding documents, including use of green products and whole life /life-cycle costing.</p> <p>PPL s.4 includes as an objective of Procurement at (h) “increase Sustainable Public Procurement”. “Sustainable procurement” is defined at PPL s.4 (5) as “procurement which is intended to achieve benefit value that is economically beneficial not only for ministries/institutions/regional apparatuses as their users but also for the people, and significantly reduce negative impacts upon the environment in the whole cycle of their use.”</p> <p>PPL s.5 includes in the list of Procurement policies at (i) “carrying out the Sustainable Procurement”.</p> <p>PPL s.19(1)(d) & s.19(4) provide that the PPK shall, in preparing technical specifications/TOR of goods, services, use green products which are labelled as green products. LKPP Circular Letter No.16 of 2020⁶² specifies particular green product labels ecolabels) for photocopier paper, stationery made from recycled plastic (folder file) and wooden furniture.⁶³ The LKPP is drafting SBD for wooden furniture where there is an environmental requirement such as eco-friendly certification and is also in the process of developing green product tagging in e-catalog and e-marketplace. LKPP Circular Letter no.16 of 2020 supports implementation of Ministry of Environment and Forestry Regulation no.5 of 2019 which lists 6 categories of environmentally friendly goods and services under established ecolabel schemes: (1) Photocopy paper (Ecolabel Scheme Type 1, Pustanlinghut, KLHK); (2) Stationery/Folder files made from recycled plastic (Ecolabel Scheme Type 2, Pustanlinghut, KLHK); (3) SVLK certified wood furniture (SVLK Scheme, Directorate General of PHPL, KLHK); (4) Air Conditioning (AC) (SKEM Scheme and Energy Saving Sign Label for the Ministry of Energy and Mineral Resources); (5) Microwave, medical waste treatment technology product for health care facilities (Environmentally Friendly Technology Scheme, Pustanlinghut, KLHK); (6) Autoclave, a medical waste treatment technology product for health care facilities (Environmentally Friendly Technology Scheme, Pustanlinghut, KLHK).</p> <p>PPL s.39(1) provides that evaluation of bids from Providers of Goods/Construction Works/Other Services shall be based on one of three methods: (1) Value System (Sistem Nilai) (Scoring system), (2) Economic Life Cycle Cost evaluation; or (3) Lowest Price.. PPL s.39(3) provides that Economic Life Cycle Cost evaluation shall be used for the procurement of Goods taking account of economic life, prices, operational costs, maintenance costs and residual value. For the procurement of goods at G&S Regs s.3.6.1 (b) provides for Cost assessment over the economic life for procurement of goods (TCO)</p> <p>PPL s.68 Sustainable Public Procurement requires that Procurement shall take into account sustainability aspects. PPL s.68(2) provides that sustainability aspects consist of economic aspect including the cost of producing goods/services throughout the life of the relevant goods/services (life-cycle costing); social aspects including empowerment of small businesses, guarantees of fair working conditions, empowerment of local communities/businesses, equality and diversity; and environmental aspects including the reduction of negative impacts upon health, air quality, and use of natural resources. PPL s.68(3) requires that Sustainable Procurement shall be implemented in the planning/budgeting process, preparation of technical specifications/TOR and draft contracts and in preparing bidding documents.</p> <p>PPL s.70 provides that the scope of supervision of procurement through the internal supervisory apparatus of ministries/institutions/local government shall include sustainable public procurement and the results of supervision are used as means of controlling the implementation of procurement.</p> | | Criterion met | | |

⁶² Supporting implementation of Ministry of Environment and Forestry Regulation No.5 of 2019.

⁶³This activity is linked to the EU SWITCH-Asia Programme
<http://www.switch-asia.eu/news/new-initiative-launched-in-indonesia-to-accelerate-shift-to-green-sustainable-public-procurement-and-uptake-of-scp/>

⁶⁴Ministry of Environment and Forestry, Indonesia led on the development of the Scoping Study on Sustainable Consumption and Production (SCP) in ASEAN, 2021
https://www.switch-asia.eu/site/assets/files/3186/scoping_study_on_scp_in_asean.pdf

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|---|--|--------------------------------------|--|---------------------|--|
| | <p>PerlemLKPP No.4 of 2021¹ Guidance of business actors for government goods/services procurement refers to policies and guidance/support to be provided for business actors to facilitate and increase the use of sustainable procurement.</p> <p>PerLemLKPP No.11 of 2021 Government Procurement Planning Guidance⁶⁵ includes reference at s.1.4 to Achievement of Procurement Goals including implementation of sustainable procurement. Sustainable procurement is described as the procurement of goods/services that consider economic, social and environmental aspects. There are references to environmentally friendly labelling and list of goods/services labeled as environmentally friendly by the Ministry in charge of Environmental and Forestry Affairs and available from that Ministry’s website.</p> <p>PerLemLKPP No.7 of 2021 Human Resources includes a requirement for procurement resource managers to understand provisions on sustainable procurement.</p> <p>PerLemLKPP No.10 of 2021 Procurement Work Units (UKPBJ) with reference to the UKPBJ maturity model in Chapter VII refers to Superior level of maturity as including creation of added value and implementation of best practices and role model in sustainable procurement of goods/services.</p> <p>At present, there is no specific tracking system by the LKPP on the implementation of green/sustainable public procurement and there is no data specifically related to green/sustainable public procurement which can be easily accessed by the public in the SPSE or SIRUP (General Procurement Plan)</p> <p>Small enterprises and cooperatives: PPL s.65 requires Ministries/Institutions/Regional Apparatuses to use products domestically produced by small enterprises and cooperatives and to allocate at least 40% (forty percent) of their budget expenditure on goods/services. The procurement of Goods/Construction/Other Services with a fixed budget of up to Rp 15 million, shall be earmarked for small enterprises and cooperatives, save for work that requires technical skill which small enterprises and cooperatives cannot fulfil. PPL s.65 also sets out provisions concerning increased use of small enterprises and cooperatives through electronic procurement and by way of other providers working in partnership with, subcontracting or otherwise cooperating with small enterprises and cooperatives.</p> <p>LKPP: information/clarification from LKPP please</p> <p>Sustainable construction principles</p> <p>In the previous works Regulations (PermenPUPR No.14 of 2020 Standards and Guidelines for procurement of construction services through providers) there were references to “sustainable construction principles”. This provision is no longer available in the new Guidelines (PerLemLKPP No.12 of 2021, appendices II, III). While the increased emphasis is place on sustainability in the 2021 amendments to the PPL., this requirement is expected to be reintroduced in the current PPR.</p> <p><i>Sustainable construction principles in previous Regulations</i></p> <p>PermenPUPR No.14 of 2020 Standards and Guidelines for procurement of construction services through providers (Works PPR 2020)</p> <p><i>Works PPR 2020 s.14 Procurement planning, required the application of Sustainable Construction principles in procurement planning.</i></p> <p><i>Works PPR 2020 s.23 defined sustainable construction as an approach to carrying out a series of activities needed to create a physical facility that meets current, and future economic, social and environmental objectives.</i></p> <p><i>Works PPR 2020 s.27 further expanded the principle to include references to life-cycle orientation as well as other sustainable factors.</i></p> | | | | |
| (d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money. | <p>There are good foundations in the PPL for the well-balance application of sustainability criteria to ensure value for money, with current focus particularly on environmental aspects of SPP.</p> <p>PPL s.68 Sustainable Public Procurement requires that Procurement shall take into account sustainability aspects. PPL s.68(2) provides that sustainability aspects consist of economic aspect including the cost of producing goods/services throughout the life of the relevant goods/services (life-cycle costing); social aspects including empowerment of small businesses, guarantees of fair working conditions, empowerment of local communities/businesses, equality and diversity; and environmental aspects including the reduction of negative impacts upon health, air quality, and use of natural resources. PPL s.68(3) requires that Sustainable Procurement shall be implemented in the planning/budgeting process, preparation of technical specifications/TOR and draft contracts and in preparing bidding documents.</p> <p>PPL s.19(1)(d) & s.19(4) provide that the PPK shall, in preparing technical specifications/TOR of goods, services, use green products which are labelled as green products. LKPP Circular Letter No.16 of 2020 specifies particular green product labels (ecolabels) for photocopier paper, stationery made from recycled plastic (folder file) and wooden furniture.⁶⁶However, there currently no detailed technical guidance related to the wider implementation of sustainable procurement in the broader sense, and this is an area where there is clear room for improvement.</p> | | <p>Criterion partially met</p> <p>Minor GAP – considered as non-substantive</p> <p>Indicator 3(a)(d) application of sustainability criteria</p> <p>“Detailed guidelines on how to implement sustainable public procurement is limited.”</p> | | <p>Recommendation</p> <p>Indicator 3(a)(d) application of sustainability criteria</p> <p>Consider preparing and publishing practical guideline, with examples and sample or template provisions, on how to implement sustainable procurement (economic, social and environmental issues) into the entire procurement process, from planning to delivery.</p> |

⁶⁵Replacing and revoking PerLemLKPP no.7 of 2018 on Procurement planning

⁶⁶This activity is linked to the EU SWITCH-Asia Programme
<http://www.switch-asia.eu/news/new-initiative-launched-in-indonesia-to-accelerate-shift-to-green-sustainable-public-procurement-and-uptake-of-scp/>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | PPL s.39(1) provides that evaluation of bids from Providers of Goods/Construction Works/Other Services shall be based on one of three methods: (1) Value System (Sistem Nilai) (Scoring system), (2) Economic Life Cycle Cost evaluation; or (3) Lowest Price. PPL s.39(2) provides that the value system (scoring system) used for the procurement of Goods/Construction Works/Other Services considers technical evaluation and price. PPL s.39(3) provides that Economic Life Cycle Cost evaluation shall be used for the procurement of Goods taking account of economic life, prices, operational costs, maintenance costs and residual value. PPL s.39(4) provide that the lowest price evaluation methods applied for the procurement of Goods/Construction Works/Other Services is used at the basis for determining a winner from proposals which have fulfilled technical requirements. There is, however, no detailed guidance in the bidding documents, especially on how to evaluate the application of sustainable procurement. | | | | |

3(b) Obligations deriving from international agreements
Public procurement-related obligations deriving from binding international agreements are:

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|--------------------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) clearly established | <p>Indonesia is a party to the region-wide Association of Southeast Asian Nations (ASEAN) Free Trade Area and is a signatory to the ASEAN Agreements on Trade in Goods (ATIGA) (in force June 14, 2010)⁶⁷ and Trade in Services (ATISA) (in force April 5, 2021) ⁶⁸. The ASEAN ATIGA and ASIGA agreements do not contain dedicated chapters or annexes on government procurement.</p> <p>By virtue of its membership of ASEAN, Indonesia has preferential trade agreements, including with Australia, China, Hong Kong, India, Japan, Korea, New Zealand. Indonesia is a signatory to RECEP (Regional Comprehensive Economic Partnership)⁶⁹ (see below). It is also a signatory to several bilateral free trade agreements including with EFTA⁷⁰, as well as a Partnership and Cooperation Agreement with the European Union aimed at concluding a free trade agreement.⁷¹ Indonesia has been a member of the WTO since 1995⁷² and has had observer status in respect of the WTO Government Procurement Agreement (GPA) since 2012.⁷³</p> <p>RECEP was signed on 15 November 2020, but is not yet ratified by Indonesia.⁷⁴Chapter 16 of RECEP concerns Government Procurement, ⁷⁵ recognizing the importance of promoting the transparency of laws, regulations, and procedures, and developing cooperation among Parties, regarding government procurement. The scope of coverage is procurement by central government entities of opportunities expressly open to international competition. There are transparency obligations concerning public availability of government procurement laws, regulations and procurement procedures. Cooperation provisions, with achieving better mutual understanding of government procurement systems, include information sharing and exchange, training and technical assistance.</p> <p>With respect to international agreements with impact on sustainability, Indonesia has ratified 20 ILO Conventions, including all of the 8 Core Conventions⁷⁶. An example of proactive measures to promote sustainability can be seen in the contract of the EU Forest Law Enforcement Government and Trade (FLEGT) Facility under which both Indonesia and the EU have ratified a Voluntary Partnership Agreement (VPA), a legally binding trade agreement that aims to ensure that only legal timber and timber products from Indonesia reach the EU market.⁷⁷</p> <p>UN Human Rights Conventions/covenants: Indonesia is a signatory to/has ratified the following UN conventions/covenants⁷⁸: Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, International Covenant on Civil and Political Rights, Convention for the Protection of All Persons from Enforced</p> | | Criterion met | | |

⁶⁷<https://asean.org/our-communities/economic-community/trade-in-goods/>

⁶⁸<https://asean.org/our-communities/economic-community/services/>

⁶⁹RECEP Signed 15 November 2020.

⁷⁰ <http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=360&lang=1&redirect=1>

⁷¹ Framework Agreement on comprehensive partnership and cooperation between the European Community and its Member States and the Republic of Indonesia, 2014.

https://ec.europa.eu/trade/policy/countries-and-regions/countries/indonesia/index_en.htm

⁷²Indonesia benefits from trade preferences granted by the EU’s Generalised Scheme of Preferences (GSP).

⁷³ https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm

⁷⁴at 01 January 2022.

⁷⁵Legal texts of RECEP Chapters available from: <https://rcepsec.org/legal-text/>

⁷⁶ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102938

⁷⁷ <https://www.euflegt.efi.int/vpa>

⁷⁸Source: UN Treaty Body Database

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

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|--|--|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>Disappearance, Convention against the Elimination of All Forms of Discrimination against Women, International Convention on Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Convention on the Rights of the Child (and optional protocols), Convention on the Rights of Persons with Disabilities.</p> <p>Indonesia is also a signatory to United Nations Convention Against Corruption (see indicator 14).</p> | | | | |
| (b) consistently adopted in laws and regulations and reflected in procurement policies. | <p>Domestic law is required to adopt international treaties. Provisions regarding the treaty ratification process are in Law UU no.24 of 2000 concerning International Treaties. According to Law UU no.12 of 2011 Article 10 (1)(c) ratification of international agreements must be regulated in law. All international treaties/agreements must comply with domestic law and in the process of negotiating treaties and agreements negotiators must adhere to domestic law and regulations. The relevant Ministries/Agencies that have the responsibilities to ensure the compliance with international treaties and trade obligations are Ministry of State Secretariat, Cabinet Secretariat of the Republic of Indonesia, and Ministry of Law and Human Rights and the LKPP is the lead agency on government procurement. There are currently no market access commitments in Indonesia’s international treaties/trade agreements.⁷⁹</p> | | Criterion met | | |

⁷⁹ Information provided by LKPP, 12 April 2022.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

Pillar II. Institutional Framework and Management Capacity

4. The public procurement system is mainstreamed and well- integrated into the public financial management system-

4(a) Procurement planning and the budget cycle

The legal and regulatory framework, financial procedures and systems provide for the following:

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|---|---|--------------------------------------|---|---------------------|---|
| (a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning. | <p>PPL s.9 provides that the Budget User’s tasks include to determine procurement planning and determination and announcing the Annual Procurement Plan (RUP)</p> <p>PPL s.22 (1) concerns Announcement of the RUP of the Central Government after budget expenditure allocation has been determined. PPL s.22 (2) also concerns Announcement of the RUP of the Local Government after the Local Parliament approval of Draft LG Annual State Budget.</p> <p>Amendments made by Perpres no.12 of 2020 to PPL s.11 Role of PPK (Commitment Making Official) to include (b) “procurement consolidation” and (p) issuing letter of appointment to provider.</p> <p>PPL s.22 concerns Announcement of the RUP after budget expenditure allocation has been determined. Announcement is made through the Annual Procurement Plan Information (SIRUP) and may also be posted to the Ministry/Institution/Regional Apparatus website, official information boards, newspapers and other media. The RUP announcement must be re-posted if there are changes/revisions to the procurement packages, Budget Execution Forms (DIPA)/Budget Execution Documents (DPA)</p> <p>PPL s.11 provides that the Commitment Making Official (PPK) shall prepare procurement planning. PPL s.18 concerns procurement planning, the results of which are to be contained in the RUP.</p> <p>PPL s.27(12) concerns the use of multi-years contract under three conditions i.e. (i) estimated period more than one year, (ii) implementation over two fiscal years, (iii) provide more advantage than single year but it should be <u>maximum three years</u>.</p> <p>MOF Regulations No. 60/PMK.02/2018 as further amended by PMK 93/PMK.02/2020 regarding MOF Approval for multi-years Contract sets the approval thresholds as (i) above IDR 200 billion for Construction Works, and (ii) above IDR 20 billion for non-construction works and provides exception for contracts financed under foreign loan/grant, including for continuation of procurement process due to tender failure and emergency situations.</p> <p>Section III of MOHA Regulations No.77/2020 regarding Technical Guidance on Local Government Financial Management limits the implementation period of multi-years activity not to be beyond the ruling period of the Governor/Head of District/Mayor unless the activities are considered as national priority and/or national strategic as determined by Law.</p> <p>The multi-years contract are only allowed for a maximum duration of three years. The PPL does not provide any exceptions for the case of large and high value infrastructure contracts that require more than three years construction period.</p> <p>Such exceptions is currently only regulated for procurement at sub-national (LG), missing the procedures at central level (Line Ministry/Agency).</p> <p><i>Based on PEFA Assessment Report 2017⁸⁰, related to Public Investment Management (Indicator / Dimensions PI-11), for investment project costing, for a Score of “A” “Projections of the total life-cycle cost of major investment projects, including both capital and recurrent costs together with a year-by-year breakdown of the costs for at least the next three years, are included in the budget documents” The assessment on Indicator/Dimension PI-11.3 is “D” as “there are no national guidelines for project costing and identification of recurrent costs. The information provided by the line ministries in the RKA-KL document for the estimates of capital investment needs is not always reliable”</i></p> | | Criterion met | | <p><i>Areas of improvement</i></p> <p>The multi-years contract is only allowed for a maximum duration of three years. The PPL does not provide any exceptions for the case of large and high value infrastructure contracts that require more than three years construction period. Government to consider possibility of such exception.</p> <p>Need for national guidelines for project costing and identification of recurrent costs to factor total life-cycle cost of major investment projects.</p> <p>Public Investment Management document provides a guidance⁸¹ to policy makers on integration of capital and recurrent budget where there is projections of the total life-cycle cost of major investment projects, including both capital and recurrent costs together with a year-by-year breakdown of the costs for at least the next three years, are included in the budget documents,</p> <p>The PIM document also advocates that it is important to use a unified system of project identification, appraisal, and implementation—which includes projects funded by the budget, by donors, or by the PPP—to ensure consistency in selection choices and throughout the life cycle of the project.</p> |

⁸⁰ <https://www.pefa.org/sites/pefa/files/assessments/reports/ID-May18-PFMPR-Public-with-PEFA-Check.pdf>

⁸¹ Public Investment Management (PIM) Guide 2020 (the World Bank)

<https://openknowledge.worldbank.org/handle/10986/33368>

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|--|--|--------------------------------------|--|---------------------|---|
| | <p>Advance procurement: Perpres No.50 of 2019 permits the conduct of procurement before the fiscal year starts, after work plan and budget are approved by parliament and includes provisions for signature of agreements. This also permits the use of multi-year contracts.</p> <p>PPL s.22 (1) concerns Announcement of the RUP of the Central Government after budget expenditure allocation has been determined. PPL s.22 (2) also concerns Announcement of the RUP of the Local Government after the Local Parliament approval of Draft LG Annual State Budget. (Refer to PPL s.27 (12).</p> <p>PPL s.64(2) specifically permits advance procurement process in the case of foreign loan/grant.</p> | | | | |
| (b) Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period). | <p>In accordance with PPL: CHAPTER IV on Procurement Plan (RUP) : (i) as per s.18 (1), a procurement plan shall include identifying needs and defining goods/services and Procurement methods, schedules and budgets; (ii) on Preparation of Procurement Packages s.20 (1), the preparation of Procurement packages shall be oriented towards: a. Outputs or results; b. Volumes of goods/services c. Availability of goods/services; d. Capacity of Business Actors; and/or e. Availability of budget; Further, as per PPL s.52 on contract execution, Commitment Making Officials (PPK) is not allowed to enter into an agreement or sign a Contract with a Provider if no budget or no sufficient budget is ready because the budget limit may be exceeded for APBN/APBD-financed activities.</p> <p>Every year, the MOF issues a regulation establishing the guidelines for the line ministries' annual work plans and budgets (RKA-KL). The latest one was MOF Regulation PMK No.208/2019. The standard template of the RKA-KL document requires line ministries to submit to DG Budget a detailed breakdown of expenditures for the next budget, along with estimates for the three following years. The RKA-KL discloses the projections of the project costs for the next three years for both the investment and the recurrent costs under the capital spending category of economic classification. However, in practice this medium-term budget information is for presentation purposes only, since the budget is allocated annually on an incremental basis without consistently using the baseline from the first-year projection of the last year MTEF. Furthermore, the budget appropriation by parliament on an annual basis limits the predictability of the budget allocation for the implementation and financing of major public investment projects beyond one fiscal year period. Contracts for investment projects can be made on a multi-year basis, hence providing basis for multi-year procurement planning, but this is only on exceptional basis and with ex ante review and approval by the MOF.</p> <p>DG Budget is responsible for preparing the detailed budget allotment document (DIPA) soon after parliament's approval of the budget for the next fiscal year. The DIPA includes budget allocations for each spending unit, with detailed information on functions/sub-functions, programs and outcomes, activities and outputs, economic classification, monthly cash disbursements and cash flow forecasts. The DIPA imposes ceilings on expenditure commitments or the funds available for each spending unit's commitments for the whole fiscal year. The availability of funds in the DIPA is guaranteed by law (State Treasury Law No. 1/2004). Spending units can therefore plan activities, commit expenditure, procure inputs for effective service delivery once the budget is approved and DIPA is available.</p> | | Criterion met | | |
| (c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts. | <p>Based on Public Expenditure Review⁸² at the central government level, improving the definition of programs and activities (sub-programs) in the budget classification and Chart of Accounts would help collect more relevant information that can be used to drive performance. The GoI could ensure that budget classifications are better aligned with an 'intervention logic' and priorities expressed in the national plan to make sure that it collects relevant spending information, such as on infrastructure. To do this, outputs need to be better defined, to make it easier to link them to inputs and outcomes and a results chain. Moreover, capturing information on large infrastructure projects through a project ID in planning and budget management systems (e.g., in SPAN) would make it easier to track their allocation, expenditure and cost and time over runs. One option that could be explored is to require ministries to identify all projects over a certain size as a standalone output in the budget. In addition, linking SPAN and the procurement would yield useful data to support expenditure analysis, for example, the time taken in procurement processes (to enhance efficiency of spending) or whether the same vendor gets selected by single-source or other non-competitive methods (which would allow the GoI to monitor corruption).</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>There is a need to strengthen the reporting mechanism particularly by reporting on completion of major contracts as part of the national monitoring and evaluation analytics dashboard.</p> | | <p>Recommendation</p> <p>Consider strengthen the reporting mechanism particularly by reporting on completion of major contracts as part of the national monitoring and evaluation analytics dashboard.</p> |

⁸² Indonesia Public Expenditure Review – Spending for Better Results (World Bank, 2020)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>Article 27 of State Finance Law No. 17/2003 requires the central government to arrange a report on of the first semester budget realization in every fiscal year and the projection for the second semester budget performance. The MOF produces a government report on the first semester budget implementation performance, usually issued every year in July. This report offers a comprehensive analysis on the execution performance based on all budget classifications. The detailed content of the report includes the first semester progress on: macroeconomic assumptions; revenue realization; expenditure (budget absorption) performance by function and line ministry; transfers to subnational governments; and financing and deficit data that are directly compared with the original budget. The budget execution report can serve as the feedback mechanism on projects progress without specific details on large contracts. This finding has been supported by the assessment of quantitative indicator – 9(c).</p> <p>Based on PEFA 2017 on Indicator PI-11.4: Investment Project Monitoring the Responsibility for monitoring the implementation of major investment projects is decentralized to each implementing ministry. While data on both financial and physical progress of all capital public investment projects are consolidated by the MOF's DG State Asset Management (DGSAM), the responsibility for monitoring the implementation of major investment projects is decentralized to each implementing ministry and therefore the quality of the monitoring and reporting depends largely on the capacity and systems in place. The Ministry of Public Works and Housing (MPWH) has developed a system to monitor all infrastructure investment projects, called Sistem Informasi Pemantauan Proyek (SIPP). This system can monitor financial and physical progress of major investment projects. KPPIP priority projects are monitored on a regular basis and reported to KPPIP committee members (including the MOF and Bappenas), but implementation details are not consolidated or disclosed. MOF Regulation No. 238/2015 requires that line ministries submit to the MOF a regular annual report on both financial and physical progress of all multi-year investment projects. However, neither the SIPP from the MPWH nor the MOF multi-year contract progress reports on the implementation of major investment projects are published in budget documents or any other reports. In addition, monitoring information on budget realization and cost deviation for major investment projects at the line ministry level is not available. The score for this dimension is therefore assessed as a "D".⁸³</p> | | | | |

4(b) Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|--|---------------------|--|
| (a) No solicitation of tenders/proposals takes place without certification of the availability of funds. | <p>As explained at sub-criteria 4 (a) (a) and 4(a) (b) above, the procurement activities are undertaken including solicitation of tenders/proposals based on procurement plan, however, per PPL s.52 on contract execution, Commitment Making Officials (PPK) is not allowed to enter into an agreement or sign a Contract with a Provider if no budget or no sufficient budget is ready</p> <p>Government Regulation No. 45/2013 on Budget Execution provides the basis of the initiation of procurement process during budget process. The Regulation indicates that any procurement process may be done before the signing of the agreements and before the budget fiscal year starts, given that the work plans and budgets have been approved by the Parliament. Funding for the goods/services procurement as indicated earlier will come from the current fiscal year budget provided that the funds are allocated in the DIPAs. While the signing of the agreement is done after the DIPAs are ratified and go into effect.</p> | | Criterion met | | |
| (b) The national regulations/procedures for processing of invoices and authorization of payments are followed, publicly available and clear to potential bidders.* | <p>As per Law No 1 of 2004 on State Treasury Article 18 (1) The Budget User/Proxy of the Budget User shall have the right to test, impose on the budget lines that have been provided, and order the payment of bills at the expenses of the State Budget/Regional Budget. (2) To implement the provisions as referred to in paragraph (1), the Budget User/Proxy of the Budget User shall be authorized to: a. test the correctness of material of the evidence letters regarding the rights of the collector; b. examine the correctness of the documents that become the requirements/completeness with respect to the commitment/agreement of goods/services procurement; c. examine the availability of the relevant funds; d. impose the expenditures accordance with the relevant spending budget lines; e. order the payments at the expenses of the State Budget/Regional Budget. (3) The official signing and/or approving the documents related to the evidence letters that become the basis of expenditures at the expenses of the State Budget/Regional Budget shall be responsible for the correctness of the material of and the result arising from the use of the said evidence letters.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>There is a lack of interoperability between the e-procurement system (SPSE) and the FMIS system (SPAN) that can cover full end-to-end contract information from the start of procurement, signing</p> | | <p>Recommendation</p> <p>Consider ensuring an efficient level of interoperability between the e-procurement system (SPSE) and the FMIS system (SPAN) so that the government could have a full end-to-end contract information from the start of</p> |

⁸³ PEFA Assessment Report 2017

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--|---|---------------------|---|
| | <p>Further as per Article 19 of Law No.1 on State Treasury, Article 19 (1) Payment for bills being the burden of the State Budget shall be made by the State's General Treasurer/Proxy of the State's General Treasurer. (2) In the implementation of the payment as referred to in paragraph (1), the State's General Treasurer/Proxy of the State's General Treasurer shall be obliged to: a. examine the completeness of payment order issued by the Budget User/Proxy of the Budget User; b. test the correctness of bill calculation at the expenses of the State Budget as listed in the payment order; c. test the availability of the relevant funds; d. order the disbursement of funds as the basis of the state expenditures; e. reject the disbursement of funds if payment order issued by the Budget User/Proxy of the Budget User does not meet the specified requirements</p> <p>Based on recently completed Institutional Diagnostics of Low and Slow Central Government Capital Budget Execution⁸⁴ "Another reason is delay in payments to vendors. Not all spending units make regular payments to vendors based on their monthly payment schedule but wait instead for the percent physical progress to be available before any payment can be made. There is also a lack of transparency in the time when the invoices are submitted by vendors and how much time does a Spending Unit take to clear those submitted invoices".</p> <p>As per draft Systematic Country Diagnostics (Feb 2020)"Indonesia has enhanced the operational efficiency of public expenditures, but spending units still face major compliance costs. The implementation of SPAN in all 183 local treasuries and the adoption of the Treasury Single Account have been major milestones towards efficiency. However, disintegrated PFM IT applications remain one major source of inefficiencies. For example, the planning (KRISNA), budgeting (SAKTI), execution (SPAN), procurement (SPSE) and various M&E systems (E-monev, SMART, OM-SPAN) are not interoperable. This makes it extremely difficult to track public investment projects from planning to evaluation. Further, inefficiencies in the budget cycle lead to slow and late capital spending. As data is not shared automatically among different PFM applications and databases, spending units carry the burden of manually inputting the same data repeatedly into different applications. Further, some financial procedures are detailed and time-consuming to comply with (Box). For example, processing a payment for a contractor requires submitting hardcopies of 10 documents to the responsible treasury.⁸⁵ Simplifying unnecessarily complex procedures and replacing existing fragmented applications with a single, integrated spending unit financial application system (SATKI) hence could greatly improve operational efficiency".⁸⁶</p> <p>The line ministries' authority to commit annual expenditure is strictly limited within the commitment ceiling stated in the DIPA. Government Regulation No. 45/2013 requires the line ministry to settle any billing rights or invoices no later than 30 calendar days from the day the complete billing proofs are received (Article 75), or otherwise the government can be penalized for the delays in the payment of its obligations. Given this regulation, the invoices for procurement of goods, works, and services is supposed/considered to be paid on time.</p> <p>Other regulations related to processing of invoices and authorization of payments such as the one stated in Government Regulations No. 45/2013 and those issued through Minister of Finance Regulations are normally also available to public.</p> | | the contract, physical progress implementation and disbursement payments up to the contract closing ⁸⁷ . | | procurement, signing the contract, physical progress implementation and disbursement payments up to the contract closing. |
| <p>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b):</p> <p>- invoices for procurement of goods, works and services paid on time (in % of total number of invoices).</p> <p>Source: PFM systems.</p> | <p>The current PFM Systems (SPAN, SMART, OM SPAN) do not provide open-access information on percentage of timeline for payment of invoices.</p> <p>Link to Indicator-9(c) assessment criterion (c). 100% of Invoices for procurement of goods, works and services are paid on time (taken from payment processing record of 13 of 120 samples). Information on invoices and payments are not currently available in e-procurement system. The data does not show when invoice was submitted by the contractor, rather this time is based on date when paying authority inputs processing of invoice in the system.</p> | Please see information the left column | <p>Criterion partially met.</p> <p>Minor GAP – may be considered non-substantive. GAP is identified in Indicator 9(c), which represents the relevancy of the findings.</p> <p>The current PFM Systems (SPAN, SMART, OM SPAN) do not provide open-access information on timeline for payment of invoices and invoices for</p> | | <p>Recommendation</p> <p>Consider adding information on invoices and payments in the e-procurement system/SPSE (under e-contract) which shall be further</p> |

⁸⁴ Indonesia: Revenue and Budget Management: Institutional Diagnostics of Low and Slow Central Government Capital Budget Execution (draft of June 27, 2020)

⁸⁵According to PMK 190 FY 2012. This is (likely) one major reason for why contractor prefer to submit only one payment request at the end of a project, contributing to late budget execution at the end of the FY.

⁸⁶ Draft Systematic Country Diagnostics (Feb 2020)

⁸⁷ Indonesia: Revenue and Budget Management: Institutional Diagnostics of Low and Slow Central Government Capital Budget Execution (draft of June 27, 2020)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|---|---------------------|---|
| | | | procurement of goods, works and services paid on time (in % of total number of invoices). | | enhanced to include interfacing/interoperability with the other related systems (e.g., SPAN, MONEV-NG). |

5. The country has an institution in charge of the normative/regulatory function

5(a) Status and legal basis of the normative/regulatory institution function

The legal and regulatory framework, financial procedures and systems provide for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|--|
| (a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities' formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government. | <p>Goods and services: The Government Goods/Services Procurement Policy Agency (LKPP) has the task of carrying out development and formulation of policies for government procurement of goods and services. There are statutory provisions designating LKPP functions for the purposes of fulfilment of that task.</p> <p>Works: The Ministry of Public Works and Housing (MPWH) has the task of carrying out development and formulation of policies for government procurement of construction works and construction consultant services. Responsibility for preparation of guidelines, including standard bidding documents, for the implementation of procurement of construction works and services was transferred to the LKPP in 2021.</p> <p>The Government Goods/Services Procurement Policy Agency (LKPP) was established pursuant to Presidential Regulation No.106 of 2007 (as amended by Presidential Regulation No. 157 of 2014) ("LKPP Regulation")</p> <p>The LKPP is a Non-Ministry Government Institution and reports directly to the President of the Republic of Indonesia. In carrying out its duties and functions, LKPP is under the coordination of the State Minister for National Development Planning/Head of BAPPENAS.</p> <p>LKPP Regulation A.2 provides that LKPP has the task of carrying out development and formulation of policies for government procurement of services/goods and is the only government agency that has this task</p> <p>LKPP Regulation - provides that the LKPP has the task of carrying out development and formulation of policies for Government procurement of goods / services.</p> <p>LKPP Regulation - PerpresNo.106 of 2007 A.3 (as amended by Presidential Regulation No. 157 of 2014) provides that in carrying out its tasks the LKPP functions are</p> <ol style="list-style-type: none">developing and formulating strategy as well as determining policy and standard procedures under Government procurement of goods/services including procurement of business entities in the framework of cooperation Government and business entity [projects under PPP schemes];developing and formulating strategy as well as determining policy for human resources development under Government procurement of goods/services;monitoring and evaluation of their implementation;providing guidance and developing information system along with supervising the implementation of Government's e-procurement systemproviding technical guidance, advocacy and legal opinionOrganization of general administrative services in the field planning, administration, staffing, finance and equipment | | Criterion met | | <p><i>Suggestion for improvement</i></p> <p>Clarity on division of procurement policies related responsibilities between LKPP and MPWH.</p> |

5(b) Responsibilities of the normative/regulatory function

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|
| (a) providing advice to procuring entities | <p>LKPP: LKPP Regulation A.3(e); providing technical assistances, advocacy and legal opinion.</p> <p>LKPP Directorate for technical guidance and advocacy: Conducts the provision of technical guidance and advocacy to all procurement administrators and all stakeholders on the rules and regulation of public procurement.</p> | | Criterion met | | |
| (b) drafting procurement policies | <p>LKPP: LKPP Regulation A.3(a)</p> | | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.


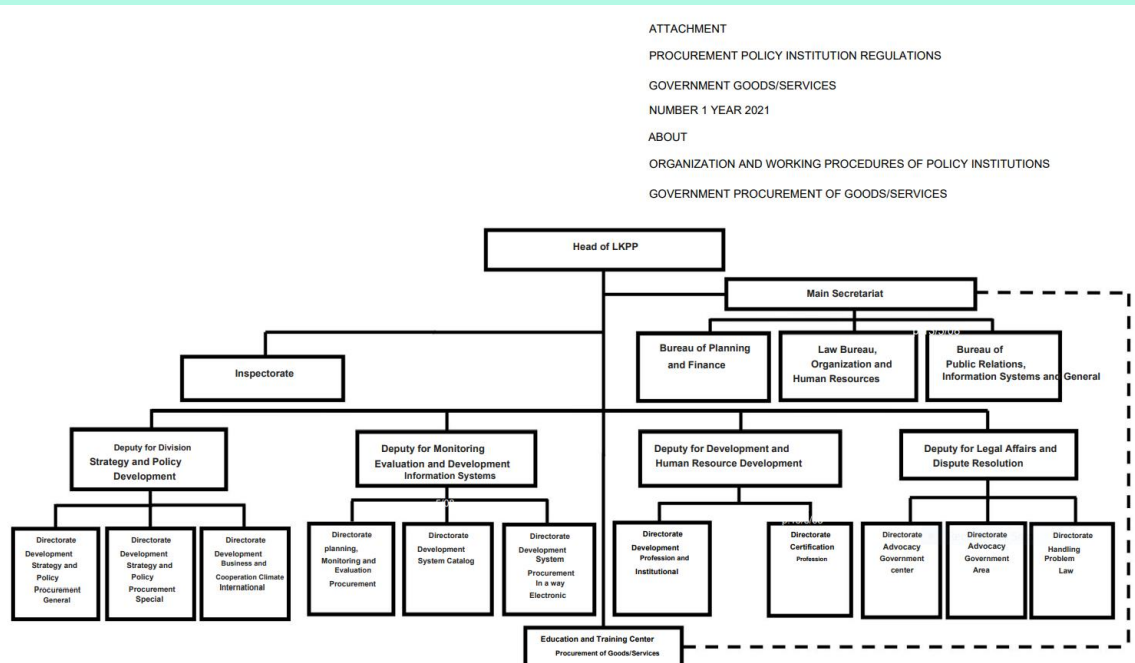
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>LKPP Deputy Chair for Strategy and Policy Development: Undertakes formulation and drafting of strategies and public procurement policy development, including procurement of enterprises in the framework of public private partnerships.</p> <p>LKPP Directorate for public procurement policy: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the field of public procurement by central and regional government authorities.</p> <p>LKPP Directorate for special public procurement and defense and security affairs: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the field of public procurement by state owned enterprises (SOE/BUMN) or regionally owned enterprises (ROE/BUMD) as well as procurement within the framework of public private partnerships (PPP), public service agency (BLU, security and defense projects as well as research).</p> | | | | |
| (c) proposing changes/drafting amendments to the legal and regulatory framework | <p>LKPP Bureau for Legal, Information System, and Human Resources Conducts legal regulatory drafting and legal support, staffing, and public affairs</p> | | Criterion met | | |
| (d) monitoring public procurement | <p>LKPP: LKPP Regulation A.3(c) Monitoring and evaluating the implementation.</p> <p>LKPP Directorate for monitoring and evaluation: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the frame of public procurement implementation monitoring and evaluation as well as the coordination and synchronization of policy formulation.</p> <p>Deputy Chair for Monitoring and Evaluation and Information Systems Development: Undertakes monitoring, assessment, evaluating and providing feedback on the implementation of public procurement of the previous year to become materials for the process of formulating, planning and budgeting as well as supervising and developing information systems to conduct public procurement electronically (electronic-procurement)</p> | | Criterion met | | |
| (e) providing procurement information | <p>LKPP Directorate for public procurement policy: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the field of public procurement by central and regional government authorities.</p> <p>LKPP Directorate for technical guidance and advocacy: Conducts the provision of technical guidance and advocacy to all procurement administrators and all stakeholders on the rules and regulation of public procurement.</p> <p>LKPP Directorate for e-Procurement: Conduct the systems development, formulation and drafting of strategies, policies, guidelines, standards, manuals in the frame of electronic systems to conduct public procurement, coordination, synchronization and supervision of e-procurement services units, the provision of technical guidance and promoting e-procurement as well as the evaluation of its implementation.</p> | | Criterion met | | |
| (f) managing statistical databases | <p>Deputy Chair for Monitoring and Evaluation and Information Systems Development: Undertakes monitoring, assessment, evaluating and providing feedback on the implementation of public procurement of the previous year to become materials for the process of formulating, planning and budgeting as well as supervising and developing information systems to conduct public procurement electronically (electronic-procurement)</p> | | Criterion met | | |
| (g) preparing reports on procurement to other parts of government | <p>LKPP regularly prepares reports as also available on its website examples: the Procurement Profile; performance review⁸⁸;</p> | | Criterion met | | |
| (h) developing and supporting implementation of initiatives for improvements of the public procurement system | <p>LKPP: LKPP Regulation A.3(a) Formulating and formulating strategies and determining policies and standard procedures in the field of government procurement of goods / services including the procurement of business entities in the framework of cooperation Government and business entity;</p> <p>Included in the activities of several LKPP Directorates and roles of Deputy Chairs, including: Deputy Chair for Strategy and Policy Development: Undertakes formulation and drafting of strategies and public procurement policy development, including procurement of enterprises in the framework of public private partnerships.</p> <p>LKPP Directorate for public procurement policy: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the field of public procurement by central and regional government authorities.</p> | | Criterion met | | |

⁸⁸<https://monev.lkpp.go.id/flipbookkl/>

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>LKPP Directorate for e-Procurement: Conduct the systems development, formulation and drafting of strategies, policies, guidelines, standards, manuals in the frame of electronic systems to conduct public procurement, coordination, synchronization and supervision of e-procurement services units, the provision of technical guidance and promoting e-procurement as well as the evaluation of its implementation.</p> <p>LKPP Directorate for special public procurement and defense and security affairs: Conducts formulation and drafting of strategies, policies, guidelines, standards and manuals in the field of public procurement by state owned enterprises (SOE/BUMN) or regionally owned enterprises (ROE/BUMD) as well as procurement within the framework of public private partnerships (PPP), public service agency (BLU), security and defense projects as well as research.</p> <p>Deputy Chair for Monitoring and Evaluation and Information Systems Development: Undertakes monitoring, assessment, evaluating and providing feedback on the implementation of public procurement of the previous year to become materials for the process of formulating, planning and budgeting as well as supervising and developing information systems to conduct public procurement electronically (electronic-procurement)</p> | | | | |
| (i) providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement | <p>Directorate for Professionalization: Undertakes formulation and drafting of strategies, policies, and guidelines towards professionalizing the field of public procurement.</p> <p>Directorate for Competency-based training: Conducts formulation and drafting of strategies, policies, and guidelines, standards and manuals in the field of competency-based training of public procurement.</p> <p>Directorate for Certification Development: Has the task of conducting formulation and drafting of strategies, policies, and guidelines, standards and manuals in the field of professional certification for public procurement.</p> <p>Education and Training Center: Prepare the formulation of competency training guidelines for public procurement and management of learning resources.</p> | | Criterion met | | |
| (j) supporting the professionalization of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession) | <p>Directorate for Professionalization: Undertakes formulation and drafting of strategies, policies, and guidelines towards professionalizing the field of public procurement.</p> <p>Directorate for Competency-based training: Conducts formulation and drafting of strategies, policies, and guidelines, standards and manuals in the field of competency-based training of public procurement.</p> <p>Directorate for Certification Development: Has the task of conducting formulation and drafting of strategies, policies, and guidelines, standards and manuals in the field of professional certification for public procurement.</p> | | Criterion met | | |
| (k) designing and managing centralized online platforms and other e-Procurement systems, as appropriate | LKPP Directorate for e-Procurement: Conduct the systems development, formulation and drafting of strategies, policies, guidelines, standards, manuals in the frame of electronic systems to conduct public procurement, coordination, synchronization and supervision of e-procurement services units, the provision of technical guidance and promoting e-procurement as well as the evaluation of its implementation. | | Criterion met | | |

5(c) Organization, funding, staffing, and level of independence and authority

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|
| (a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government. | <p>As explained at 5(a) The Government Goods/Services Procurement Policy Agency (LKPP) was established pursuant to Presidential Regulation No.106 of 2007 (as amended by Presidential Regulation No. 157 of 2014) (“LKPP Regulation”)</p> <p>The LKPP is a Non-Ministry Government Institution and reports directly to the President of the Republic of Indonesia. In carrying out its duties and functions, LKPP is under the coordination of the State Minister for National Development Planning/Head of BAPPENAS.</p> <p>In Presidential Regulation No. 106, it was affirmed that LKPP is the only institution that has authority in the field of Procurement of Government Goods / Services.</p> <p>LKPP is a separate institution not under other ministries</p> | | Criterion met | | |
| (b) Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing. | Based on Strategic Plan of LKPP for 2020-2024, related to the targets that has been determined, then the source of funding needed to realize it fully comes from the APBN (Government funds), although in the course of implementation, it does not rule out possible sources funding can come from non-APBN, as long as the management is in accordance with the provisions of the legislation. Funding required/received by LKPP in the Strategic Plan period the year 2020-2024 is budgeted at ± Rp. 2.04 Trillion. | | Criterion met | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|------|-------|------|----|-------|------|------|-------|------|----|--------|------|------|-------|--|--|--|--|
| | <p>As per Strategic Plan of LKPP for 2020-2024, LKPP's Budget Performance Level is measured based on the Minister of Finance Regulation Number 214/PMK.02/2017 concerning Measurement and budget for the implementation aspect is the evaluation of budget performance. Evaluation on the Implementation Aspect is carried out by institution. produce information on performance achievements that have been defined in the measuring 4 (four) variables, namely output achievement (43.5%), budget absorption (9.7%), efficiency (28.6%), and consistency budget absorption towards planning (18.2%). Based on the data below the level of budget performance Organizational Units in the context of delivering physical LKPP always achieved the target in the past, but in 2019 it decreased.</p> <div><p>Tingkat Kinerja Anggaran LKPP</p><table><tr><th>Year</th><th>Target</th><th>Realisasi</th></tr><tr><td>2015</td><td>72,5</td><td>88,95</td></tr><tr><td>2016</td><td>75</td><td>90,15</td></tr><tr><td>2017</td><td>77,5</td><td>90,18</td></tr><tr><td>2018</td><td>80</td><td>100,37</td></tr><tr><td>2019</td><td>82,5</td><td>96,02</td></tr></table><p>Graph 1.12. Progress of Realization of Budget Performance Level LKPP 2015-2019</p><p>LKPP in clarification meeting on April 12, 2022 confirmed that for 2023 its allocation increased by almost 2-times from 2022, proving that LKPP has the support of the President (Presidential Decree No. 2 2022), namely creating a a sustainable procurement climate</p></div> | Year | Target | Realisasi | 2015 | 72,5 | 88,95 | 2016 | 75 | 90,15 | 2017 | 77,5 | 90,18 | 2018 | 80 | 100,37 | 2019 | 82,5 | 96,02 | | | | |
| Year | Target | Realisasi | | | | | | | | | | | | | | | | | | | | | |
| 2015 | 72,5 | 88,95 | | | | | | | | | | | | | | | | | | | | | |
| 2016 | 75 | 90,15 | | | | | | | | | | | | | | | | | | | | | |
| 2017 | 77,5 | 90,18 | | | | | | | | | | | | | | | | | | | | | |
| 2018 | 80 | 100,37 | | | | | | | | | | | | | | | | | | | | | |
| 2019 | 82,5 | 96,02 | | | | | | | | | | | | | | | | | | | | | |
| (c) The institution’s internal organisation, authority and staffing are sufficient and consistent with its responsibilities. | <p>The organization structure of LKPP as per Regulation No 1 of 2020 is as under:</p> <div><p>ATTACHMENT PROCUREMENT POLICY INSTITUTION REGULATIONS GOVERNMENT GOODS/SERVICES NUMBER 1 YEAR 2021 ABOUT ORGANIZATION AND WORKING PROCEDURES OF POLICY INSTITUTIONS GOVERNMENT PROCUREMENT OF GOODS/SERVICES</p><p>jdih.lkpp.go.id</p></div> | | Criterion met | | | | | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|---|---------------------|-----------------------------------|
| | In the clarification meeting with the Assessment Team on April 12, 2022 LKPP confirmed that staffing is sufficient and consistent with its responsibilities. LKPP stated that every year there is an addition of civil servants, proving consistency regarding human resources.It is currently in the process of restructuring, and is in discussions with several other ministries. The proposed changes are in Deputy II, regarding the digital transformation of procurement, which is being given a priority | | | | |

5(d) Avoiding conflict of interest

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | |
|--|--|--------------------------------------|---|-------------------------------|-----------------------------------|---------------------------------|----|---------------------------|----|--|---|--|---|
| <p>(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a):</p> <p>- Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses).</p> <p>Source: Survey.</p> | <p>As indicated under sub-indicator 5(a) (a) The Government Goods/Services Procurement Policy Agency (LKPP) was established pursuant to Presidential Regulation No.106 of 2007 (as amended by Presidential Regulation No. 157 of 2014) (“LKPP Regulation”)</p> <p>The LKPP is a Non-Ministry Government Institution and reports directly to the President of the Republic of Indonesia. In carrying out its duties and functions, LKPP is under the coordination of the state minister for National Development Planning/Head of BAPPENAS.</p> <p>LKPP Regulation A.2 provides that LKPP has the task of carrying out development and formulation of policies for government procurement of services/goods and is the only government agency that has this task</p> <p>LKPP by its mandate LKPP Regulation - PerpresNo.106 of 2007 A.3 (as amended by Presidential Regulation No. 157 of 2014), as elaborated under sub-indicator 5(a) (a) is tasked with policy, guidance, monitoring, training and not involved in procurement transaction and handling of complaint of bidders.</p> <p>LKPP is only as a procurement policy-making institution LKPP organizes e-catalogs based on the absence of a centralized formal procurement agency. But procuring entities decide the selection from e-catalog is the market and further implementation of the contract. There is a proposal for restructuring that separates the task of organizing e-catalog (please see sub-indicator 6 (b)</p> <p>Report of the result of the survey regarding 5(d)65% of respondents have said that there is no perception that the normative and LKPP has conflicts of interest and 81% in the context of public procurement indicated that they have not experienced Col</p> <p>Results of Private sector Survey</p> <div><p>16. DO YOU THINK THERE IS A CONFLICT OF INTEREST IN GOVERNMENT PROCUREMENT IN LKPP?</p><table><tr><td>No conflict of interest</td><td>386</td></tr><tr><td>Slightly conflict of interest</td><td>72</td></tr><tr><td>There are conflicts of interest</td><td>75</td></tr><tr><td>Many conflict of interest</td><td>63</td></tr></table></div> | No conflict of interest | 386 | Slightly conflict of interest | 72 | There are conflicts of interest | 75 | Many conflict of interest | 63 | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Even though LKPP only “organize” e-catalogues and not involved in “contracting” there is a situation of potential Conflict of Interest. Need for restructuring of task to remove perception of actual or potential Col</p> | | <p>Recommendation</p> <p>Potential Conflict of Interest to be removed in future where ministries/agencies and regional governments will be more proactive to organize their own framework agreement. LKPP to focus on providing guidance on initiating the framework agreement for national product (via e-catalogue).</p> |
| No conflict of interest | 386 | | | | | | | | | | | | |
| Slightly conflict of interest | 72 | | | | | | | | | | | | |
| There are conflicts of interest | 75 | | | | | | | | | | | | |
| Many conflict of interest | 63 | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <div>20. IN THE CONTEXT OF GOVERNMENT PROCUREMENT, HAVE YOU EXPERIENCED SITUATION WHERE LKPP FACES/CONDUCTS CONFLICT OF INTEREST?</div> <div><div><div><div></div><div>YES</div><div>116</div></div><div><div></div><div>NO</div><div>480</div></div></div><div><div><div></div><div>81%</div></div><div><div></div><div>19%</div></div></div></div> <div>Therefore the normative/regulatory institution has a system in place to avoid conflicts of interest</div> | | | | |

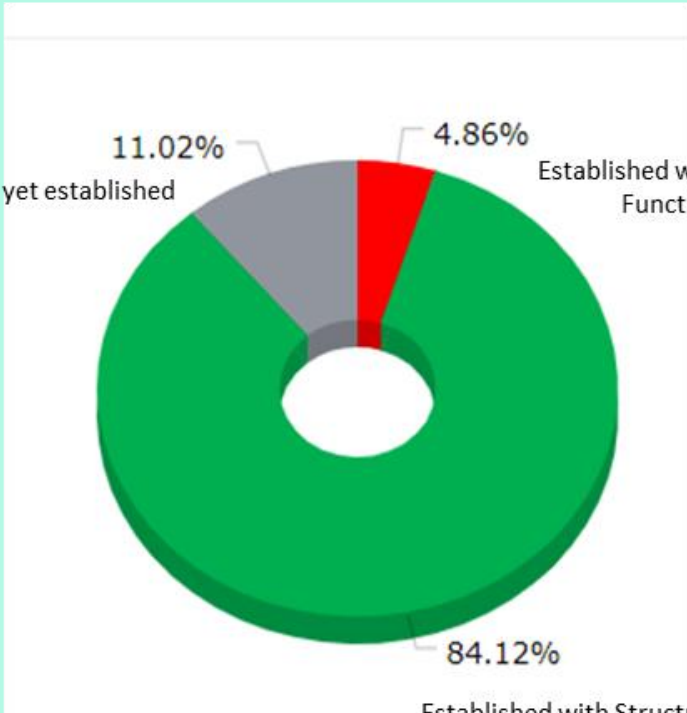
6. Procuring entities and their mandates are clearly defined

6(a) Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) Procuring entities are clearly defined. | PPL s.1 defines the procuring entities as follows: Ministry: “State Ministry, hereinafter referred to as the Ministry, means a government apparatus in charge of certain government affairs”; “Institution” means “a non-State Ministry organization and other institutions using the budget, which is formed to carry out certain tasks under the 1945 Constitution of the Republic of Indonesia or other legislation”; “Regional Apparatus” means “a supporting of the Head of Region and the Regional House of Representatives in carrying out Government Affairs that are the authority of the Region.” This includes municipal/local government. | | Criterion met | | |
| (b) Responsibilities and competencies of procuring entities are clearly defined. | The legal framework clearly defines responsibilities at all stages of the procurement process. PPL s.8 lists the Procurement Parties including the procurement parties of the procuring entities, being the PA (budget user), KPA (proxy budget user), PPK (contract making officer/procurement officer) and Selection Committee. Responsibilities of each of these parties is clearly defined in the PPL. Responsibilities (duties and authority) of PA listed at PPL s.9 include taking actions that result in budget expenditure, determining and announcing the annual procurement plan (RUP), determining procurement planning, as well determining the procurement officer, technical team, jury/expert and deciding on winner in specified cases. PPL s.11 lists the tasks of the contract officer, which covers all stages of the procurement process, from procurement planning to contract award and management. PPL also specifies the duties of the selection committee. | | Criterion met | | |
| (c) Procuring entities are required to establish a designated, specialized procurement function with the necessary management structure, capacity and capability.* <i>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c): - procuring entities with a designated, specialized procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.</i> | PPL s.75 requires that the Minister/Head of Institution/Head of Local Government must establish a Procurement Work Unit (Unit Kerja Pengadaan Barang/Jasa) (UKPBJ) that has the task of carrying out the support of procurements at Ministries/Institutions/Local Governments. PPL s.74(3) Provides that Human Resources for Procurement are to be located within the UKPBJ, subject to and exception based on consideration of size of workload (A.74PPL s.1 (11) defines the UKPBJ as “a working unit with the Ministries/Institutions/Local Governments, which is the center of excellence of Procurement.” The functions of the UKPBJ are defined in PPL s.75(2): (a) managing the Procurement; (b) managing electronic procurement services, which may be performed by a separate work unit; (c) developing Human Resources and institutions of the Procurement; (d) implementing assistance, consultancy, and/or technical guidance; (e) performing other duties assigned by the minister/head of institution/head of local government. UKPBJ is organized in a structural form and determined in accordance with the provisions of the legislation. In addition, PPL s.1(16) provides that UKPBJ can act as a “Procurement Agent” to conduct part or all of works of procurement which are entrusted by representative Ministries/Institutions/Local Government. A.21 UKBPJ can carry | Please see table on the left | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | |
|--|--|--------------------------------------|---|--------------------------------------|-----------------------------------|---------------------|--------|---------------------------------|-------|--|--|--|--|
| | <p>out Procurement Consolidation. PPL s.70(4) confirms that in order to develop and manage the E-marketplace for Procurement, the LKPP may cooperate with UKPBJ and/or Economic Operator.</p> <p>PPL s.74 requires that Procurement Human Resources shall include Procurement Function Managing Resources, being human resources who perform the procurement functions within the Ministries/Agencies/Regional Government. PPL s.74A sets out further provisions concerning the Procurement Function Managing Resources based within the UKPBJ, including a requirement on Ministries/Agencies/Regional Government, in most cases, to have such a resource to service as Bidding Pokja/Procurement Officials.</p> <div><p>Institutional Profile of Procurement Services Unit</p><table><caption>Institutional Profile of Procurement Services Unit</caption><tr><th>Category</th><th>Percentage</th></tr><tr><td>Established with Structural Function</td><td>84.12%</td></tr><tr><td>Not yet established</td><td>11.02%</td></tr><tr><td>Established with Adhoc Function</td><td>4.86%</td></tr></table></div> | Category | Percentage | Established with Structural Function | 84.12% | Not yet established | 11.02% | Established with Adhoc Function | 4.86% | | | | |
| Category | Percentage | | | | | | | | | | | | |
| Established with Structural Function | 84.12% | | | | | | | | | | | | |
| Not yet established | 11.02% | | | | | | | | | | | | |
| Established with Adhoc Function | 4.86% | | | | | | | | | | | | |
| (d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved. | As indicated above PPL s.11 lists the tasks of the contract officer, which covers all stages of the procurement process, from procurement planning to contract award and management. PPL also specifies the duties of the selection committee. The functions of the UKPBJ are defined in PPL s.75(2): (a) managing the Procurement; (b) managing electronic procurement services, which may be performed by a separate work unit; (c) developing Human Resources and institutions of the Procurement; (d) implementing assistance, consultancy, and/or technical guidance; (e) performing other duties assigned by the minister/head of institution/head of local government. UKPBJ is organized in a structural form and determined in accordance with the provisions of the legislation. | | Criterion met | | | | | | | | | | |
| (e) Accountability for decisions is precisely defined. | PPL s.75 requires that the Minister/Head of Institution/Head of Local Government must establish a Procurement Work Unit (Unit Kerja Pengadaan Barang/Jasa) (UKPBJ) that has the task of carrying out the support of procurements at Ministries/Institutions/Local Governments. | | Criterion met | | | | | | | | | | |

6(b) Centralized procurement body

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|---|
| (a) The country has considered the benefits of establishing a centralized procurement function in charge of consolidated procurement, framework agreements or specialized procurement. | <p>The country has not established a centralized procurement function as describe by this indicator. LKPP indirectly becomes a centralized procurement institution, with an electronic catalog (national, sectoral, regional) managed by LKPP and utilized by all by procurement entities.</p> <p>LKPP is only as a procurement policy-making institution LKPP organizes e-catalogs in the absence of a centralized formal procurement agency. But procuring entities decide the selection from e-catalog is the market and further implementation of the contract. There is a proposal for restructuring that separates the task of organizing e-catalog.</p> <p>PPL s.75 requires that the Minister/Head of Institution/Head of Local Government must establish a Procurement Service Unit (Unit Kerja Pengadaan Barang/Jasa) (UKPBJ) that has the task of carrying out the support of procurements at Ministries/Institutions/Local Governments which may include a degree of consolidation and management of procurement.</p> | | <p>Criteria partially met.</p> <p>Minor GAP – considered as non-substantive.</p> <p>Absence of a separate centralized body in charge of consolidated procurement, framework agreements or specialized procurement.</p> | | <p>Recommendation</p> <p>Government to consider setting up a separate body in charge of consolidated procurement, framework agreements or specialized procurement.</p> |
| (b) In case a centralized procurement body exists, the legal and regulatory framework provides for the following: <ul style="list-style-type: none">• Legal status, funding, responsibilities, and decision-making powers are clearly defined.• Accountability for decisions is precisely defined.• The body and the head of the body have a high-level and authoritative standing in government. | N/A | | As above | | |
| (c) The centralized procurement body’s internal organization and staffing are sufficient and consistent with its responsibilities. | N/A | | As above | | |

7. Public procurement is embedded in an effective information system

7(a) Publication of public procurement information supported by information technology
The country has a system that meets the following requirements:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|--|
| (a) Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance. | <p>Information related to key procurements are available in http://inaproc.id/tender. INAPROC - represents a collection of data records collected from multiple systems and provide links back to the original local LPSE system. INAPROC includes links to other national reporting systems to provide access to reports and data for procurement activity including e-purchasing. For all other contracts, other than those awarded through e-Purchasing/e-Catalogue, the procuring and contracting entities are required by the presidential regulation to maintain and publish the data at least on their own systems.</p> <p>The LPSE SPSE systems manage the electronic procurement transactions to support local authorities to comply with the procurement guidelines including storing all procurement and contract documents, including bids and proposals for review and audit purposes as per 1. (k) above. Local authorities can extract copies of all records and documents to maintain their own copy of all information.</p> <p>LKPP provides an access to information option to request access to information not readily available online in the LKPP national systems.</p> | See the column on the left | <p>Criterion met</p> <p>INAPROC and related national reporting systems provide a national view of procurement activity.</p> <p>LKPP systems are mainly presented in Bahasa. INAPROC and some systems do support English interface but there are some inconsistencies and content will not be in English.</p> | | <p>Area of improvement</p> <p>Additional monitor tools should be established to ensure the integrity and recovery capacity of each local system to ensure no information including documents are lost due to any act including system failures.</p> <p>English should be supported on all systems for foreign Other alternate languages could be supported with auto-translate options.</p> |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|---|--|---------------------|--|
| (b) There is an integrated information system (centralized online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost. | <p>Procurement data are published in the national e-procurement portal (INAPROC). These databases are updated in near real time through collection of data from local LPSE SPSE e-procurement systems.</p> <p>INAPROC provides links to other national e-procurement reporting systems, vendor information and performance system, e-catalogues and e-purchasing data as well as all rules and regulations.</p> <p>There is no cost to access INAPROC or local LPSE SPSE systems and vendors can freely register online in the local LPSE systems to participate in any advertised tender. Access to full tender's details including bidding documents is available only at the LPSE SPSE system managing the tender.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>INAPROC provides a link to the original LPSE tender notice. Some INAPROC links are invalid and do not map to the original notice or launch the indicated system application. Not all systems appear to be active all the time.</p> <p>The INAPROC national procurement system is a network of local procurement systems potentially limiting access to international vendors.</p> | | <p>Recommendation</p> <p>LKPP should examine options to validate all links in INAPROC and other systems to ensure they are valid and take users to the intended page and all systems are active.</p> <p>Suppliers need to navigate multiple systems to participate in local tenders published by an LPSE. Single sign-on may not always apply or work, requiring a supplier to register on another LPSE to participate. Searching and accessing multiple sites can reduce the efficiency of the system for suppliers. Creating a single access point through INAPROC would help establish a national procurement service.</p> |
| (c) The information system provides for the publication of: * <ul style="list-style-type: none"> • procurement plans • information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions • linkages to rules and regulations and other information relevant for promoting competition and transparency. <p>// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</p> <ul style="list-style-type: none"> • procurement plans published (in % of total number of required procurement plans) • key procurement information published along the procurement cycle (in % of total number of contracts) : • invitation to bid (in % of total number of contracts) • contract awards (purpose, supplier, value, variations/amendments) • details related to contract implementation (milestones, completion and payment) • annual procurement statistics • appeals decisions posted within the time frames specified in the law (in %). <p>Source: Centralised online portal.</p> | <p>As per the requirement of Perpres 16/2018, publication of procurement plans is mandatory for all contracts regardless of value and therefore procurement plans are considered substantially published (100%). Information related to key procurements are available in http://inaproc.id/tender for advertisements/invitation for bids/other notices of procurement opportunities, procurement method, cost estimate, expected award of contract, and contract awards. Information on details related to contract implementation, including amendments, payments and appeals decisions are not made available to public, while currently the e-procurement system is being developed to capture information on contract implementation. Linkages to rules and regulations and other information relevant for promoting competition and transparency are made available to public.</p> <p>The National INAPROC system provides summary procurement reporting information and tender announcements. The local LPSE SPSE system provides access to procurement plans and tender details including evaluation and results for tenders processed through the local system.</p> <p>Refer to assessment criteria (e) below and sub-criteria 13 (c) assessment criteria (b) that decisions of local/provincial Administrative Court not available.</p> | <p>Please see information on the left</p> | <p>Criterion partially met</p> <p>Minor GAP – considered as non-substantive.</p> <p>INAPROC and LPSE provide access to all tender information and report tools to analyze procurement activity.</p> <p>Local LPSE SPSE system implementations manage procurement transactions and maintain records from project creation through award for tenders processed through the local system by local procurement authorities including retention of submissions and reports associated with each tender.</p> <p>Local authorities are responsible for the local systems operation including backups and business continuity plans. Local system failures without continuity plans could impact capacity for archiving of transactions or documents.</p> <p>SPSE provides the fields and access for each procuring entity to record complaints and resolutions under each package, the complaints and results do not appear to be disclosed in e-procurement system (LPSE) and/or other decentralized systems.</p> <p>The WBS reporting system only summarizes counts of complaints submitted are resolved.</p> | | <p>Recommendation</p> <p>LKPP map all information from LPSE sites including all documents to ensure all sites have a system backup.</p> <p>The LPSE SPSE system should the publication of resolutions of complaints in the SPSE tender information, including indicating no complaints raised.</p> <p>LKPP could consider additional tender data details to facilitate additional reporting and measurement options such as green procurement or women owned businesses.</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|---|--|---------------------|---|
| (d) In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework). | <p>Procurement information and data is available for contracts procured using e-tendering. Publication of full set of bidding/procurement documents, evaluation reports, full contract documents including technical specification and implementation details are not mandated by the PPL.</p> <p>LKPP has established an open data project through opentender.net to publish and share transactional data in support of procurement monitoring activity.</p> <p>LKPP continues to expand reporting systems MonevNG and AMEL to make access to reporting information readily available. LKPP continues open data pilot projects in Bandung and the KKP, exchanging data in csv and json to allow entities to conduct their own analysis of procurement activity</p> | | <p>Criterion met</p> <p>Complete procurement information is provided in the local LPSE SPSE systems where the transactions are being managed. Tender details will include results evaluation stages as completed by the procurement committee along with contract award results. Copies of full tender documents are available to registered users only.</p> | | <p>Area of improvement</p> <p>Review current data available in the systems against OCDS standards to determine additional information that could be collected to improve monitoring and reporting tools.</p> <p>Ensure systems and data are up-to-date and on-line.</p> |
| (e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format)* | <p>LKPP provides access to summary data nationally and through the local LPSE systems. New dashboards offered through MonevNG and AMEL (LPSE) enables access to data. Data is also being made available through Open Data projects.</p> <p>Public request is available following registration https://ppid.lkpp.go.id/information/request/create key procurement information on these contracts is publicly available without a structured machine-readable format, using identifiers and classifications (open data format). OCDS and other type of Open Data Format is publicly available in decentralized and/or stand-alone electronic portal or dashboard.</p> | <p>Procurement information and data is available for contracts procured using e-tendering and these represents 37.1% of the total value of contracts.</p> | <p>Criterion met</p> <p>LKPP provides access to national reporting tools and local LPSE reporting tools to view and download procurement data.</p> <p>Local SPSE system through new AMEL reporting dashboard and an updated national reporting system – MONEV has been updated to enable access to difference reports and data.</p> | | <p>Area of improvement</p> <p>LKPP should allow users to link back to original tender records from Summary procurement information in MonevNG or AMEL</p> <p>Detailed Bid Pricing. Currently, price information is collected as total price and lot price for the package and system manages evaluation on total price. LKPP should examine options to capture detailed pricing information incorporating units of measure, product codes and other details with price. Systems have been expanding options to incorporate bid tables with Excel Worksheets to capture all details of price calculations including multiple currencies.</p> <p>Capturing more granular pricing information through line-item pricing or bid sheets would allow LKPP to improve analytics on market pricing for better planning and cost estimation on future similar packages.</p> |
| (f) Responsibility for the management and operation of the system is clearly defined. | <p>PPL s. 69 (2) defines LKPP's role to develop SPSE and the supporting system and the role of local government to host and operate the local LPSE SPSE systems.</p> | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>LKPP has established security and operational standards to be applied at each LPSE installation along with minimum system and bandwidth requirements for the system. Operation and support of the local system implementation is delegated to the local government organization hosting the LPSE SPSE system. With more than 650 LPSE systems, not all local organizations will have the same level of capacity and resources to manage and support the system operations or the security of the infrastructure deployed.</p> | | <p>Area of improvement</p> <p>LKPP should examine options to certify and monitor each LPSE installation to ensure security and operational standard are met</p> |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

7(b) Use of e-Procurement

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--|--|---------------------|---|
| <p>(a) E-procurement is widely used or progressively implemented in the country at all levels of government.*</p> <p><i>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): uptake of e-Procurement</i></p> <ul style="list-style-type: none"> - number of e-Procurement procedures in % of total number of procedures - value of e-Procurement procedures in % of total value of procedures <p>Source: e-Procurement system.</p> | <p>The full use of e-procurement system for competitive procurement methods to be processed through e-tendering and e-purchasing from announcement of procurement opportunities up to award of contacts is widely use across the country as mandated under the procurement regulations.</p> <p>LKPP sets main objectives and policies aimed at increasing quality of procurement planning, promoting transparent, open and competitive procurement; developing procurement e-marketplace and using of ITC technology and electronic transaction; All government units at the national and subnational levels are required to continuously adopt e-procurement system to increase transparency and efficiency in the procurement process.</p> <p>e-Procurement procedures is used in 80 % of total number of procedures; Total value of procurement procedures was IDR 853,8 T. Value of e-Procurement procedures was 85 % of total value of plan procedures. Total value of contracts as recorded ine-procurement was IDR 316,9 Tor 37.1 %.</p> | Please see data in the column on the left | <p>Criterion is met</p> <p>e-procurement is widely used in Indonesia and the LKPP LPSE system have become standard practice for public procurement since the system was launched in 2008. Though presented as a national service, procurement activity is conducted and managed locally through the individual LPSE SPSE systems.</p> | | <p>Area of improvement</p> <p>LKPP should analyze activity by vendor to determine where they participate in bids and develop strategies to promote national procurement over local LPSE procurement through INAPROC and SIKaP. Tender notification matching services for vendors could help promote national procurement</p> |
| <p>(b) Government officials have the capacity to plan, develop and manage e-Procurement systems.</p> | <p>PPL s. 69 (2) defines LKPP's role to develop SPSE and the supporting system, while each user is provided trainings and capacity building regularly, while PerLKPP 15/2018 on Procurement Practitioner specifies their roles in overall procurement processing.</p> | | <p>Criterion met</p> <p>LKPP has the responsibility and capacity to plan and development the system and services to deliver e-procurement and monitoring tools.</p> <p>LKPP continues to develop and maintain all system and implement new systems and features each year.</p> <p>LKPP needs to ensure systems have the resources needed to be maintained and remain operational. MonevNG currently offline due to resource restraints.</p> | | <p>Area of Improvement</p> <p>LKPP should continuously review advances in technology and approaches to e-procurement applied in other countries to help plan the delivery of their own services. Awareness of advances with cloud services, AI, mobile technology, payment services, service management and new no-code development platforms could help LKPP future upgrades to their platforms.</p> <p>Secure resources to maintain and operation systems.</p> |
| <p>(c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.</p> | <p>PPL s.88 also establishes the competency requirements by Dec 31, 2023, while PerLKPP 15/2018 on Procurement Practitioner does not specify the specific requirements.</p> | | <p>Criterion met</p> <p>LKPP continues to leverage e-learning tools to advance the capacity of the officers using the system.</p> | | <p>Area of improvement</p> <p>LKPP should expand monitoring tools to examine behavior and activity of officers using the system to determine how well the system is applied and whether additional training is required or if revisions to the training program are needed.</p> |
| <p>(d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology. *</p> <p>* Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d):</p> <ul style="list-style-type: none"> - bids submitted online (in %) - bids submitted online by micro, small and medium-sized enterprises (in %) <p>Source: e-Procurement system.</p> | <p>Nearly IDR 200 trillion was planned ins SIRUP for contracts below IDR 2.5 billion, which is allocated for SMEs markets (PPL s.64(4). LKPP Circular 21/2020 establishes platform for use of Direct Procurement Method by SMEs.</p> | Information is not available in e-procurement portal | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The vendor profile data is limited to small and non-small vendors. LKPP should consider defining additional vendor profile information to identify other socio-economic indicators such as women owned businesses, green businesses or foreign businesses. Expanded vendor profiles would enable LKPP to measure different procurement outcomes to see how government is achieving different procurement goals.</p> | | <p>Area of improvement</p> <p>LKPP can expand reporting tools to further expand analytics to observe if programs targets are achieved.</p> <p>LKPP should offer notification services to ensure SME are informed of opportunities.</p> |
| <p>(e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.</p> | <p>N/A. e-procurement system has been well established</p> | | <p>Criterion met</p> <p>LKPP continues to enhance existing systems and develop new tools to improve the efficiency and effectiveness of the system.</p> | | |

7(c) Strategies to manage procurement data

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|--|
| (a) A system is in operation for collecting data on the procurement of goods, works and services, including consultancy services, supported by e-Procurement or other information technology. | <p>PPL s.71 (1) SPSE covers procurement planning, pre-selection/preparation, selection process, contract implementation, hand-over, vendors management and e-catalogue.</p> <p>LPSE SPSE system is updated as required to address any new regulations or guidelines.</p> | | <p>Criterion met</p> <p>The LKPP SPSE supports the processing collection of data for all forms of procurement including works, goods, services and consultancy.</p> <p>Most of the reporting and monitoring tools developed by LKPP focus on financial planning and financial results to view procurement activity against the procurement plan.</p> | | <p>Area of improvement</p> <p>LKPP could expand reporting tools to monitor processes applied to procurement processes as well as timelines to complete activities and levels of competition to better understand the use of the system. Additional analysis would help LKPP plan new policies or system enhancements.</p> |
| (b) The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements. | <p>PPL s.71 (2) SPSE has interconnection with other information systems such as planning, budgeting, payment, assets management.</p> <p>PPL s.71 (3) SPSE Supporting systems include: national procurement portal, human resources management, advocacy and resolutions of complaints, citizen engagement, and monitoring and evaluation. With mandatory use of e-procurement system for all contracts (with exceptions of contest and quiz), data on the goods or services procured, the value of the procurements, and successful bidders or suppliers, are all recorded through centralized online reporting systems and applications developed and maintained by LKPP, while there are limited data analytics available to assess the performance of the overall public procurement system.</p> <p>Procurement data are published in the national e-procurement portal (INAPROC) and updated in real time.</p> <p>Information related to key procurements are available in http://inaproc.id/tender for advertisements/invitation for bids/other notices of procurement opportunities, procurement method, cost estimate, expected award of contract, and contract awards. Information on details related to contract implementation, including amendments, payments and appeals decisions are not made available to public, while currently the e-procurement system is being developed to capture information on contract implementation. Linkages to rules and regulations and other information relevant for promoting competition and transparency are made available to public. Annual procurement statistics (http://monev.lkpp.go.id and http://report-lpse.lkpp.go.id/v2/beranda) are not complete or reliable in the absence of a central monitoring and evaluation system to capture all procurement in the country. There are limited data analytics available to assess the performance of the overall public procurement system.</p> <p>For all other contracts, other than those awarded through e-Purchasing/e-Catalogue, the procuring and contracting entities are required by the presidential regulation to maintain and publish the data at least on their own systems. The Perpres also requires hardcopies of procurement and contract documents, including bids and proposals, to be stored for review and audit purposes.</p> | | <p>Criterion met</p> <p>The centralized electronic monitoring and evaluation system (MONEV-NG) product a national dashboard summarizing procurement activity.</p> <p>LPSE AMEL provides summary and analytic information for the local LPSE systems.</p> | | <p>Area of improvement</p> <p>Continued expansion of National and Local dashboards for near real-time monitoring and evaluation of Public Procurement performance at national and sub-national level. Broader performance measurement metrics/indicators will enable meaningful analysis of procurement performance and guide new policy changes.</p> |
| (c) The reliability of the information is high (verified by audits). | <p>PPL s.73 (3) (3) LKPP establishes standards for the services, capacity and security of the e-procurement system (SPSE) and the supporting system.</p> <p>PPL s.76 regulates the internal oversight mechanism, which includes audit, review, monitoring, evaluation and/or implementation of whistleblowing system which covers overall procurement and contract implementation cycle.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Information is validated as data local LPSE systems is synchronized with the national systems. Regular audits of data from local systems is conducted as part of the normal synchronization operations of the local systems.</p> <p>Focus of system is reporting transaction and spend against procurement plans. SPSE systems operate independently with no reference or access to data in other system.</p> | | <p>Area of improvement</p> <p>LKPP should ensure all links created in the national system to the local LPSE tender details are valid. LKPP should re-examine the approach to deliver SPSE from a distributed network of independent system to a unified system enabling the exchange and reporting of data across system. Transitioning to a unified system would enable LKPP to leverage resources and</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | | | | | streamline some of the procurement applications offering a better service to agencies and suppliers. LKPP needs to ensure resources be maintained to support system applications. Users should not be presented with an error when accessing an application or connecting to tender details in an SPSE system. |
| (d) Analysis of information is routinely carried out, published and fed back into the system. * <i>// Minimum indicator //</i> * Quantitative indicators to substantiate assessment of sub-indicator 7(c) Assessment criterion (d): <ul style="list-style-type: none">• total number and value of contracts• public procurement as a share of government expenditure and as share of GDP• total value of contracts awarded through competitive methods in the most recent fiscal year. <i>Source: Normative/regulatory function/E-Procurement system.</i> | PPL s.76 regulates the internal oversight mechanism, which includes audit, review, monitoring, evaluation and/or implementation of whistleblowing system which covers overall procurement and contract implementation cycle. Total number and value of contracts: 1,824,920 (IDR 524,397 billion); public procurement as a share of government expenditure was 23 % and as share of GDP was 5%; total value of contracts awarded through competitive methods in the 2020 fiscal year was IDR 244,613 billion | Please see table on the left side of this column | Criterion met LKPP continues to enhance reporting tools to analyze system information. Most of the tools are focused on monitoring procurement activity against the procurement plans. LKPP should also consider analyzing activity in the system to address potential risk or options for expanding the services offered through the procurement system. | | Area of improvement Additional tools should be created to analyze behavior patterns in the system by officers participating in the bid and evaluation process and vendors participating in the procurement system. |

8. The public procurement system has a strong capacity to develop and improve



8(a) Training, advice and assistance

There are systems in place that provide for:

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| (a) substantive permanent training programs of suitable quality and content for the needs of the system. | The purpose of this sub-indicator is to verify among other things: (i) existence of permanent and relevant training programme for new and existing staff in government procurement; (ii) existence and quality of advisory services on procurement matters for public entities, potential suppliers and the general public. Also, a well -functioning should be based on “skills gap inventory” to meet the needs of the system. Regulation No 7 of 2021 concerning Human Resources for procurement of goods/services has been prepared pursuant to “strengthen the capacity of human resources for the procurement of goods/services and based on the provisions of Article 5 letter c, Article 74, and Article 74A of Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, more arrangements are needed further regarding guidelines for developing and fostering human resources for the procurement of goods/services”. In accordance with Point 33 of Article 1 of Regulation No 7 of 2021 “Education and Training Needs Analysis is the initial part of planning education and training programs needed to bridge the gap between the required competencies and the competencies possessed in carrying out their duties” Related to the given sub-indicator, the relevant provisions in Regulation No 7 of 2021 in Article 1 are as under: | | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | <p>Point 23: PBJ Manager Functional Training, hereinafter referred to as PBJ Manager Training, is a teaching and learning process carried out to provide knowledge, skills and attitudes/behaviors in carrying out their duties as PBJ Managers in a professional manner.</p> <p>Point 24. Technical Training of Goods/Services Procurement Competence is a teaching and learning process using certain techniques and methods that aim to improve and develop the knowledge, skills and attitudes of participants in carrying out their duties as Resources for the Management of the Procurement Function of Goods/Services in a professional manner.</p> <p>Point 25. Thematic Technical Training for the Procurement of Goods/Services is a teaching and learning process using certain techniques and methods aimed at improving and developing knowledge, skills and/or attitudes based on a particular theme curriculum.</p> <p>The organization of human resources to lead training and capacity building of procurement function by LKPP is as under</p> <p>Deputy for Human Resources Development and Advisory – Formulate and Implement Strategy and Policy for development of human resources in Government Procurement.</p> <p>As per Article 55 of Regulation 1 of 2021 Directorate of Professional and Institutional Development have the task of implementing strategy formulation and human resources development policies in the field of government procurement of goods and services and preparation of plans and national coaching programs and implementation.</p> <p>following link provides details of activities:</p> <p>https://ppsdm.lkpp.go.id/direktorat-pengembangan-profesi/program-direktoratpengembangan-profesi-dan-kelembagaan</p> <p>As per Article 58 of Regulation 1 of 2021 Directorate of Profession Certification is required to carry out technical policy formulation, development and implementation of professional competency testing in the field of Government Procurement of Goods/Services</p> <p>As per Article 80 of Regulation 1 of 2021, Education and Training Center for Procurement of Goods/Services have the task of implementing policy formulation, implementation, monitoring and evaluation of education and training in the field of Procurement of Goods/Services</p> <p>For details and progress, we can refer to the following link:</p> <p>https://ppsdm.lkpp.go.id/statistik-data/statistik-pelaksanaan-pelatihan-ujian</p> <p>https://ppsdm.lkpp.go.id/statistik-data/hasil-ujian</p> <p>Regulation No 4 of 2020 on Training for Procurement contains scope of institution regulation, accreditation, training programs.</p> <p>Based on the Information Book of Training Centre PBJ (January 2021), there are 83 institutions categorized as A and B. There is an application process for accreditation. This document contains details of training objectives, what participants are expected to learn, target participants, competency development of facilitators, how participants can register electronically on PPSPDM portal.</p> <p>There is a training calendar of 2022 and well-designed Frequently Asked Question (FAQ) on PPSPDM portal.</p> | | | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| |  English- Peraturun  313796- PBJ No 4 of Tahun 2020- Information Book (1). The assessment team also obtained feedback from IAPI (Ikatan Ahli Pengadaan Indonesia), which is Indonesian Procurement Experts Association, also a member of IFPSM (International Federation of Purchasing and Supply Management), which is listed as IAPI feedback for this as also other sub-indicator. <i>IAPI feedback:</i> LKPP has developed a structured training program based on competency standard for government procurement officers. Based on information provided by LKPP: (i) there is training analysis to obtain feedback from facilitators from modules and evaluated on a quarterly basis; (ii)there is strategic plan such as the achievement of the number of functional procurement positions (ideally 60% in each K/L/PD) which requires collaboration with other directorates to achieve these targets; and (iii) there is a roadmap within an integrated information system that can be accessed by UKPBJ. | | | | |
| (b) routine evaluation and periodic adjustment of training programs based on feedback and need. | <i>As per feedback from IAPI:</i> The training material for government procurement is well maintained and keep updated. New specific training modules are introduced. Also, all training modules will be available in computer -based training (CBT) format in the future. However, there are some feedback expecting to reduce the contents and complexity of training materials. The training materials need to be more effective in delivery. Refer to following link: https://ppsdmlkpp.go.id/enrollment/jadwal#PelatihanPBJ When carrying out training there is feedback, then processed into the next training material. | | Criterion met | | |
| (c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public. | <i>As per feedback from IAPI:</i> LKPP hosts the advisory service for procuring entities only for the time being. Training module for suppliers has been released with main objective to make the suppliers ready to do transactions through government procurement. There are still room for development of training program and advisory for suppliers to establish more robust supply chain for government procurement. Based on feedback from LKPP on April 12, 2022, almost all services in LKPP are aimed at all stakeholders. There are also modules for businesses or communities. There are also account-related services. The legal division for the settlement of objections holds consultations even to local governments and business actors. There is also a dispute resolution service. | | Criterion met | | |
| (d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement. | <i>As per feedback from IAPI:</i> LKPP has current strategic plan to modernize the government procurement practices that contributes to the development of small medium enterprises (SMEs) as well as raising the local portions for imported products. However, there are huge challenges in executing these programs to achieve the targets. A superior well-coordinated program among procurement stakeholders is mandatory. | | Criterion met | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | Based on feedback from LKPP on April 12, 2022, there is a dedicated unit in LKPP i.e. the business climate directorate that focuses on UKM. The number of UKM is >60 million, LKPP already have UKM coaching programs such as training and seminars. Before the pandemic every year there are an average of six (6) batches of face-to-face training of business actors attended by 100 participants, but for the past 2 years these are only provided through online access. The delivery of materials is assisted by other directorates in LKPP such as materials for the new UKM, and “Bela Pengadaan”. It is expected, UKM who have not registered can directly register and can participate in international procurement. | | | | |

8(b) Recognition of procurement as a profession

The country’s public service recognizes procurement as a profession:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Procurement is recognized as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified. | <p>In accordance with Article 1 of Regulation No 7 of 2021, the relevant provisions are as under:</p> <p>Point 1. State Civil Apparatus, hereinafter abbreviated as ASN, is a profession for Civil Servants and Government Employees with Work Agreements who work for Government Agencies.</p> <p>Point 2. <u>Civil Servants</u>, hereinafter abbreviated as PNS, are Indonesian citizens who meet certain requirements, are appointed as permanent state civil servants by the Civil Service Supervisory Officer to occupy government positions.</p> <p>Point 9: The Functional Position of Procurement Manager of Goods/Services, hereinafter abbreviated as JF PPBJ, is a position that has the scope of duties, responsibilities, authorities, and rights to carry out Government Goods/Services Procurement activities in accordance with statutory regulations.</p> <p>Point 10. The Functional Officer of the Management of the Procurement of Goods/Services, hereinafter referred to as the Manager of PBJ, is a State Civil Apparatus who is given full duties, responsibilities, authorities, and rights by the authorized official to carry out the activities of the Procurement of Goods/Services</p> <p>Point 12: Government Procurement of Goods/Services, hereinafter referred to as the Procurement of Goods/Services, is the activity of procurement of goods/services by Ministries/Institutions/Regional Apparatuses financed by the State Budget/Regional Budget whose process starts from the identification of needs, until the handover of the work.</p> <p>Point 13. The Government Goods/Services Procurement Policy Institute, hereinafter referred to as LKPP, is a government agency tasked with developing and formulating policies for the Government's Procurement of Goods/Services.</p> <p>Point 14. The Goods/Services Procurement Unit, hereinafter abbreviated as UKPBJ, is a work unit in the Ministry/Institution/Local Government which is the center of excellence for the Procurement of Goods/Services</p> <p>Point 18: Credit Score is a unit of value from the description of activities specified in the activity items and/or the accumulated value of the activity items that must be achieved by the PBJ Manager in the context of developing the relevant career.</p> <p>Point 19. The PPBJ Functional Position Credit Score Assessment Team, hereinafter referred to as the Assessment Team, is a team formed and determined by officials who have the authority to determine Credit Scores and are tasked with evaluating the alignment of work results with the tasks set out in the SKP and assessing the performance achievements of PBJ Managers in the form of PBJ Manager Credit Scores.</p> <p>Point 20. The Technical Competency Dictionary in the Government Procurement of Goods/Services, hereinafter referred to as the PBJ Technical Competency Dictionary, is a list of types of technical competencies, technical competence definitions, technical competency descriptions, and behavioral indicators for each level of technical competence in the Government Procurement of Goods/Services.</p> <p>Point 21. Competency Standards for Functional Positions for Procurement Managers of Goods/Services, hereinafter referred to as JF PPBJ Competency Standards, are descriptions of the knowledge, skills, and behaviors required by a State Civil Apparatus in carrying out JF PPBJ duties.</p> | | Criterion met | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | <p>Point 22. Competency Standards for Procurement of Government Goods/Services, hereinafter referred to as Competency Standards, are descriptions of the knowledge, skills and behaviors required in carrying out tasks in the field of Procurement of Goods/Services.</p> <p>In accordance with Paragraph 7 Professional Organization Article 10 of Regulation No 7 of 2021, the stipulations are as under: (1) PBJ managers are required to become members of the JF PPBJ professional organization. (2) JF PPBJ's professional organization is the Indonesian Procurement Functional Association (IFPI). (3) IFPI must have a code of ethics and professional code of conduct for PBJ Managers. (4) The code of ethics and professional code of conduct for PBJ Managers is compiled by IFPI and determined by IFPI after obtaining approval from LKPP. (5) IFPI has the following tasks: a. provide advocacy; b. examines violations of the code of ethics and professional code of conduct; and c. provide recommendations on the results of the examination of violations of the code of ethics and professional code of conduct to the agency where the PBJ Manager is domiciled and/or the coaching agency. (6) In addition to the tasks in paragraph (5) IFPI can also carry out the following activities: a. professional development of PBJ Managers; b. scientific development of the Procurement of Goods/Services; and c. providing education to the public regarding the Procurement of Goods/Services. (7) The activities as referred to in paragraph (6) letter a are carried out under the coordination of LKPP.</p> <p>As per feedback from IAPI:</p> <p>The procurement unit (UKPBJ) is designed to be a procurement center of excellence (CoE) with some strategic functions and manage the procurement specialist pools (pokja) including work assignment, performance monitoring and competency development. A government procurement maturity model has been deployed since 2018 and has a clear roadmap for implementation including integrated scoring with procurement governance index. However, it needs to be strengthened with strong demand and attractive rewards for a more impactful program. IAPI has core program to campaign the procurement as profession both to government institutions as well private sector.</p> <p>Based on feedback from LKPP on April 12, 2022, the functional procurement association consists of 1200 members. Its internal activities include regular training, procurement-related topic discussions in virtual groups. Annual membership fee is collected. The cost for training charged to the members is quite far below that of the general public.</p> | | | | |
| (b) Appointments and promotion are competitive and based on qualifications and professional certification. | <p>Based on Article 7 of Regulation No.7 of 2021, the stipulations are as under:</p> <p>Point 1: PNS appointments to JF PPBJ are carried out through: a. first appointment; b. transfer from another position; c. promotion; d. adjustment/<i>in passing</i>; and e. equalization of administrative positions into functional positions.</p> <p>Point 2: In order to be assigned as Pokja Selection/Procurement Officer/PPK, prospective civil servants of JF PPBJ from the first appointment as referred to in paragraph (1) letter a who will be appointed to JF PPBJ, must have a level-1 certificate of Procurement of Goods/Services.</p> <p>Point 3: The appointment of civil servants into JF PPBJ through the first appointment, promotion, adjustment/<i>in passing</i> and equalization of administrative positions into functional positions as referred to in paragraph (1) letters a, c, d and e is regulated in laws and regulations.</p> <p>Point 4: The procedure for the appointment of civil servants into JF PPBJ through transfers from other positions as referred to in paragraph (1) letter b is regulated in the Decree of the Deputy in charge of developing and fostering human resources for the Procurement of Goods/Services</p> <p>Based on feedback from LKPP that many people avoid this profession because of the huge risk of corruption. Since 2020 there has been a government policy to reduce structural positions from 4-5 levels to 2 levels.</p> <p>As per feedback from IAPI:</p> <p>There is a clear appointment procedure for a government procurement specialist with some standard credit point for professional development. A robust certification program has been implemented for securing procurement process is running by the credible person. However, it needs to improve the reward package for government procurement specialist to make more attractive.</p> | | <p>Criterion partially met Minor GAP – may be considered as non-substantive.</p> <p>There is lack of incentive to join procurement profession.</p> <p>As per information on KPK website (i) As per KPK, functional procurement staffs (PBJ) should be brave in filing a report to local law enforcer or KPK if they are oppressed or threatened; (ii) there are many staffs rejected the offer for being the goods/service procurement officials and some candidate tried to fail the certification process just to avoid the position, on the other hand this position is a vital and important; and (iii) condition in the field pose a great risk related to legal issues. So, the goals are to inform, educate and improve professionalism of PBJ management.</p> <p>http://news.unair.ac.id/en/2017/03/26/oppressed-procurement-officials-courage-report-kpk/</p> | | <p>Recommendation</p> <p>To create an enabling environment to protect officials who act in the best interest of the government with commensurate rewards package to make the profession attractive to young professional like Accountancy and Information Technology</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | | | | | |
| (c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided. | <p>As per feedback from IAPI:</p> <p>There is clear pattern for staff performance evaluation that link to the staff development system. However, it needs improvement in implementation effectiveness.</p> <p>Based on feedback from LKPP on April 12, 2022 JF PBJ (procurement functional position) assessment of credit figures is regulated in BKN Regulation No. 21 of 2020, and Ministry of State Apparatus Regulations (PANRB) No. 29 of 2020 that regulates the main and supporting tasks. For acceleration of the assessment is assisted by an information system.</p> | | Criterion met | | |

8(c) Monitoring performance to improve the system

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|---|
| (a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects. | <p>The purpose of this sub-indicator is to evaluate the effectiveness of public procurement system from individual procurement to the system as a whole to act as major driver of performance improvements. As per Article 39 of Regulation 1 of 2021, Deputy for Monitoring-Evaluation and System Development Information has the task of carrying out monitoring assessing, evaluating and providing input on implementation of Government Procurement of Goods/Services for the preparation of the process planning and budgeting as well as coaching and development of information systems for the procurement of goods/services for Government electronically (electronic procurement).</p> <p>As per Article 40 of Regulation 1 of 2021, the function required by Article 39 include preparation and formulation of monitoring system policies, assessment, and evaluation of the implementation of Procurement Government goods/services; coordination and synchronization of monitoring and evaluation implementation of government.</p> <p>procurement of goods/services;</p> <p>As per feedback from IAPI:</p> <p>The procurement performance management system has been introduced for years, but it still needs to be improved on its quality measures as well as the management of the performance itself.</p> <p>Based on feedback from LKPP on April 12, 2022</p> <p>“LKPP has conducted performance evaluations and measurements related to procurement, procurement governance index (Indeks Tata Kelola Pengadaan (ITKP)). There are three indicators to be assessed in each K / L / PD which include: 1) utilization of the procurement system of goods/services (SPSE and its supporting systems); 2) the ability to provide procurement human resources; and 3) the maturity level of UKPBJ. ITKP has been adopted as an assessment of bureaucratic reform.</p> <p>In addition, LKPP also monitor and evaluate on how to implement procurement plans, such as the ability to absorb domestic product (PDN), SME products, sustainable procurement, etc.”</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Need to <u>to harmonize, monitor and evaluate the performance of the procurement system as a whole, based on recommendations of MAPS.</u></p> | | <p>Recommendation</p> <p>KPI (as per the FGD): only 3 indicators. LKPP to develop performance measurement system from MAPS recommendation. Establish a set of KPI to measure the overall procurement performance. that focuses on both quantitative and qualitative aspects.</p> |
| (b) The information is used to support strategic policy making on procurement. | <p>As per feedback from IAPI:</p> <p>Some of the information has been used to support strategic policy making on procurement.</p> <p>Room for improvement for enriching the spectrum of data analytic to enhance more the future of government procurement policy</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Data Analytics lacking. Collaboration required among different stakeholders needed</p> | | <p>Recommendation</p> <p>Data Analytics to be used for policy changes to obtain better Value-for -Money To integrate and use data from different e-Procurement Platforms</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| (c) Strategic plans, including results frameworks, are in place and used to improve the system. | <i>As per feedback from IAPI:</i> Planning and monitoring & evaluation (Monev) functions has been established since the formation of LKPP. The quality of integrated planning and integrated monitoring should become the next agenda to avoid silos thinking among programs | | Criteria partially met Minor GAP – may be considered as non-substantive. The quality of integrated planning and integrated monitoring should become the next agenda to avoid silos thinking among programs. | | Recommendation To consider improving quality of integrated planning and integrated monitoring should become the next agenda to avoid silos thinking among programs. |
| (d) Responsibilities are clearly defined. | <i>As per feedback from IAPI:</i> This is the area where government procurement needs big improvement. The formal responsibility for performance measurement is clearly defined, but the collaboration among key stakeholders to manage an effective integrated performance measurement system is rarely found. | | Criteria partially met Minor GAP – may be considered as non-substantive. collaboration among key stakeholders lacking which is required to manage an effective integrated performance measurement system | | Recommendation To improve collaboration among key stakeholders to manage an effective integrated performance measurement system |

Pillar III. Public Procurement Operations and Market Practices

9. Public procurement practices achieve stated objectives

9(a) Planning

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|--|
| (a) Needs analysis and market research guide a proactive identification of optimal procurement strategies. | The current practice is in line with the provisions of the PPL which do not include any specific provisions on the need to carry out analysis and market research other than the preparation of cost estimate, draft contract, technical specification/TOR and securities/guarantees as prescribed under PPL 16/2018 s.25. However, the assessment has noted practice by certain contract officer (PPK) which consist of seeking for quotation information from the market in order to inform the development of budgeting and cost estimation. The assessment has also reviewed a draft PerLem for International Tender that introduce the use of procurement strategy and approach with main consideration on streamlining of the agreed method and procedures of the Development partners and the Government as implementation of the PPL mandate (s.64). While as part of the current practice the cost estimate maybe prepared 28 days before the targeted date for submission of bids, there is no specific guidance to the procuring entities (PPK) to develop accurate and updated cost estimate taking into consideration the prevailing market prices. | | Criteria partially met. Minor GAP – may be considered as non-substantive. There is no specific guidance note on procurement strategy and approach, including for establishment of the cost estimate as part of the procurement preparation. This shall be developed not only for International Tender but also for all other procurement methods. Accurate and updated key estimate is key to ensure successful competitive outcome of a procurement process particularly in the case of Indonesia where the provision of the PPL on the reasonableness of the price could be impacted negatively by referring to inaccurate or outdated cost estimate. | | Recommendation Develop a specific guidance and template for procurement strategy and approach for pre-bid cost estimate. |
| (b) The requirements and desired outcomes of contracts are clearly defined. | In addition to the relevant PPL provision (s.25) which requires the contracting officer (PPK) to prepare cost estimate, draft contract, technical specification/TOR and securities/guarantees as part of the procurement planning, the current MPDs define clearly the requirements and desired outcomes, particularly in the forms of contract. | | Criterion partially met Minor GAP – may be considered as non-substantive. The technical documents (specifications, TOR, cost estimate) do not often reflect the actual requirement and desired outcomes of contracts and therefore the evaluation criteria and requirements in the bidding documents generally focus on the qualification requirements rather than the technical requirement. | | Recommendation Develop a specific guidance and template for development of technical specification/TOR to fulfill desired outcomes. |
| (c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money. | [see other relevant inputs to sub-indicator 3(b)] PPL s.5 includes in the list of Procurement policies at (i) “carrying out the Sustainable Procurement”. | | Criteria partially met Minor GAP – may be considered as non-substantive. | | Consider the extension of the practice of using sustainability criteria to more procurement categories and methods and prepare a detailed technical guidance |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|---|
| | <p>Based on the relevant provisions in the PPL (as assessed in sub-indicator 3(b)), there is initial practice to use the sustainability criteria regarding green procurement particularly for use green products e.g., photocopier paper, stationery made from recycled plastic and wooden furniture (LKPP Circular Letter No.16 of 2020) and this initial practice has been done through e-catalog and e-marketplace.</p> <p>However, there is no detailed technical guidance yet related to the application of sustainable procurement and the implementation of sustainability criteria in public procurement.</p> | | <p>Initial practice on sustainability criteria is limited to small value green products e.g., photocopier paper, stationery made from recycled plastic and wooden furniture procured through e-catalogue and e-marketplace, including less competitive procurement methods.</p> <p>There is no detailed technical guidance yet related to the application of sustainable procurement and the implementation of sustainable procurement in public procurement.</p> | | on implementation of sustainable procurement in public procurement. |

9(b) Selection and contracting

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|--|---------------------|---|
| (a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process. | <p>The PPL has included options for single and multi-stages procurement, including with single and two envelopes.</p> <p>PPL 16/2018 s.44(10) further defined complex procurement as high risk, high technology, with use of specialized equipment, and/or when there is difficulty to technically justify technically how to meet the needs and objective of the procurement.</p> <p>The PPL 16/2018 s.44 sets out the requirement for use of pre-qualification for complex contracts, while the post-qualification is not required.</p> <p>The record in the e-procurement system and the analysis of sample contracts have confirmed the use of multi-stage procedures in practice for complex procurement as defined by the PPL.</p> | | Criterion met | | |
| (b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors. | <p>The samples contracts have used the standard procurement documents issued by LKPP and MPWH for Procurement of Civil Works. Further improvement has been made through issuance of Model Procurement Document (MPD) by LKPP through PerlemLKPP 12/2021, including Standard procurement documents for Works which was formerly issued by MPWH.</p> <p>[There is no specific Bidding Documents for International Competitive Procurement (Tender) and Design Build for Works/Plant, and EPC/Turnkey]</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The gap would be while the PPL provides the option to approach international market, the procurement documents for International Competitive Procurement (Tender) is not used. In addition, the procurement documents for Design Build for Works/Plant, and EPC/Turnkey is not available.</p> | | <p>Recommendation</p> <p>Promote international competition for complex and large value contacts and develop specific Bidding Documents for International Competitive Procurement (Tender) and Design Build for Works/Plant, and EPC/Turnkey.</p> |
| I Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework. | <p>The assessment has seen evidence of the practice of choosing procurement method, documentation and the justification of those to comply with the PPL.</p> <p>Procurement methods are chosen on the basis of budgetary thresholds and other requirements including the complexity of the works/services, and special circumstances to comply with the legal framework.</p> <p>In addition, the PPL has recently mandated development of procurement strategy and approach at the preparation stage for International Tender and this allow will allow to promote the practice of using fit for purpose and value for money considerations.</p> | | Criterion met | | |
| (d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders | <p>The practice is based on the mechanism and procedures for bid/proposal opening under Tender/Selection method as specified in the bidding documents, which are in line with the e-procurement system.</p> | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> | | <p>Recommendation</p> <p>Consider further revision to the PPL to extend the participation in monitoring bid opening to large public</p> |

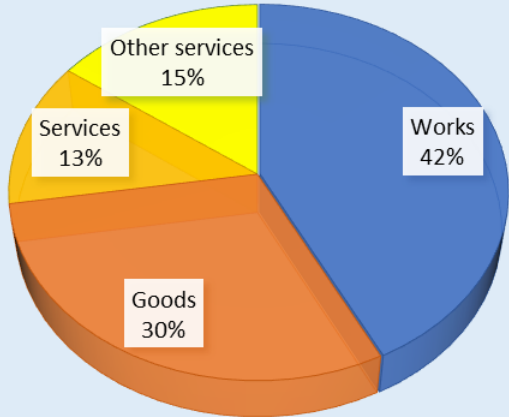
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|---|--|---------------------|--|
| or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed. | <p>However, as per the procedures of the PPL, the participation in the public opening is limited to registered users (bidders), and hence in the practice there is no specific link/announcement that is publicly available in the LSPE to notify the civil society to monitor bid submission, receipt and opening.</p> <p>Civil Society Organization is only described as one of the procuring entities who executes the procurement under <i>Swakelola</i> mechanism [move it to Pillar I].</p> | | <p>There is no specific link/announcement that is publicly available in the LSPE to notify the civil society to monitor bid submission, receipt and opening.</p> <p>Civil Society Organization is only described as one of the procuring entities who executes the procurement under <i>Swakelola</i> mechanism [move it to Pillar I].</p> | | including civil society and the system needs to be adjusted for this purpose. |
| (e) Throughout the bid evaluation and award process, confidentiality is ensured. | <p>The assessed practice revealed that all competitive procurement is conducted through the e-procurement system (SPSE) and hence with fair level of confidentiality.</p> <p>Since the Tender/Selection process is restricted to registered and authorized users there is high-level of confidentiality maintained in the process.</p> | | Criteria met | | |
| (f) Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract. | <p>PPL s.39 provides three options for evaluation of bids/proposals: (i) scoring system, (ii) economy life-cycle cost, and (iii) lowest price.</p> <p>Based on the assessed practice and also based on the sample contract, it appears that the lowest price and scoring system are the mostly used technique for bids/proposals evaluations. The assessment did not come across evidence on the use of economy life-cycle cost.</p> | | <p>Criteria partially met Minor GAP – may be considered as non-substantive.</p> <p>There is a need to promote the practice of using life-cycle-cost when it is justified to achieve better value for money.</p> | | <p>Recommendation</p> <p>Consider promoting the use of economy life-cycle cost approach by particularly issuing technical guidance its application.</p> |
| (g) Contract awards are announced as prescribed. | <p>There are two types of contract award announcement. The first announcement is made as “Notification of Award Decision”, which includes the proposed winner and candidates and the result of evaluation and reasons for rejections. The second one is published as “Contract Award Notice”, which allows the Contracting Officer to issue the “Letter of Acceptance” within five (5) days after the Contract Award Notice.</p> <p>The assessed practice concluded that contract award as announced as prescribed.</p> <p>While the notification is published as per the requirements of the PPL, there is no specific provisions on the minimum information that should be included in the announcement.</p> | | Criteria met | | <p>Suggestion for improvement</p> <p>While the notification is published as per the requirements of the PPL, there is no specific provisions on the minimum information that should be included in the announcement. To include in notification minimum information for better transparency</p> |
| (h) Contract clauses include sustainability considerations, where appropriate. | <p>The PPL provides provision regarding sustainable public procurement (PPL s.68), but the detailed technical guideline is not available yet.</p> <p>The assessed practice concluded that there is no specific provision that describes the sustainability consideration other than the need to consider use of life-cycle-cost as criteria.</p> <p>[See also note to Indicator 1 on the missing provisions on “sustainable construction”].</p> | | <p>Criterion partially met Minor GAP – may be considered as non-substantive.</p> <p>The PPL provides provision regarding sustainable public procurement (PPL s.68), but the detailed technical guideline is not available yet.</p> | | <p>Recommendation</p> <p>The PPL should be further strengthened to clarify the requirements regarding sustainable public procurement including issuing a detailed technical guideline.</p> |
| (i) Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance. | The standard procurement documents provide for contract clauses to address poor performance, particularly in works contracts [add specific reference]. However, there is no contractual provisions that grant incentives for exceeding defined performance levels. | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>There is no contractual provisions that grant incentives for exceeding defined performance levels.</p> | | <p>Recommendation</p> <p>Consider to include in the contractual clauses provisions that grant incentives for exceeding defined performance levels.</p> |
| (j) The selection and award process is carried out effectively, efficiently and in a transparent way. * | The selection and award process were carried out mostly on the basis of compliance with the “legal framework”. | Please see data in the left column in a box | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> | | <p>Recommendation</p> <p>To find reasons for lack of effective competition through data analytics, reaching out to private sector and take remedial measures to improve the competition</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|--------------|----|-------------------|----|----------------|----|------------------|----|--------------------|----|-----------|----|----------------------|----|--------------------|---------------------------------|-------------------|------------------------------|--|--|--|--|--|--|--|--|
| *Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j): - average time to procure goods, works and services - number of days between advertisement/solicitation and contract signature (for each procurement method used) - average number (and %) of bids that are responsive (for each procurement method used) - share of processes that have been conducted in full compliance with publication requirements (in %) - number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames) Source for all: Sample of procurement cases. | <p>The short timeline and percentage of bid price against the total cost estimate have been used mainly to justify the effectiveness and efficiency in the system. The use of e-procurement system (SPSE and e-catalogue) as a single platform has been also used to justify the level of transparency in the procurement process.</p> <p>The analysis of sample contracts shows that the average lead time for procurement is 52 days. The time take for selection of consultants is longer than other type of procurement. The difference of average lead time between Tender and Quick Tender methods is 30 days, which somehow indicates the effectiveness in using the vendor qualification system (SIKAP).</p> <p>The average number of bids (4 bids) and average number of responsive bids (2 bids) may indicate issue of overall level of competition in the process, particularly when comparing the number of bids and responsive bids under Tender and Quick Tender method (5 and 2 bids respectively), there was an issue regarding the reasons for rejection of bids and their qualifications. The record from SPSE of the assessed samples showed that the reasons for rejections under Tender method were mainly on qualifications requirements, which somehow indicates the effectiveness in using the vendor qualification system (SIKAP) while it could also leave the question on the quality of bid evaluation and determination of responsiveness of bids.</p> <p>Since the shortlisting process is also considered as prequalification then average shortlisted firms will be at least 3 firms.</p> <div><p>Average time to procure goods, works and services: 52 days.</p><p>Average number (and %) of bids that are responsive (for each procurement method used): 2 bids (50.5 %)</p><p>Share of processes that have been conducted in full compliance with publication requirements (in %): 100%,</p><p>84% of Budgeted Activities were listed in the e-procurement planning system (SIRUP), 45 % of published activities were actually procured*) <i>*as per LKPP Procurement Profile 2020.</i></p><p>Number (and %) of successful processes (successfully awarded (<i>of only Tender Method</i>) 75.562 packages/93.8%; failed/cancelled 3.548 packages/6.2%)* source LKPP Procurement Profile 2020. Awarded within defined time frames of the selected samples) -77.5%.</p></div> <p>Number of days between advertisement/solicitation and contract signature (for each procurement method used):</p> <table><tr><th>PROCUREMENT METHOD</th><th>Average Lead time (in days)</th></tr><tr><td>TENDER</td><td>55</td></tr><tr><td>QUICK TENDER</td><td>22</td></tr><tr><td>SIMPLIFIED TENDER</td><td>25</td></tr><tr><td>LIMITED TENDER</td><td>48</td></tr><tr><td>DIRECT SELECTION</td><td>45</td></tr><tr><td>DIRECT PROCUREMENT</td><td>53</td></tr><tr><td>SELECTION</td><td>67</td></tr><tr><td>SIMPLIFIED SELECTION</td><td>98</td></tr></table> <div><table><tr><th>PROCUREMENT METHOD</th><th>Average number of bids received</th><th>Average number of</th><th>Average % of responsive bids</th></tr><tr><td></td><td></td><td></td><td></td></tr></table></div> | PROCUREMENT METHOD | Average Lead time (in days) | TENDER | 55 | QUICK TENDER | 22 | SIMPLIFIED TENDER | 25 | LIMITED TENDER | 48 | DIRECT SELECTION | 45 | DIRECT PROCUREMENT | 53 | SELECTION | 67 | SIMPLIFIED SELECTION | 98 | PROCUREMENT METHOD | Average number of bids received | Average number of | Average % of responsive bids | | | | | | <p>In a tender process the average number of responsive bids is 2 which shows lack or very low level of competition</p> <p>In a tender process the time given to participants as 10 days even for large and complex contract, could be reason for lack of response and a deterrent to entry of new firms in the competition.</p> <p>Contract awarded within defined time frames of the selected samples) -77.5%.</p> | | |
| PROCUREMENT METHOD | Average Lead time (in days) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TENDER | 55 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| QUICK TENDER | 22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SIMPLIFIED TENDER | 25 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LIMITED TENDER | 48 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DIRECT SELECTION | 45 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DIRECT PROCUREMENT | 53 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SELECTION | 67 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SIMPLIFIED SELECTION | 98 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| PROCUREMENT METHOD | Average number of bids received | Average number of | Average % of responsive bids | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | | | | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|---|-----------------|------|--------------------------------------|---|---------------------|-----------------------------------|
| | | | responsive bids | | | | | |
| | TENDER | 4 | 2 | 50 % | | | | |
| | QUICK TENDER | 6 | 5 | 83% | | | | |
| | SIMPLIFIED TENDER | 5 | 2 | 40% | | | | |
| | LIMITED TENDER | 1 | 1 | 100% | | | | |
| | DIRECT SELECTION | 4 | 3 | 75% | | | | |
| | DIRECT PROCUREMENT | 2 | 1 | 50% | | | | |
| | SELECTION | 4 | 3 | 75% | | | | |
| | SIMPLIFIED SELECTION | 3 | 3 | 100% | | | | |
| | On the other hand, the reasons for failure of tender process shows that the rejection of bids on the basis of bidders/proposers’ qualifications is 20% of the total failure (source LKPP procurement profile 2020). | | | | | | | |
| | The total time allows for preparation and submission of bids (<i>minimum 10 days as per the PPL</i>) shows that the majority of the transaction is on the evaluation and award process (80% of the total process). This may somehow has linkage with the quality of the bids and the level of market responses, including the questions whether the market is segmented or not that prevent more competition. | | | | | | | |

9(c) Contract management

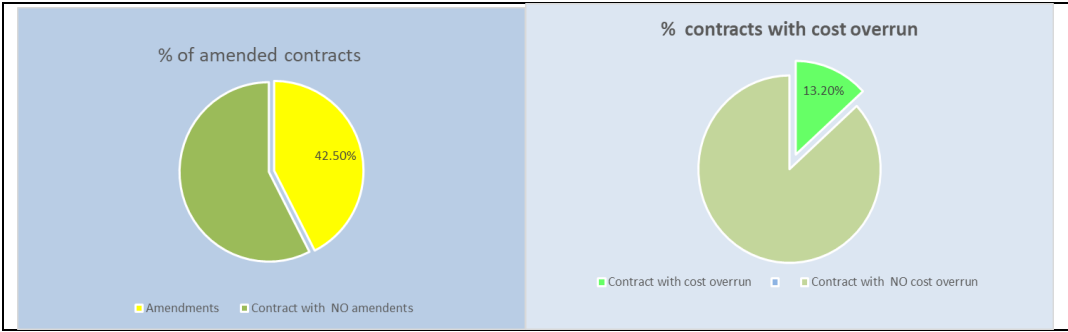
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|-------|-----|----------------|-----|----------|-----|---|---|--|--|
| <p>(a) Contracts are implemented in a timely manner.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %; and average delay in days)</p> | <p>The qualitative analysis of the assessment of this qualitative indicator can be summarized as follows: A sample of 120 contracts has been used for the assessment of the quantitative assessment under sub-indicator 9(c) Sample contracts were obtained from five ministries (MPWH 24 contracts, MEMR 11 contracts, MEC 10 contracts, MA 13 contracts and MCGA 15 contracts) and four Local Governments (Aceh 17 contracts, Bandung 4 contracts, Pinrang 13 contracts, and Rote Ndao 13 contracts)</p> <div><p>SAMPLE BY PROCUREMENT CATAEGORY</p><table><thead><tr><th>Category</th><th>Percentage</th></tr></thead><tbody><tr><td>Works</td><td>42%</td></tr><tr><td>Goods</td><td>30%</td></tr><tr><td>Other services</td><td>15%</td></tr><tr><td>Services</td><td>13%</td></tr></tbody></table></div> | Category | Percentage | Works | 42% | Goods | 30% | Other services | 15% | Services | 13% | <p>Please see the box in the column on the left</p> | <p>Criteria partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The quantitative assessment of the implementation of the PPL and the related contract management practices reveal that PPL principles of efficiency and value for money are not fully attained.</p> <p>While the PPL and its implementing regulations Perlem LKPP 12/2021 (section 7) provide for sufficient provisions and arrangements to ensure quality and timely contract implementation, the practice requires more attention to adequate capacity and enhancement of the contract management function to proactively manage, monitor, and measure the contract implementation particularly for civil works contracts. e-contract.</p> | | <p>Recommendation</p> <p>Strengthening further the performance of the Country's public procurement system would require an enhance data analytics dashboard for real-time monitoring and measurement of Public Procurement performance.</p> |
| Category | Percentage | | | | | | | | | | | | | | |
| Works | 42% | | | | | | | | | | | | | | |
| Goods | 30% | | | | | | | | | | | | | | |
| Other services | 15% | | | | | | | | | | | | | | |
| Services | 13% | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--|--|---------------------|--|
| | <p>The assessment shows that while 76.7 % of contracts were completed as per the original contractual completion period, 23.3 % of sample total contracts have experienced time overruns.</p> <p>The above finding is particularly consistent with what has been observed in civil works contracts in construction projects in Indonesia where a study⁸⁹ on Cost overrun and time delay of construction project (Riza Susanti 2020) has reported the example⁹⁰ of time delays for the case of Aceh where in the end of 2017, 460 infrastructures single year project have only progressed under 75%.</p> <p>Several reasons are invoked regarding time and cost overruns in civil works contracts, however the above-mentioned study states that the most factor causing time delay for owner was “inaccurate budgeting and resource planning” while according to contractors it is rather due to land acquisition delay.</p> <p>The average time overrun in days for the assessed sample of contracts was around 14 days. Out of 120 contracts, 28 contracts had experienced delays. The average time overrun for these 28 contracts, is 62 days.</p> <p>However, the sample has shown some contracts for civil works with time overrun between 7 months to one year.</p> | | | | |
| <p>(b) Inspection, quality control, supervision of work and final acceptance of products is carried out. *</p> <p>Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)</p> | <p>The provisions and procedures for inspection, quality control, and supervision procedures for goods, works and services are provided for in the PPL, the implementing regulations PerlemLKPP, and provided in the draft contracts/documents.</p> <p>For works contract and as per PerlemLKPP 12/2021, the parties to the contract supervise and control the implementation of the contract either directly or through another appointed party. Contract supervision/control maybe carried out individually or jointly by: (i) Contract Signing Officer; (ii) Independent third parties; (iii) Provider; and/or (iv) End User supervision/control.</p> <p>The provision of inspection, quality control, supervision of works and final acceptance (provisional Hand Over/PHO and Final Hand Over/FHO) are included in the contract. A supporting team or firm, appointed by authorized government official, supervises the works. The role and responsibility of supervisor of works is also specified in the contract clause 15 of GCC of civil work. The quality plan for construction works is normally submitted by Contractor, to be discussed and agreed by the Employer (GCC 21). Monitoring and assessment is also done jointly between contractor and the Employer (GCC 25) and to be recorded in the minutes. The quality control in term of time including delays in contract implementation is also done as per the general conditions of contract included GCC 27-32. The provision on progress report is also provided for and done in accordance of related contractual provision (GCC 57)</p> | For the assessed sample, the analysis has shown that the quasi totality of contracts (100 %) have complied with the regulatory and contractual provisions for inspection, quality control, and supervision procedures. | Criterion met. | | |
| <p>(c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract.</p> <p>Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods,</p> | <p>PPL and related Perlem LKPP implementation guidelines regulate the payment of contract depending on the procurement category and method.</p> <p>For works contracts Payment is made on a monthly basis or a term system or a lump sum payment after the progress of work is declared acceptable according to the provisions of the Contract</p> <p>The analysis of sample contracts shows that the average payment processing date for civil works contract is 3.5 days while for goods is 3 days. These are in line with the applicable payment processing procedures as supported with a good treasury database and system.</p> | 100% of Invoices for procurement of goods, works and services are paid on time (taken from payment processing | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The invoices are basically examined for the purpose of contract administration and audit while these are not recorded in a freely accessible online system.</p> <p>Information on invoices and payments are not currently available in e-procurement system.</p> | | <p>Recommendation</p> <p>Consider adding information on invoices and payments in the e-procurement system/SPSE (under e-contract) which shall be further enhanced to include interfacing/interoperability with the other related systems (e.g., SPAN, MONEV-NG)</p> |

⁸⁹ Cost overrun and time delay of construction project in Indonesia- Riza Susanti 2020 J. Phys.: Conf. Ser. 1444 012050 - <https://www.researchgate.net/publication/339009247> Cost overrun and time delay of construction project in Indonesia

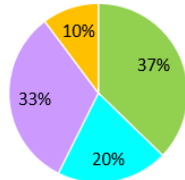
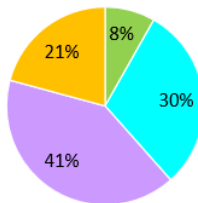
⁹⁰ <https://aceh.tribunnews.com/2017/12/19/keterlambatan-proyek-penyakit-tiap-tahun>

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|---|---|---------------------|--|
| works and services are paid on time (in % of total number of invoices). | | record of 13 of 120 samples). | The data does not show when invoice was submitted by the contractor, rather this time is based on date when paying authority inputs processing of invoice in the system. | | |
| <p>(d) Contract amendments are reviewed, issued and published in a timely manner.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts; average increase of contract value in %)</p> | <p>Contract amendment rules/procedures are stipulated in the PPL and implementing Perlems. For the case of civil works, changes of scope and contract amendment provision are made in compliance with the contract GCC 36 – 40 (civil works -standard bidding documents). Like all information related to the contract implementation, access to information on contract amendments are not available/published in e-procurement system and are not accessible to the public.</p> <div>  <p>For the assessed sample, the analysis, 42.5 % of the contracts have at least one amendment. The number amendments per contract varies between 1 to 9. Out of the 120 contracts of the assessed sample, 13.2 % had a cost overrun. The average increase of contract value for the total assessed sample is 3 %. This average is within the limit of 10 % stipulated by article 54(2) of the PPL</p> </div> | Please see the boxes in the left column | <p>Criterion not met</p> <p>GAP – may be considered as substantive. The risk is considered medium since the contract amendments are basically reviewed for the purpose of contract administration, budgeting and audit while these are yet recorded in a comprehensive e-procurement system that covers contract implementation.</p> <p>Contract amendments are not published and related information are not available to the public.</p> <p>Referring to the assessed sample of contracts, having a relatively high number of contract amendments may compromise the chances of achieving the PPL objectives of efficiency and value for money during contract implementation particularly in case of numerous time extensions and/or increases in contract original price. Changes or amendments to a contract should be monitored and analyzed to proactively address inadequate definition of the contract scope and procurement planning. Need for enhanced contract performance monitoring mechanism and control system.</p> <p>Fixed ceiling to be amended to consider exceptional situations in large infrastructure contracts (Dams/ HPP) where the nature of the works and terrains would require to amend the contract for more than 10% . This seems to come also from the limitation of budget allocation.</p> <p>In large infrastructure/FIDIC based contract based on item rate/BOQ (Dams/ HPP), variations beyond 10 % is routine due to the nature of the contract.</p> | NO | <p>Recommendation</p> <p>Contract amendments to be tracked.</p> <p>Consider revising PPL to provide for possibility to exceed the 10 % ceiling limit for contract amendment to take into consideration exceptional situations in large infrastructure contracts and to ensure efficiency of contract implementation.</p> |
| <p>(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.</p> | <p>Procurement statistics on the pre-award stages of procurement processes including contract award are available in procurement portal and published annually in the form a Procurement Profile. However, the same information is not made available, real time, to public.</p> <p>Detailed statistics on the contract management stage are not available in the e-procurement system and are not published or made accessible to public.</p> <p>TBC regarding the current approach of LKPP on the basis used to improve procurement practices (is there any KPIs in place to monitor the performance ?)</p> | | <p>Criterion partially met-</p> <p>Detailed statistics on the contract management stage are not available in the e-procurement system and are not published or made accessible to public</p> | | |
| <p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilized.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening;</p> | <p>While from the assessed sample contract it was found 20% of the selected samples included a process where civil society organization were involved in the procurement/contract implementation process, given the fact that Civil Society Organization is only described as one of the procuring entities who executes the procurement under <i>Swakelola</i> mechanism.</p> <p>Based on the assessed sample there is no evidence of direct involvement of civil society in planning phase; bid/proposal opening; evaluation and contract award, and contract implementation</p> | Please see data in the left column | <p>Criterion partially not met.</p> <p>GAP – may be considered as substantive. Direct involvement of other stakeholders (e.g., CSO) are not fully utilized as per the evidence in the sample contract and in the sample case under sub-indicator 11(c) that there is sample evidence for direct participation of</p> | NO | <p>Recommendation</p> <p>Consider to add specific mechanism and/or procedures for involving civil society organization in monitoring procurement and contract implementation process, which can be embedded into the e-procurement system (for example providing option/link for subscription, putting information on the procurement process</p> |

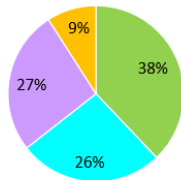
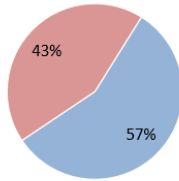
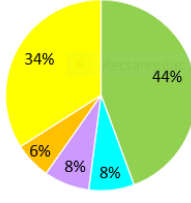
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|--|
| evaluation and contract award, as permitted; contract implementation) Source for all: Sample of procurement cases. | While from the assessed sample contract it was found 20% of the selected samples included a process where civil society organization were involved in the procurement/contract implementation process | | citizens in procurement processes through consultation, observation and monitoring. Based on which, the risk is considered medium. | | (opening and award) in SPSE with option to attend online/in-person. |
| (g) The records are complete and accurate, and easily accessible in a single file.* // Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g): - share of contracts with complete and accurate records and databases (in %) Source: Sample of procurement cases* | In the sampled contracts there was not a single- case where records are complete and accurate, and easily accessible in a single file | 0% | Criterion not met GAP – may be considered as substantive. The risk is considered medium. This gap emanates from the way the procurement function (which starts from need assessment/procurement planning till Contract completion) are divided among different agencies and records are kept separately | NO | Recommendation E- Procurement system to facilitate access and retention of records in a single place |

10. The public procurement market is fully functional

10(a) Dialogue and partnerships between public and private sector

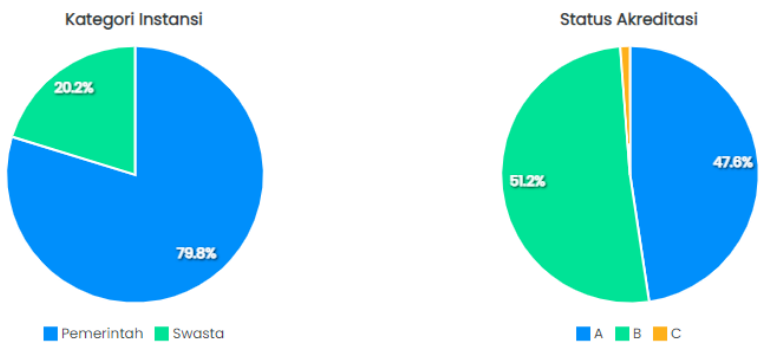
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | |
|---|--|--------------------------------------|---|---------------------|-----------------------------------|--------|-----|-------|----|--------|----|-------|-----|--------|-----|-------|-----|--------------------------------------|---|--|--|
| <p>(a) The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government. *</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):</p> <ul style="list-style-type: none">- perception of openness and effectiveness in engaging with the private sector (in % of responses). <p>Source: Survey.</p> | <p>Based on the results of private sector survey⁹¹, in response to question #24 the response was as under:</p> <p>24. DOES THE GOVERNMENT COMMUNICATE/SOCIALIZE THE CHANGE IN GOVERNMENT PROCUREMENT POLICY/REGULATION TO THE BUSINESS ASSOCIATION?</p> <table><tr><td>Always</td><td>222</td></tr><tr><td>Often</td><td>120</td></tr><tr><td>Seldom</td><td>193</td></tr><tr><td>Never</td><td>61</td></tr></table>  <p>It is seen that out of 596 responses, 342 (57%) responded “always” and “often”, and therefore there is substantial consultation, although there is need for improvement</p> <p>Based on another question #25 on the same sub-indicator response is as under:</p> <p>25. DO YOU FIND ANY DIFFICULTY TO KEEP UP WITH CHANGES IN GOVERNMENT PROCUREMENT POLICIES/REGULATIONS?</p> <table><tr><td>Always</td><td>49</td></tr><tr><td>Often</td><td>180</td></tr><tr><td>Seldom</td><td>243</td></tr><tr><td>Never</td><td>124</td></tr></table>  | Always | 222 | Often | 120 | Seldom | 193 | Never | 61 | Always | 49 | Often | 180 | Seldom | 243 | Never | 124 | <p>Data given in the left column</p> | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Though there is substantial consultation, there is a need for better transparency in the consultative process</p> | | <p>Recommendation</p> <p>There is room for further improvement such as establishment of a permanent virtual forum in LKPP website to allow private sector and interested public for continuous debates and information sessions regarding the implementation of the current public procurement framework and idea for suggestions for its improvement.</p> <p>Steps to be taken for more inclusive and frequent consultations</p> |
| Always | 222 | | | | | | | | | | | | | | | | | | | | |
| Often | 120 | | | | | | | | | | | | | | | | | | | | |
| Seldom | 193 | | | | | | | | | | | | | | | | | | | | |
| Never | 61 | | | | | | | | | | | | | | | | | | | | |
| Always | 49 | | | | | | | | | | | | | | | | | | | | |
| Often | 180 | | | | | | | | | | | | | | | | | | | | |
| Seldom | 243 | | | | | | | | | | | | | | | | | | | | |
| Never | 124 | | | | | | | | | | | | | | | | | | | | |

⁹¹Private Sector Survey was conducted in 2021 with responses received from 596 entities with business categories as Supplier of goods, Construction companies, Consulting, both individual and firms located in Jakarta, Jawa and Bali and also outside. The information was collected anonymously using Microsoft tool with a total of 57 items in the questionnaire and results completed in Nov 2021. Further details on Survey Methodology and complete results of survey are included in Annex (Volume III)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|--------|-----|-------|----|-----|-----|----|-----|-------------------------------|-----|---------------------------|----|--|----|---|----|-----------------------------|-----|--|--|--|--|
| | <p>This points to the fact that 367 respondents out of 596 (about 62%) seldom or never face difficulties to keep with the changes in government procurement policies and regulations, which is consistent with answer at question #24.</p> <p>There are three more question, #25, #26 and #27 on this sub-criterion for which responses are as under:</p> <div><p>26. DO YOU HAVE CONMPETENT RESOURCES THAT YOU CAN FOLLOW THE CHANGES IN GOVERNMENT PROCUREMENT POLICIES/REGULATIONS?</p><table><tr><td>Always</td><td>226</td></tr><tr><td>Often</td><td>158</td></tr><tr><td>Seldom</td><td>158</td></tr><tr><td>Never</td><td>54</td></tr></table></div> <div><p>27. DOES THE GOVERNMENT ASSIST YOU IN FOLLOWING THE GOVERNMENT PROCUREMENT REFORMS?</p><table><tr><td>YES</td><td>338</td></tr><tr><td>NO</td><td>258</td></tr></table></div> <div><p>28. IF YOUR ANSWER IS YES, HOW?</p><table><tr><td>Information and socialization</td><td>150</td></tr><tr><td>Training and Consultation</td><td>26</td></tr><tr><td>Procurement process through E-catalogue and Online Media</td><td>26</td></tr><tr><td>By keeping up with the regulations and applicable law</td><td>21</td></tr><tr><td>No Response/Unclear answers</td><td>115</td></tr></table></div> <p>Based on response of Q#26, about 65% of respondents have competent resources to follow changes in government procurement policies/regulations, 57% receive assistance from the government in following the reform with multiple information sources.</p> <p>Perception of openness and effectiveness in engaging with the private sector (in % of responses). Source: Survey. 57% as “always” and “often”</p> <p>LKPP initiates public consultation whenever there is proposal for new or amendment to existing regulations, and implementation guidance as in the case of the recently issued/amended PerlemLKPP. Moreover, the result of annual public satisfaction survey is also published on LKPP website regularly. <i>The current practice of inclusive consultation with private sector on public procurement reform is being confirmed by the private sector survey carried out as part of the assessment where almost 90 % of the respondents have stated that they acknowledge the practice of the Government in engaging the change in government procurement policy/regulation with the private sector.</i></p> | Always | 226 | Often | 158 | Seldom | 158 | Never | 54 | YES | 338 | NO | 258 | Information and socialization | 150 | Training and Consultation | 26 | Procurement process through E-catalogue and Online Media | 26 | By keeping up with the regulations and applicable law | 21 | No Response/Unclear answers | 115 | | | | |
| Always | 226 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Often | 158 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Seldom | 158 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Never | 54 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| YES | 338 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| NO | 258 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Information and socialization | 150 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Training and Consultation | 26 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Procurement process through E-catalogue and Online Media | 26 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| By keeping up with the regulations and applicable law | 21 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| No Response/Unclear answers | 115 | | | | | | | | | | | | | | | | | | | | | | | | | | |

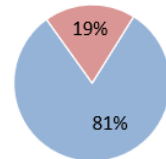
*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

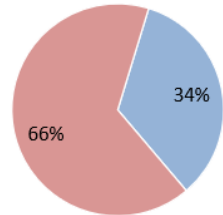
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|--------------------|----|-----------------------------|----|--------------------------------|---|-----------------------------|---|----------------------|----|-----------------------------|-----|--|---|--|--|
| (b) The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace. | <p>Related to the given sub-indicator, the response to questions # 29 and #30 are as under:</p> <p>29. DO YOU KNOW ABOUT CAPACITY BUILDING/TRAINING PROGRAMS FOR BUSINESSES AND MSME'S RUN BY THE GOVERNMENT?</p> <table><tr><td>YES</td><td>196</td></tr><tr><td>NO</td><td>400</td></tr></table> <p>30. IF YOUR ANSWER IS YES, HOW?</p> <table><tr><td>Public Information</td><td>33</td></tr><tr><td>Training programs & Seminar</td><td>37</td></tr><tr><td>Through organization (INKINDO)</td><td>3</td></tr><tr><td>Through regional government</td><td>2</td></tr><tr><td>Through MSME's Media</td><td>21</td></tr><tr><td>No Response/Unclear answers</td><td>100</td></tr></table> <p>The above response, based a figure of 67% as “No” is a pointer for huge effort to build capacity for business and MSME’s run by the government that includes Local Governments, Ministries and Agencies, LKPP and Associations (INKINDO, LPJK and KADIN)</p> <p>LKPP has programmes that specifically designed for building the procurement capacity of private companies and MSMEs. The training programmes are available in LKPP website and the information for registration are also provided in the website (https://ppsdm.lkpp.go.id/enrollment/jadwal#PelatihanPBJ).</p> <p>In addition, LKPP has some partnership with the other public procurement stakeholders such as Indonesian Association of Public Procurement Expert (IAPI) https://www.iapi-indonesia.org/) in delivering the some public procurement training and knowledge sharing. The IAPI also delivers its own public procurement capacity building for private sector and MSMEs (https://www.iapi-indonesia.org/events?page=1).</p> <p>LKPP also authorizes other public and private institutions to deliver public procurement training to both public procurement workforce and private sector and establishes their accreditation (see figure below).</p> | YES | 196 | NO | 400 | Public Information | 33 | Training programs & Seminar | 37 | Through organization (INKINDO) | 3 | Through regional government | 2 | Through MSME's Media | 21 | No Response/Unclear answers | 100 | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The perception of the private sector regarding the training program opportunities arranged by LKPP indicates need for substantial improvement. 67 % of the survey respondents stated that they are not aware/informed about the availability/details of these programs.</p> | | <p>Recommendation</p> <p>Huge efforts required to build capacity for business and MSME’s run by the government including introduce and expand the information on training program opportunities using the email subscription or mobile apps/text messages notification.</p> |
| YES | 196 | | | | | | | | | | | | | | | | | | | | |
| NO | 400 | | | | | | | | | | | | | | | | | | | | |
| Public Information | 33 | | | | | | | | | | | | | | | | | | | | |
| Training programs & Seminar | 37 | | | | | | | | | | | | | | | | | | | | |
| Through organization (INKINDO) | 3 | | | | | | | | | | | | | | | | | | | | |
| Through regional government | 2 | | | | | | | | | | | | | | | | | | | | |
| Through MSME's Media | 21 | | | | | | | | | | | | | | | | | | | | |
| No Response/Unclear answers | 100 | | | | | | | | | | | | | | | | | | | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>PBJ Training Institute (LPPBJ) And Implementing PBJ Exams</p> <p>BASED ON ACCREDITATION BASED ON THE APPLICATION PROCESS</p> <p>Total LPPBJ : 87</p>  <p>Source : https://ppsdmlkpp.go.id/statistik-data/lembaga-pelaksana-pelatihan-dan-ujian-pbj</p> <p>The perception of the private sector regarding the existence and the information of these seems to be different as per the result of the private sector survey. 67 % of the respondents have stated that they are not aware/informed about the existence/details about these programs. Therefore, there is a need to further introduced and expand the information on the training program opportunities using the email subscription or mobile apps/text messages notification.</p> | | | | |

10(b) Private sector's organization and access to the public procurement market

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|--|---------------------|--|
| <p>(a) The private sector is competitive, well-organized, willing and able to participate in the competition for public procurement contracts. *</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):</p> <ul style="list-style-type: none"> • number of registered suppliers as a share of total number of suppliers in the country (in %) • share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) • total number and value of contracts awarded to domestic/foreign firms (and in % of total) <p>Source: E-Procurement system/Supplier Database.</p> | <p>Based on the findings of CPSD Indonesia's economy is marked by a combination of micro, small, and medium enterprises (MSMEs) and large state-owned enterprises (SOEs). MSMEs and SOEs both suffer from low productivity and exhibit limited integration into regional and global value chains.</p> <p>The SOE sector plays a major role in the economy, and the interests of SOEs greatly influence economic policy. SOEs receive public subsidies and operate as monopolists or dominant players in key sectors. Indonesian firms typically export relatively unsophisticated products, and this pattern has changed little over the past several decades.</p> <p>The deterioration of Indonesia's manufacturing competitiveness is also reflected in the decreasing share of manufacturing in GDP and in the country's diminished attractiveness as a destination for export-oriented foreign direct investment (FDI). The latter effect has especially serious long-term implications, as export oriented FDI is typically associated with high rates of product and process innovation. Unlocking the dynamism of Indonesia's private sector will require addressing four related gaps that inhibit productivity growth and weaken firm-level incentives to innovate. These gaps involve competition, infrastructure, human capital, and finance.</p> <p>Based on data available publicly at www.sikap.lkpp.go.id, as of January 8, 2023, number of business actors registered for various service providers is 290,099 out of which 200,239 are SME and 48,246 are qualified business actors. The information on quantitative indicator in the assessment criteria is not available yet in e-procurement system.</p> | | <p>Criteria partially met</p> <p>Minor GAP – maybe considered as non-substantive.</p> <p>Private sector is not competitive due to several constraints.</p> <p>As per CPSD, Unlocking the dynamism of Indonesia's private sector will require addressing four related gaps that inhibit productivity growth and weaken firm-level incentives to innovate. These gaps involve competition, infrastructure, human capital, and finance.</p> | | <p>Recommendation</p> <p>To remove constraints four related gaps that inhibit productivity growth and weaken firm-level incentives to innovate. These gaps involve competition, infrastructure, human capital, and finance.</p> |
| <p>(b) There are no major systemic constraints inhibiting private sector</p> | <p>Related to access to public procurement market the response is captured in the following three questions # 35, 36, 37</p> | | <p>Criteria partially met</p> <p>Minor GAP – maybe considered as non-substantive.</p> | | <p>Recommendation</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|--------------------------------------|---|--------------------------|-----------------------------------|----|---------------------|-----|----|--------------------|-----|----|--|-----|----|--|-----|----|---------------------------|-----|----|---|-----|----------------------------------|--------------------|--------------------|----------------|---------------------------|------------------------------|---|--|------------------------------|------------------------|--|---|--|--|
| <p>access to the public procurement market.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):</p> <p>- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).</p> <p>Source: Survey.</p> | <p>As the survey has targeted domestic firms ,81% of respondents have stated that the conditions in the public procurement market are appropriate and promote access and participation in open competition. Large number of the respondents (89 %) have stated that proportional procurement method and simple/flexible rules as main conditions that would help them access and participate in open competition. Other part of the respondents (.....) have added that the use of an open and functional e-procurement system as another top condition that would facilitate their access and participation in open competition.</p> <p>35. DO YOU THINK THE PUBLIC PROCUREMENT IS WELL CREATED AND THEN CREATES ACCESS FOR PARTICIPATING IN OPEN COMPETITION FOR PUBLIC CONTRACTS?</p> <table><tr><td><div><div></div>YES</div></td><td>484</td></tr><tr><td><div><div></div>NO</div></td><td>112</td></tr></table>  <p>36. IF YOUR ANSWER NUMBER 35 IS YES, PLEASE CHOOSE THE FOLLOWING CONDITIONS THAT OCCUR IN THE PUBLIC PROCUREMENT THAT YOU CONSIDER TO HELP YOU TO PARTICIPATE IN OPEN COMPETITION</p> <table><tr><td>A.</td><td>Access to financing</td><td>154</td></tr><tr><td>B.</td><td>Fair payment terms</td><td>152</td></tr><tr><td>C.</td><td>Effective mechanisms for appeal and dispute resolution</td><td>123</td></tr><tr><td>D.</td><td>Proposional procurement method between risk and value of procurement package</td><td>276</td></tr><tr><td>E.</td><td>Simple and flexible rules</td><td>253</td></tr><tr><td>F.</td><td>Provisions in contract that help distribute risks fairly (particularly risks associated with the performance of the contract)</td><td>187</td></tr></table> <p>37. FROM THE POINT OF PRIVATE SECTOR VIEW, WHAT CONDITIONS SHOULD BE IMPROVED IN GOVERNMENT PROCUREMENT?</p> <table><tr><td>Fairness, Transparency, Openness</td><td>Business certainty</td></tr><tr><td>Incentive for MSME</td><td>Fair financing</td></tr><tr><td>Simple and flexible rules</td><td>Competency & Human Resources</td></tr><tr><td>Improved bureaucracy & permits management</td><td>Improved electronic procurement system</td></tr><tr><td>Competitive & Rational Price</td><td>E-catalogue management</td></tr></table> | <div><div></div>YES</div> | 484 | <div><div></div>NO</div> | 112 | A. | Access to financing | 154 | B. | Fair payment terms | 152 | C. | Effective mechanisms for appeal and dispute resolution | 123 | D. | Proposional procurement method between risk and value of procurement package | 276 | E. | Simple and flexible rules | 253 | F. | Provisions in contract that help distribute risks fairly (particularly risks associated with the performance of the contract) | 187 | Fairness, Transparency, Openness | Business certainty | Incentive for MSME | Fair financing | Simple and flexible rules | Competency & Human Resources | Improved bureaucracy & permits management | Improved electronic procurement system | Competitive & Rational Price | E-catalogue management | | <p>Constraint on proportional procurement method and simple/flexible rules as main conditions that would help them access and participate in open competition and the use of an open and functional e-procurement system as another top condition that would facilitate their access and participation in open competition.</p> | | <p>To engage with private sector to remove constraints as per feedback from private sector survey</p> <p>Areas of improvements are: opening period of registration for e-catalogue, information on e-Procurement and access by MSME due to lack of skilled human resources</p> |
| <div><div></div>YES</div> | 484 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <div><div></div>NO</div> | 112 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A. | Access to financing | 154 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. | Fair payment terms | 152 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C. | Effective mechanisms for appeal and dispute resolution | 123 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| D. | Proposional procurement method between risk and value of procurement package | 276 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| E. | Simple and flexible rules | 253 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| F. | Provisions in contract that help distribute risks fairly (particularly risks associated with the performance of the contract) | 187 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fairness, Transparency, Openness | Business certainty | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Incentive for MSME | Fair financing | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Simple and flexible rules | Competency & Human Resources | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Improved bureaucracy & permits management | Improved electronic procurement system | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Competitive & Rational Price | E-catalogue management | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>56. IN YOUR OPINION, DOES ELECTRONICAL PROCUREMENT SYSTEM CAUSE THE LOSS OF MSME's OPPORTUNITIES DUE TO DIFFICULTIES IN ENTERING OFFERS ELECTRONICALLY?</p> <div> <div> <div>YES</div> <div>203</div> </div> <div> <div>NO</div> <div>393</div> </div> </div>  <p>57. PLEASE EXPLAIN YOUR ANSWER NUMBER 56 ABOVE</p> <div> <p>REASON FOR ANSWERING YES :</p> <ul style="list-style-type: none"> Opening period of registration for e-catalogue is too long so that the newly grown MSMEs do not have the opportunity to register their products Limitations of capital and information related to electronic procurement system application Difficulty to access, and lack of skilled-human resources Incapable of competing Limited skills </div> <div> <p>REASON FOR ANSWERING NO :</p> <ul style="list-style-type: none"> MSMEs can participate in e-catalogues MSMEs can follow the electronic bidding process Open and easy procurement process More Transparent and Monitorable Fairness and Free competition More Accessible More Efficient and Effective Save Costs </div> <p>Therefore, areas of improvements are: opening period of registration for e-catalogue, information on e-Procurement and access by MSME due to lack of skilled human resources</p> | | | | |

10(c) Key sectors and sector strategies

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|---|
| (a) Key sectors associated with the public procurement market are identified by the government. | Related to this sub-criterion some evidence for overall sector (not public procurement market) is available from CPSD. The objective of the Country Private Sector Diagnostic (CPSD) ⁹² is to identify cross-cutting and sector-specific policy constraints that hinder the expansion of market opportunities, private sector investment, and unlocking the dynamism of Indonesian private sector. Three sectoral analyses were incorporated in CPSD, Health Services, Education Technology and Financial Technology | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> | | <p>Recommendation</p> <p>To identify cross-cutting and sector-specific policy constraints that hinder the expansion of market opportunities in public procurement to improve</p> |

⁹² Creating Markets in Indonesia- Unlocking the Dynamism of Indonesian Private Sector (Oct 2019)- A Joint Study by the World Bank and International Financial Corporation
https://www.ifc.org/wps/wcm/connect/publications_ext_content/ifc_external_publication_site/publications_listing_page/cpsd-indonesia

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|--|
| | <p>Based on Sample cases (indicator-9) in a tender process the average number of responsive bids is 2 which shows lack of competition</p> <p>The GOI is strongly emphasize the participation of UMKM (small business enterprises) in the public procurement and recently there is an agenda on the gender inclusive in public procurement, especially women owned business.</p> | | No targeted assessment of key sector markets with collaboration of market participants. Based on Sample cases (indicator-9) in a tender process the average number of responsive bids is 2 which shows lack of competition | | competition, strengthen integrity, sustainability and/or innovation in collaboration with market participants. |
| (b) Risks associated with certain sectors and opportunities to influence sector markets are assessed by the government, and sector market participants are engaged in support of procurement policy objectives. | <p>Related to procurement market, there are risks associated with need for mandatory association (as required by procurement laws and regulation) by a foreign firm with a local firm as Joint Venture which could lead to foreign firms just lending their qualification to secure a contract without any effective participation by them in contract execution, thus leaving a local and generally less inexperienced firm to undertake task which is beyond their capacity and capability. This defeats the entire purpose of JV which is meant to complement resources, capacity, capability and expertise. This could lead to contract delays, loss of quality of work and potential for contract failure. But this is just one example of risk.</p> <p>There is a need for comprehensive study and data analytics and how to support sector market participants in furthering procurement policy objectives of the government.</p> | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Need for mandatory association (as required by procurement laws and regulation) by a foreign firm with a local firm may not lead to better competition and value-for-money.</p> | | <p>Recommendation</p> <p>Need for detailed study including data analytics to assess the risk certain sectors and opportunities to influence sector markets and how to engage market participants to support procurement policy objectives</p> |

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

11. Transparency and civil society engagement foster integrity in public procurement

11(a) Enabling environment for public consultation and monitoring

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | |
|---|---|--------------------------------------|---|---------------------|--|--------------------|------------|------------|-----|---|----|----|---|----|------------------|---|----|-------------------|----|-----|
| (a) A transparent and consultative process is followed when formulating changes to the public procurement system. | Background of feedback from CSO | | Criteria partially met Minor GAP – may be considered as non-substantive. Based on the responses, the involvement of CSO in procurement process in general is not consultative and transparent. 80% of responses are “No” or “Uncertain”. As per given feedback, at the time of the pandemic, the level of transparency decreased. | | Recommendation Government to consider enhancing further consultative process while formulating changes to the public procurement system. | | | | | | | | | | | | | | | |
| | Response to question Is there a transparent and consultative process when changes are formulated to the public procurement system? | | | | | | | | | | | | | | | | | | | |
| | Findings: Based on the nature of response number and percentage is as under | | | | | | | | | | | | | | | | | | | |
| | <table><tr><th>Nature of response</th><th>Number</th><th>Percentage</th></tr><tr><td>Yes</td><td>2</td><td>20</td></tr><tr><td>No</td><td>5</td><td>50</td></tr><tr><td>May be/uncertain</td><td>3</td><td>30</td></tr><tr><td>Total respondents</td><td>10</td><td>100</td></tr></table> | | | | | Nature of response | Number | Percentage | Yes | 2 | 20 | No | 5 | 50 | May be/uncertain | 3 | 30 | Total respondents | 10 | 100 |
| | Nature of response | | | | | Number | Percentage | | | | | | | | | | | | | |
| Yes | 2 | 20 | | | | | | | | | | | | | | | | | | |
| No | 5 | 50 | | | | | | | | | | | | | | | | | | |
| May be/uncertain | 3 | 30 | | | | | | | | | | | | | | | | | | |
| Total respondents | 10 | 100 | | | | | | | | | | | | | | | | | | |
| Summary of responses: (i)There is already a transparent and consultative process, but it is still limited to the development of Central Information Commission Regulations regarding Public Information Service Standards. In other policy making process, including the drafting of Presidential Regulation No. 16/2018 and its implementing regulations (Peraturan Lembaga) issued by LKPP, has not engaged civil society (ii) LKPP as the authorized body to formulate policies on the Public Procurement System are quite open and informative in the procurement policy preparation process. LKPP in formulating the Perpres No.16 in 2018 fairly accommodated the input from CSOs. Some FGDs performed by LKPP in the process of the preparation provides opportunities for the CSOs to provide their inputs and recommendations. On the other hand, these are contradicted with what the other governments units have made in promoting transparency and accountability in public procurement. The issuance of Perpres No.1 in 2020 for anticipating Covid-19 pandemic has been an impediment for these efforts as it may protect the government for any misconduct and prohibited practices in the procurement process of Covid-19 management program; (iii)Not yet fully transparent and consultative in formulating Public Procurement System. We have only been involved in the preparation of the Regulation of the Head of LKPP related to Guidelines for Compiling a List of Public Information related to Information and Documentation of Procurement of Goods/Services in LKPP internally. We have not been involved in other policies formulation. The public is also not involved in an inclusive manner; (iv) The issuance of Perpres No. 1 in 2020 for anticipating Covid-19 pandemic has been an impediment for these efforts as it may protect the government for any misconduct and prohibited practices in the procurement process of Covid-19 management program; (v)We have never received information and/or invitations from government agencies related to the formulation of Public Procurement policies (vi)Community organizations are involved in formulated to the public procurement system (vii) To a certain extent, there is a transparent and consultative process regarding the formulation of public procurement system policies. For example, our organization through the Knowledge Sector Initiative, was involved in providing input for the revision of LKPP Regulation no. 8/2018 regarding Type III Swakelola. This kind of thing need to be continuously improved, so that the inputs given can be | | | | | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potenti al red- flag? | Initial input for recommendations | | | | | | | | | | | | | | | |
|--|--|--------------------------------------|---|-----------------------|---|---|----|----|---|----|------------------|---|----|-------------------|----|-----|--|---|--|---|
| | <p>followed up. (viii) Throughout 2016, there has been a consultative process related to the formulation of the public procurement policies. This is evidenced by the several times we have been involved and even coordinate procurement policies with LKPP. LKPP has also been a resource person several times and has taken the consultation process as input for changes to public procurement policies; (ix)Not yet fully transparent and not yet fully consultative in the formulation of Public Procurement system policy; and (x)At the time of the pandemic, the level of transparency decreased. The Public Procurement process has also not been consultative</p> | | | | | | | | | | | | | | | | | | | |
| (b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement. | <p>Response to question: Whether programs are in place to build capacity of CSOs to support participatory public procurement?</p> <p>Findings: Based on the nature of response number and percentage is as under</p> <table><tr><th>Nature of response</th><th>Number</th><th>Percentage</th></tr><tr><td>Yes</td><td>1</td><td>10</td></tr><tr><td>No</td><td>3</td><td>30</td></tr><tr><td>May be/uncertain</td><td>6</td><td>60</td></tr><tr><td>Total respondents</td><td>10</td><td>100</td></tr></table> <p>Summary of response: (i)In 2019, LKPP together with our organization conducted a series of capacity building activities and monitoring of the PBJP for journalists and Civil Society Organization (CSO) in 4 regions as well as 1 activity at national level. However, this activity was only a year program supported by donors and has not become a routine activity; (ii) LKPP together with few CSOs have conducted several monitoring trainings for civil society in these areas. However, with the development of procurement regulations and systems, it is important to update and expand the training participants in the regions; (iii)It has been done several times by providing training, capacity building to CSOs regarding the public procurement mechanism and how to monitor Public Procurement. However, it needs to be carried out periodically by LKPP; (iv) The capacity building program for CSOs carried out by LKPP already exists but is very limited, it needs to be improved; (v) LKPP has carried out capacity building for our organization regarding the Government Procurement system and its supervision; (vi) Our organization has never specifically received information regarding the capacity building program for CSOs to support participatory government procurement. Our own search on the internet shows the existence of LKPP e-learning procurement on YouTube. However, we never specifically obtained information about the validity or relevance of these info to us. There is a possibility that this is because previously CSOs legally did not have a channel to government procurement (only starting in 2018 there was ST3); and (vi) What our organization know is that there are MADANI (USAID) and KSI (DFAT) programs that have programs to support the capacity of CSOs to participate in public procurement. However, the capacity building of CSOs can also be increased apart from the program, for example by following the invitation for consultation and socialization by LKPP regarding the rules of public procurement, etc. At least the knowledge of CSOs has increased, for example, there are more participatory in public procurement regulation.</p> | Nature of response | Number | Percentage | Yes | 1 | 10 | No | 3 | 30 | May be/uncertain | 6 | 60 | Total respondents | 10 | 100 | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Based on the responses, programs to support the capacity of CSOs to participate in public procurement is practically non-existent with 90% of responses as “No” or “Uncertain”</p> <p>Also, It is seen that the feedback on effectiveness of capacity building program is a mixed response, and therefore needing improvements</p> | | <p>Recommendation</p> <p>Government to consider build the capacity of relevant stakeholders to understand, monitor and improve public procurement.</p> |
| Nature of response | Number | Percentage | | | | | | | | | | | | | | | | | | |
| Yes | 1 | 10 | | | | | | | | | | | | | | | | | | |
| No | 3 | 30 | | | | | | | | | | | | | | | | | | |
| May be/uncertain | 6 | 60 | | | | | | | | | | | | | | | | | | |
| Total respondents | 10 | 100 | | | | | | | | | | | | | | | | | | |
| (c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society. | <p>Based on the responses as at 11 (a) (a) above like at item (iii) for example, “Not yet fully transparent and consultative in formulating Public Procurement System. We have only been involved in the preparation of the Regulation of the Head of LKPP related to Guidelines for Compiling a List of Public Information related to Information and Documentation of Procurement of Goods/Services in LKPP internally. We have not been involved in other policies formulation. The public is also not involved in an inclusive manner”</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Based on the responses, there is limited evidence that the government takes into account the input, comments and feedback received from civil society.</p> | | <p>Recommendation</p> <p>Government to consider taking the input, comments and feedback received from civil society.</p> | | | | | | | | | | | | | | | |

11(b) Adequate and timely access to information by the public

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| (a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation. | <p>Part of the response from one of the organization relates to adequate and timely access to information by the public, which are on the following lines: Some things that could be encouraged to create a community participation (or public/citizen participation) space in the process procurement of goods and services are: (i) enhance the disclosure of information on the PBJP in e-procurement platforms; (ii) strengthen capacity building activities for Civil Society Organization (CSO) in monitoring the procurement process. ; (iii) establish community committee representative in each LPSE (UKPBJ) represented by community councils or other beneficiaries with the role of conveying development proposals from the community, ensuring the benefits to the community of the projects implemented, enquiring projects indicated misappropriation; (iv) strengthen the feedback system managed by LKPP with wide-ranging authorization to respond to community reports so that it can be reliable and widely use.</p> <p><i>This indicator is linked to sub-indicator 1(a)- the laws, regulations, and policies governing public procurement are published and easily accessible to the public at no extra cost.</i></p> <p>PPL s.50(1) provides that the bidding process through tender/selection shall include Announcement and/or Invitation. PPR provide that such announcements/invitations shall be published on the SPSE and sets out the minimum content of such announcement.</p> <p><i>This indicator is linked on Sub-indicator 7 (a)- Free access to the information is preferably provided through a centralized online portal and open data standards-</i></p> | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>The given feed-back shows instances of lack of adequate and timely access to information and need for disclosure on e-Procurement platform. link with sub-indicator 1 (a) and 7(a)</p> | | Enhance the disclosure of information in e-procurement platforms; |

11(c) Direct engagement of civil society

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|-----|--|---|---|----|--|---|----|------------------|--|---|----|-------------------|--|----|-----|--|---|--|--|
| (a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate: • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). | <p>The response to the question: “Are CSOs permitted or encouraged to act as observers in procurement proceedings?”</p> <p>Findings: Based on the nature of response number and percentage is as under:</p> <table><tr><th>Nature response</th><th>of</th><th>Number</th><th>Percentage</th></tr><tr><td>Yes</td><td></td><td>0</td><td>0</td></tr><tr><td>No</td><td></td><td>6</td><td>60</td></tr><tr><td>May be/uncertain</td><td></td><td>4</td><td>40</td></tr><tr><td>Total respondents</td><td></td><td>10</td><td>100</td></tr></table> <p>Summary of response: (i) If referring to the rules concerning the procurement of goods/service by the Government (PBJP), it is not explicitly mentioned the role of in the process of planning, preparation, election, and implementation of the PBJP, although it is mentioned in article 71 paragraph 3 (PerPres No. 16 of 2018) that the other SPSE support system includes management of community/public participation management. But until now the implementation of community/public participation management is still limited to the presentation of information in online platforms as well as management of community complaints. The process of monitoring the PBJP that has been carried out by our organization, together with its network, is an independent initiative without any request from certain agencies; (ii) For regions that are included in our organization’s working areas, the local governments are relatively open and willing to cooperate in their procurement process. For example, two city governments were quite responsive and open to input and corrections from CSO. As for other regions as well as line ministries and government agencies, the procurement process is relatively closed. This can be quickly seen from their compliance to inform their procurement planning in SIRUP of the LKPP. Ministries and Agencies tend to protect their procurement information, and they usually upload procurement information in SIRUP shortly before the bidding process so that the vendors may not be well prepared for the bidding, while the civil society as well as LKPP are not able to optimize their control. Only vendors who have proximity with the government are well-informed and usually they are also the winners of the bidding process; (iii) Opportunities are given only at certain times, such as CSOs being asked for input on the Regulation of Head of LKPP related to Guidelines for Compiling a List of Public Information PBJ internal to LKPP, but are not involved in formulating policies on the Public Procurement System; (iv) As far as we know the regulations allow it but in practice our organization has not yet received monitoring access from the government agency that organizes the procurement. Our organization</p> | Nature response | of | Number | Percentage | Yes | | 0 | 0 | No | | 6 | 60 | May be/uncertain | | 4 | 40 | Total respondents | | 10 | 100 | | <p>Criteria partially met</p> <p>Minor GAP – may be considered as non-substantive. Refer to sub-indicator 10(b) assessment criterion (f) Direct involvement of other stakeholders (including CSO) are not fully utilized as per the evidence in the sample contract.</p> <p>s.71 (3)(c) of the PPL (PerPres 16 of 2018 as amended by PerPres 12 of 2021). This refers to SPSE supporting system: community (or public) participation management (“Pengelolaan peran serta masyarakat”)</p> <p>There is no enabling provision in legal /regulatory and policy framework for citizens participate in the following phases of a procurement process, as appropriate at following phases in the procurement process:</p> <ul style="list-style-type: none">• Planning – in particular prior to large scale or environmentally or socially sensitive procurement• Bid proposal opening (observation)• Evaluation and contract award (observation) when appropriate, according to local law• Contract management and completion (monitoring) | | <p>Recommendation</p> <p>To create enabling provision for citizens participate in the the:</p> <ul style="list-style-type: none">• the planning phase (consultation)• bid/proposal opening (observation- as permitted by law)• evaluation and contract award (observation), |
| Nature response | of | Number | Percentage | | | | | | | | | | | | | | | | | | | | | | |
| Yes | | 0 | 0 | | | | | | | | | | | | | | | | | | | | | | |
| No | | 6 | 60 | | | | | | | | | | | | | | | | | | | | | | |
| May be/uncertain | | 4 | 40 | | | | | | | | | | | | | | | | | | | | | | |
| Total respondents | | 10 | 100 | | | | | | | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|--|
| | <p>monitors the Government Procurement through the e-procurement system developed by LKPP but the available information is very limited and not all government agencies update the budget and procurement plans every year; (v) the bidding is done openly, but in the process, it seems that there is no CSO involved; (vi) As far as our organization's knowledge and experience, in general, CSOs have not been given the opportunity to monitor the government procurement process. Procurement decisions are made internally, although procurement information has been made openly in SiRUP. In addition to procurement information, SiRUP also needs to publish information on executors, implementation, performance, and completion of contracts. So that CSOs can monitor the PBJ process independently through the website. Although CSOs' understanding of the PBJ process in government may be a major challenge in involving CSOs as observers, monitoring by CSOs still needs to be done. At a minimum level, CSOs can be involved as observers in auction activities, presentations by providers or become "critical friends" in the implementation of Procurement activities;(vii) It is not directly provided, but we see that the monitoring role is carried out only by CSOs who have had the opportunity to try out the Procurement process. For example, there are several CSOs who enter into a procurement process competition, in that process CSOs participate will certainly monitor transparency and can ask the government directly if there is a strange or unclear process. Even if there are CSOs who do that, it is the CSOs whose work is focused on procurement supervision; (viii) New Community Social Groups are involved in the Preparation of PERKA LKPP related to the guidelines for the preparation of DIPA (Budget Document) procurement of goods and services in the internal LKPP. Only because in this activity is included in the Indonesian Open Government Action Plan (RENAKSI) which must involve public participation.</p> <p>S.71 (3)(c) of the PPL (PerPres 16 of 2018 as amended by PerPres 12 of 2021). This refers to SPSE supporting system: community (or public) participation management ("Pengelolaan peran serta masyarakat")</p> | | | | |
| (b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring. | Limited evidence of direct participation of citizens in procurement processes through consultation, observation and monitoring. As indicated above In 2019, LKPP together with CSO organization conducted a series of capacity building activities and monitoring of the PBJP for journalists and Civil Society Organization (CSO) in 4 regions as well as 1 activity at national level. However, this activity was only a year program supported by donors and has not become a routine activity; (ii) LKPP together with few CSOs have conducted several monitoring trainings for civil society in these areas. | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Limited evidence of citizen's direct participation of citizens in procurement processes through consultation, observation and monitoring.</p> <p>Refer to sub-indicator 10(b) assessment criterion (f) Direct involvement of other stakeholders (including CSO) are not fully utilized as per the evidence in the sample contract.</p> | | <p>Recommendation</p> <p>To revive initiative taken by LKPP in 2019 for direct participation of citizens in procurement processes through consultation, observation and monitoring.</p> |

12. The country has effective control audit systems

12(a) Legal framework, organization and procedures of the control system

The system in the country provides for:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies | Based on Article 58 of Treasury Law No. 17/2003, the President as the head of the government is responsible for the establishment of an internal control system to ensure transparent and accountable financial management of budget implementation. Detailed explanation and implementation guidelines, including the roles and responsibilities of budget holders, commitment makers, payment verification staff, treasurers and accounting staff in each ministry, are defined in Decree No. 190/ 2012. Its implementation in general is widely understood and complied with. Commitment controls are in place at the Spending Unit level and effectively limit commitments to actual cash availability and approved budget (DIPA) ceilings. The DIPA is issued for each budget holder at the ministry level. Government Regulation No. 45/2013 and Finance Minister Regulation No. 190/2012 describe the authorization rules and approval procedures to be followed by the line ministries to process payments. DG Treasury, in its effort to strengthen internal controls, introduced a formal commitment control system at the line ministries through the FMIS (SPAN) application. With the SPAN, commitments are recorded in the system before the expenditure is incurred, ensuring adherence to the budget ceiling, reducing the time lags in processing payments and revising budgets, and allowing the strict maintenance of an electronic trail of all modifications to source data. SPAN is also able to record the committed budget balance to provide better budget control. Internal control standards are defined in the Government Regulation (PP) No. 60/2008 on Government | | Criterion met | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|
| | Internal Control System that adopt COSO framework. The Government Regulation (PP) No. 60/2008 and Presidential Decree no.192/2014 appoint BPKP as the internal audit agency of the government reported directly to the president. As for external audit, the law no 15/2006 on audit of public finance administrations regulates BPK as Indonesian Supreme Audit Institution that is independent to the executive. Board members of BPK are selected and appointed by parliament. The chairman of the BPK Board is selected by members of the BPK Board within one month of their inauguration by the President. | | | | |
| (b) internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations | Internal controls on government procurement are the responsibility of the management of the audited agencies. Based on Law No. 39/2008, which regulates the organizational structure of ministries and internal audit units (Inspectors General, or IG), the internal audit unit is identified as one of the components of each organization and responsible for the supervision of all aspects of the duties and functions including procurement processes of a ministry/state institution funded by the national budget. | | Criterion met | | |
| (c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation | This is an agency-level control, which is the responsibility of the management of the procuring agencies. MOF Regulation No. 191/PMK.09/2008 and Government Regulation (PP) No. 60/2008 state the importance of a strong internal control system and instruct all Echelon II units to take responsibility as risk managers to develop and implement a risk management plan for their own organizations. The role of Internal audit units is to provide advisory and assurance to see that the internal control mechanisms that ensure the timely and efficient decision-making and adequate risk mitigation are in place and implemented as planned | | Criterion met | | |
| (d) independent external audits provided by the country's Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management | BPK, as Indonesia's Supreme Audit Institution (SAI) has a mandate to conduct audits of all central government entities, as well as local government agencies. BPK has been following national financial audit standards (<i>Standard Pemeriksaan Keuangan Negara</i> , or SPKN) since 2007. Over time, BPK has revised and improved the SPKN, which are generally aligned with International Standards of Supreme Audit Institutions (ISSAIs). BPK recently approved the standards through BPK Decree No. 1/2017 issued on January 6, 2017. With the adoption of International Standards of Supreme Audit Institutions (ISSAI), under the risk-based audit approach, auditors are required to undertake/obtain an understanding of its audited entity, its processes and systems, which includes the procurement system, as well as conduct a risk assessment to determine the residual audit risks, and to determine the nature, extent and timing of the audits. BPK conducted three types of audits that also covers procurement activity, i) Financial Audits, ii) Performance Audit iii) Special Purpose Audit. In the financial audit, BPK issue reports that includes the report on (i) the internal control system; (ii) compliance with laws and regulations; and (iii) the status of follow-up audit findings and recommendations. | | Criterion met | | |
| (e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance) | Based on Article 17, paragraph 1 in Law No. 15/2004, BPK is required to submit financial audit reports to parliament within two months of receiving the government's financial reports. The government's financial reports were submitted to BPK before March, and BPK submitted its audit reports to parliament before the end of May. All BPK audit reports online ministries and agencies are submitted to the parliament semi-annually, three months after the end of the semester, together with a summary (IHPS). Article 21 in Law No. 15/2004 on State Financial Oversight requires parliament to review the follow-up of BPK's audit report through hearings with the relevant ministries. | | Criterion met | | |
| (f) clear mechanisms to ensure that there is follow-up on the respective findings. | Article 20, paragraph 3 in Law No. 15/2004 states that the auditee (officer) needs to respond to the follow up actions stated in BPK audit findings within 60 days. BPK has developed a monitoring system on the follow-up actions (<i>Sistem Informasi Pemantauan Tindak Lanjut</i> , or SIPTL). The system provides additional information on the audit follow-up actions. BPK also monitors the status of the follow-up findings and recommendations. Inspectors General (IG) of the line ministries are BPK's partners in the monitoring and coordination of the follow-up status. BPK launched the system on 2017 and issued BPK Regulation No. 2/2017 on the Monitoring of Audit Follow-up Action. | | Criterion met | | |

12(b) Coordination of controls and audits of public procurement

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|-----------------------------------|
| (a) There are written procedures that state requirements for internal controls, ideally in an internal control manual. | The government issued Government Regulation (PP) No. 60/2008 on Government Internal Control System that adopt COSO framework and define the internal control standard of all government agencies. BPKP as the government internal audit also issued technical guidelines on implementation of the government internal control to be implemented by all government agencies. | | Criterion met | | |
| (b) There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to | BPKP as the internal audit agency has issued BPKP regulation no 3/2019 that provide guidelines on procurement audit. The regulation includes i) general guideline on procurement audit ii) guidelines on probity audit iii) guidelines on procurement audit and iv) guidelines on procurement review. BPK as supreme audit institution has issued audit | | Criterion partially met. Minor GAP – may be considered as non-substantive. | | Recommendation |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|---|
| facilitate coordinated and mutually reinforcing auditing. | standard that generally aligned with International Standards of Supreme Audit Institutions (ISSAIs). BPK has also issued through BPK decree 9/2009 the technical guidelines on conducting procurement audit. | | The procurement audit guidelines focused more on compliance review. Guidelines on procurement performance audit is not available. While the internal audit guidelines on procurement audit is issued by BPKP, it is not formally adopted yet by all IGs of line ministries. | | To issue written standard and procedures for procurement performance audit. To widely disseminate the procurement audit guidelines to all IGs |
| (c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c): - number of specialised procurement audits carried out compared to total number of audits (in %). - share of procurement performance audits carried out (in % of total number of procurement audits). Source: Ministry of Finance/Supreme Audit Institution. | <p>BPK audit reports on the central government’s financial statements are issued annually, Audit of all line ministries and agencies are also conducted annually with summary (IHPS) issued semiannually to provide details of audit conducted within the semester. BPK audit reports include audit reviews on: (i) the internal control system; (ii) compliance with laws and regulations; and (iii) the status of follow-up audit findings and recommendations. Internal audit is also operational in all central government entities. Based on Law No. 39/2008, which regulates the organizational structure of ministries and internal audit units (Inspectors General, or IG), the internal audit unit is identified as one of the components of each organization and responsible for the supervision of all aspects of the duties and functions of a ministry/state institution funded by the national budget. BPKP is responsible for conducting internal audits with respect to accountability for the use of state funds in specific cases, including: (i) activities of a cross-sectoral nature; (ii) activities involving the use of Treasury funds based on a determination by the finance minister as the Chief State Treasurer; and (iii) other activities based on an assignment from the President. The audit of government procurement is part of the regular audit of the accounts and transactions of the audited agency. As the procurement is part of the regular audit assignment, the number of specialized procurement audit both compliance and performance are considerably low.</p> <p>No data available as number of specialized procurement audit</p> | Please see data on the left | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>No data available as number of specialized procurement audit</p> <p>While the procurement review is part of the regular audit assignment of the auditors, the number of specialized procurement audit, particularly the performance audit, can be improved.</p> | | Recommendation To include certain target of specialized procurement audit in the audit plan of BPK and BPKP |
| (d) Clear and reliable reporting lines to relevant oversight bodies exist. | Based on Article 17, paragraph 1 in Law No. 15/2004, BPK is required to submit financial audit reports to parliament within two months of receiving the government’s financial reports. Public Account Committee (BAKN) is also established in the parliament based on Law no 2/2018. BAKN is mandated to review the audit reports of BPK as part of the parliament’s oversight role. | | Criterion met | | |

12(c) Enforcement and follow-up on findings and recommendations

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|---|
| (a) Recommendations are responded to and implemented within the time frames established in the law. * * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a): - Share of internal and external audit recommendations implemented within the time frames established in the law (in %). Source: Ministry of Finance/Supreme Audit Institution. | Article 20, paragraph 3 in Law No. 15/2004 states that the auditee needs to respond to the follow up actions stated in audit findings within 60 days. While most agencies submit their formal responses within 60 days, not all recommendations are completely followed up within the time frame. Based on BPK summary of audit reports (IHPS) of 2 nd semester of 2020 that provide summary of up actions during 2015-2019 audits, 69.3% of audit recommendations are completely followed up, 25.2% are partially followed up, 5.1% are yet to be followed up, and 0.4% are unable to be followed up. While for 2020 audits, the follow up status are: 28.4% of audit recommendations are completely followed up, 29.2% are partially followed up, 42.3% are yet to be followed up, and 1% are unable to be followed up. | | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>While formal responses by auditee are provided within the regulations, not all follow up are made fully in accordance with the audit recommendations within such timeframe.</p> | | Recommendation To strengthen the coordination among the external and internal audit on timeliness of follow up of audit findings. |
| (b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations. | BPK has developed a monitoring system on the follow-up actions (<i>Sistem Informasi Pemantauan Tindak Lanjut</i> , or SIPTL). The system provides additional information on the audit follow-up actions. BPK also monitors the status of the follow-up findings and recommendations. Inspectors General (IG) of the line ministries are BPK’s partners in the monitoring and coordination of the follow-up status. BPK launched the system on 2017 and issued BPK Regulation No. 2/2017 on the Monitoring of Audit Follow-up Action. BPKP also have the monitoring system to track the status of follow up actions of each audit findings. However, the monitoring system is managed separately by | | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> | | Recommendation |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|--|---------------------|--|
| | each of the BPKP regional offices and there is no consolidated report readily available to track the overall status of follow up nationally. | | While BPK has system in place to track and consolidate of the audit follow up nationally, BPKP's system does not allow consolidation of follow up status nationally. | | To further improve the tracking system of BPKP audit finding's follow up status. |

12(d) Qualification and training to conduct procurement audits

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|---|--|---------------------|---|
| <p>(a) There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits. *</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</p> <ul style="list-style-type: none"> - number of training courses conducted to train internal and external auditors in public procurement audits. <p>Source: Ministry of Finance/Supreme Audit Institution.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</p> <ul style="list-style-type: none"> - share of auditors trained in public procurement (as % of total number of auditors). <p>Source: Ministry of Finance/Supreme Audit Institution.</p> | <p>Trainings on procurement regulations as well as on the conduct procurement audits are included in the regular training programs of BPK and BPKP under the training centers of both institutions. In 2020, training on procurement audit in a COVID situation is also initiated.</p> | <p>During 2018-2020 47 training classes on procurement certification and procurement audit is conducted. Number of auditors receiving the training in comparison to total number of auditors from 2018-2020 is 4.55%, 2.4%, and 3.2% respectively</p> | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Number of auditors trained on procurement and procurement audit is considerably low.</p> | | <p>Recommendation</p> <p>To develop a more comprehensive training plan of procurement and procurement audit to increase the number of trained auditors to conduct procurement audit.</p> |
| <p>(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.</p> | <p>When the audit assignments include review of procurement activity, BPK requires at least one auditor in the team has a procurement training certification. However, while procurement training certification is required no procurement audit training or certification is required on team composition. As for BPKP there is no standard of certification or experience on procurement audit being formalized as requirements of audit team composition.</p> | | <p>Criterion partially met.</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>In addition to the need of formal requirement of procurement training and experience to the audit team there is also needs to include standard competence/certification of procurement audit for the member of audit team.</p> | | <p>Recommendation</p> <p>To formalize the standard of competence on procurement audit both compliance and performance audit for the procurement audit team.</p> <p>To develop certification of procurement audit for the auditors.</p> |
| <p>(c) Auditors are selected in a fair and transparent way and are fully independent.</p> | <p>BPK operates independently from the executive to plan and execute audit engagements. BPKP as internal audit is reporting directly to the president. The audit standards on public finance audit issued by BPK Regulation 1/2017 also regulates in its general standards on code of ethic and independence of the auditors.</p> | | <p>Criterion met</p> | | |

13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|--|
| (a) Decisions are rendered on the basis of available evidence submitted by the parties. | Challenge (objection): Evidence is submitted by the bidder submitting an objection through the SPSE and is the basis for decision on objection | | Criterion is met | | |
| (b) The first review of the evidence is carried out by the entity specified in the law. | Challenge (objection): Review of evidence submitted is considered by the Selection Working Group. There are guidelines for working groups to manage objections. The management of objections falls within the framework of required competences of procurement officials and is assessed by examination, with training and learning materials provided. ⁹³ | | Criterion is met | | |
| (c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. * // Minimum indicator // * Quantitative indicator to substantiate assessment of sub-(a) Assessment criterion (c): - number of appeals. Source: Appeals body. * Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): number (and percentage) of enforced decisions. Source: Appeals body. | A.123 Law on Administrative Court provides that a decision of the Administrative Court will take effect and become enforceable as a final judgment 14 days from the date of the decision if no appeal is submitted to the Higher (Provincial) Administrative Court. | | Criterion not met GAP – may be considered as substantive. No data is available in respect of relevant decisions of Administrative Courts. Based on which, risk may be considered high. | YES | Recommendation See Indicator 1(h)(b) |
| (d) The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic. | The time frames specified for submission of and decision in response to challenge (objection)by the procuring entity do not unduly delay the procurement process. Challenge (objection) at Pre/Qualification stage: The participant must submit an objection using the SPSE within five (5) calendar days after the announcement of pre/qualification. The procedure for submission of the objection using the SPSE is in the SPSE module. The Selection Working Group (PokjaPemilihan) must then respond with written answers within three (3) calendar days after the end of the objection period. The time periods are calculated to end on working days and working hours. G&S Regs s.4.1.1(i) provides that objections submitted outside the specified objection period; or submitted to the PPK, PA/PA and APIP, Ministry/Institution/Local Government; will be considered as public complaints (Pengaduan)and will be processed according the public complaints handling procedure. If the objection is declared false/rejected the Selection Working Group will proceed to the provider selection process. If the objection is declare correct/accepted, the Selection Working Group will conduct re-qualification or re-prequalification. Challenge (objection) at “selection” tender award stage: G&S Regs s.4.2.13 provide that participant must submit an objection using the SPSE within five (5) calendar days after the announcement of award announcement. The procedure for submission of the objection using the SPSE is in the SPSE module. The response to the objection must be published on the SPSE within three (3) calendar days after the end of the objection period. The time periods are calculated to end on working days and working hours. If the objection is declared false/rejected the Selection Working Group will continue the selection (award) process by submitting the selection results to the contract signing officer. If the objection is declares correct/accepted, the Selection Working Group will conduct re-evaluate or re-tender/re-selection. Similar provision apply for the procurement of construction works, construction related consultancy services (W&CS Regs) and integrated design and build construction work ID&B Regs, with challenge (objection) filed using the SPSE and, in the case of the selection/award decision the response is published on the SPSE. In the case of an appeal against an objection decision, the applicant must submit an appeal within five (5) calendar days of when the objection response is uploaded to SPSE. Submission of an appeal stops the tender process. The KPA considering the complaint must deliver an answer to the appeal within 14 calendar days. The appeal is deemed to be accepted in | | Criterion partially met Minor GAP – may be considered as non-substantive. The 90-day time frame specified for submission of appeals to the Administrative Court have the potential to delay the procurement process, if an application of suspension is also made, or make an appeal unrealistic. Currently it is not possible to assess the duration of the appeal process to the Administrative Court. | | Recommendation See Indicator 1(h)(b) |

⁹³ Information provided by LKPP, 12 April 2022.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | the event that the KPA does not provide and answer to the appeal. Where the appeal is accepted the selection working group is ordered to re-evaluate or re-tender. (W&CS Regs s. 4.2.13/ID&B Regs s.4.2.11). Appeal: Article 55 of Law of Administrative Court establishes the time frame for appeal to the Administrative Court, which is ninety (90) days after the government administration decision is made. Data/information not available on time frames for decision by Administrative Court. | | | | |

13(b) Independence and capacity of the appeals body

The appeals body:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|--|
| (a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions | Administrative Court is not involved in procurement transactions or in process leading to contract award decisions. | | Criterion met | | |
| (b) does not charge fees that inhibit access by concerned parties | A.111 Law on Administrative Court provides that the fees are: (a) court officials fees and seal fees (b) witness, expert, and interpretation, fees with a note that the requesting party who requested examination of more than five witnesses shall pay the cost for the extra witnesses even if the party wins; (c) the cost of examination elsewhere of the courtroom and other necessary expenses for termination of disputes at the order of the Presiding Judge of the Session. Information/data not available to MAPS assessment team on actual fees charged for procurement related cases. | | Criterion not met GAP – may be considered as substantive. The risk is high. Information/data not available on actual fees charged for procurement related cases. | YES | Recommendation See Indicator 1(h)(b) |
| (c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available | The procedure for the application and proceeding in the Administrative Court is governed by the Law on Administrative Court which sets out procedure for submission and resolution of administrative law action. Information/data for assessment of conduct and outcome of appeals to the Administrative Court not available to MAPS Assessment Team | | Criterion not met GAP – may be considered as substantive. The risk is high. Information/data on conduct and outcome of appeals to the Administrative Court not available. | YES | Recommendation See Indicator 1(h)(b) |
| (d) exercises its legal authority to suspend procurement proceedings and impose remedies | Information/data for assessment of conduct and outcome of appeals to the Administrative Court not available to MAPS Assessment Team | | Criterion not met GAP – may be considered as substantive. The risk is high. Information/data on conduct and outcome of appeals to the Administrative Court not available. | YES | Recommendation See Indicator 1(h)(b) |
| € issues decisions within the time frame specified in the law/regulations* <i>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(b) Assessment criteri€(e): - appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %). Source: Appeals body.</i> | Information/data for assessment of conduct and outcome of appeals to the Administrative Court not available to MAPS Assessment Team | | Criterion not met GAP – may be considered as substantive. The risk is high. Information/data on conduct and outcome of appeals to the Administrative Court not available. | YES | Recommendation See Indicator 1(h)(b) |
| (f) issues decisions that are binding on all parties | A.97 Law on Administrative Court provides that the government administration is required to implement the decision of the Administrative Court. Information/data for assessment of conduct and outcome of appeals to the Administrative Court was not available to MAPS Assessment Team. | | Criterion not met GAP – may be considered substantive. Risk is High. Information/data on conduct and outcome of appeals to the Administrative Court not available. | YES | Recommendation See Indicator 1(h)(b) |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| | | | | | |
|---|---|--|--|-----|--|
| (g) is adequately resourced and staffed to fulfil its functions. | Information/data on the Administrative Court was not available to MAPS Assessment Team. | | Criterion not met GAP – may be considered substantive. Risk is High. Information/data not available. | YES | Recommendation See Indicator 1(h)(b) |
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13(c) Decisions of the appeals body

Procedures governing the decision making process of the appeals body provide that decisions are:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|--|
| (a) based on information relevant to the case. | Decisions of the Administrative Court on procurement related appeals were not available to MAPS Assessment Team. | | Criterion not met GAP – may be considered substantive. Risk is High. Decisions of local/provincial Administrative Court not available | YES | Recommendation See Indicator 1(h)(b) |
| (b) balanced and unbiased in consideration of the relevant information.* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b): - share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey. - share of suppliers that perceive appeals decisions as consistent (in % of responses).Source: Survey. | Decisions of the Administrative Court on procurement related appeals were not available to MAPS Assessment Team. | | Criterion not met GAP – may be considered substantive. Risk is High. Decisions of local/provincial Administrative Court not available | YES | Recommendation See Indicator 1(h)(b) |
| (c) result in remedies, if required, that are necessary to correcting the implementation of the process or procedures. * * Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (c): - outcome of appeals (dismissed; decision in favour of procuring entity; decision in favour of applicant) (in %).Source: Appeals body. | Decisions of the Administrative Court on procurement related appeals were not available to MAPS Assessment Team. | | Criterion not met GAP – may be considered substantive. Risk is High. Decisions of local/provincial Administrative Court not available | YES | Recommendation See Indicator 1(h)(b) |
| (d) decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.* // Minimum indicator // *Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d): - share of appeals decisions posted on a central online platform within timelines specified in the law (in %).Source: Centralized online portal.* | Decisions are not published on the centralized government online portal (e-procurement portal as per Indicator 7(b)). Individual local/provincial Administrative Courts publish a case directory but do not publish full decisions. | | Criterion not met GAP – may be considered substantive. Risk is High. Decisions of local/provincial Administrative Court are not published online a centralized government procurement portal | YES | Recommendation See Indicator 1(h)(b) |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

14. The country has ethics and anticorruption measures in place

14(a) Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties:
The legal/regulatory framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|--|---------------------|---|
| (a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements. | <p>Definitions relating to fraud and corruption are set out anti-corruption legislation of general application. The PPL has specific provisions requiring compliance with procurement ethics, including references to avoidance and prevention of corruption and it also defines conflict of interest in the context of public procurement.</p> <p>Section 7 of PPL on Procurement Ethics inter alia requires: (i) not influencing each other directly or indirectly which may result in unfair business competition; (ii) avoiding and preventing the occurrence of any conflict of interests of related parties, either directly or indirectly, which may result in unfair business competition for the Procurement ; (iii) avoiding and preventing lavishness and leakage of state finance; (iv) avoiding and preventing abuse of power and/or collusion; and (v) not accepting, offering, or promising to give or receive gifts, rewards, commissions, rebates, and any other matters from or to anyone who is known or reasonably presumed to have relations with the Procurement</p> <p>Indonesia signed the United Nations Convention against Corruption (UNCAC) in 2003 and ratified the convention on 19 September 2006. The incorporation of UNCAC into the Indonesian legal system was ensured by Law (UU) No. 7/2006 ⁹⁴. Corruption related offences are found mainly in Law (UU) No. 31/1999 on Corruption Eradication, as amended by Law (UU) No. 20 of 2001, the Criminal Code, and Law (UU) No. 8/2010 on the Prevention and Eradication of the Crime of Money-Laundering. Indonesia has criminalized an important number of corruption and related offences. Bribery offences are also prescribed in Law No.11 of 1980 on the Criminal Act of Bribery.</p> <p>Law No 31 of 1999 on implementation of Eradication of Criminal Act of Corruption (Law No 31 of 1999) applies to corporations (legal or non-legal bodies), civil servants or “anyone” individuals or corporations. It provides for imprisonment as the consequence of conviction for criminal acts of corruption and similar offenses with the aim of enrichment (implying receipt of a material advantage) involving abuse of authority, opportunity or facilities relating to an individual’s post or position, which creates losses to the state finance or state economy. Law no 31 of 1999 also provides for the creation of a Corruption Eradication Commission.</p> <p>There is legislation in place criminalizing the processing of proceeds of crime to disguise their illegal origin (money laundering) and an active independent institution established to prevent and eradicate the crime of money laundering: Law No 8 of 2010 on Prevention and Counter-measuring and Eradication of Money Laundering describes the crime of money laundering referring to the processing of proceeds of crime using methods to hide or disguise their origin. Criminal acts in this context are widely defined and include corruption and bribery, fraud, trafficking and terrorism (A.2). ⁹⁵Law No.8 of 2019 law also provides for the setting up of the Financial Transaction Report and Analysis Center (PPATK), an independent institution established to prevent and to eradicate the crime of Money Laundering, which is an active institution⁹⁶.</p> <p>In July 2021, the KPK published “Indonesia’s Global Commitments on United Nations Convention Against Corruption (UNCAC) and G20 Anti-corruption Working Group (ACWG) 2012-2020”. The KPK refers in this publication to a number of discrepancies in the current legal framework. These include: no general definition of abuse of functions offense; lack of full alignment with UNCAC - with a narrower definition of enrichment in national legislation. The report highlights the provisions of Article 3 of Law no 31 of 1999 which contains a reference, in the context of the definition of criminal offence of corruption, “to the detrimental effect of the perpetrator’s behavior to the finances of the State” and goes on to comment that “This preoccupation with the need to show loss to the State might limit the fight against corruption.” The Report recommends that consideration is given to “revising the laws to remove the reference to state loss.” ⁹⁷ The need to show loss to the State helps to explain why there so few cases of administrative debarment (blacklisting) on the grounds of corruption. Although the PPL envisages the possibility of blacklist sanctions for corruption at the stage of selection of participants (PPL A.78(1)(d) and A.80(1)(d)) if there is</p> | | <p>Criterion not met</p> <p>GAP – maybe considered as substantive.</p> <p>The definitions of corruption are not fully aligned with UNCAC definitions (according to KPK’s own assessment). The need to show loss to the State in the context of criminal offence of corruption may have a potentially negative impact on the fight against corruption including operation of the system for administrative debarment (blacklisting) in the context of public procurement. Bribery of foreign public officials and officials of public international organizations, trading in influence, illicit enrichment and bribery in the private sector have not yet been established as offenses.</p> <p>Based on which, the risk is considered medium.</p> | NO | <p>Recommendation</p> <p>Consider implementing activities at inter-ministerial/agency level to ensure full alignment with UNCAC definitions of corruption, to review and update bribery offenses. And to address and remedy issues raised, including in the context of administrative debarment (blacklisting) in procurement, by the need to show loss to the State in the context of criminal offence of corruption.</p> |

⁹⁴https://www.kpk.go.id/images/pdf/Buku_Komitmen_Indonesia_pada_UNCAC_and_G20_ACWG_2012-2020_english_ver.pdf

⁹⁵Law (UU) no. 8 of 2010 on Countermeasure and Eradication of Money Laundering

<http://www.flevin.com/id/lgo/translations/Laws/Law%20No.%208%20of%202010%20on%20Prevention%20and%20Eradication%20of%20Money%20Laundering%20%28MoF%29.pdf>

⁹⁶<https://www.ppatk.go.id/>

⁹⁷Indonesia’s Global Commitments on UNCAC and G20 Anti-corruption Working Group 2012-2020 (published 27 July 2021), KPK. Pages 5 & 6.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|-----------------------------------|
| | <p>no actual loss to the State at selection stage, the interpretation by LKPP of the PPL in that light of Article 3 of Law no 31 of 1999 means that the offence of corruption is not committed as there is no actual loss to the State.</p> <p>It also notes that bribery of foreign public officials and officials of public international organizations, trading in influence, illicit enrichment and bribery in the private sector have not yet been established as offenses. The publication refers to the preparation of draft laws on corruption eradication and asset forfeiture and makes a number of recommendations to strengthen and improve current provisions. The publication also references Indonesia's commitments to G20 ACWG 2021 on G20 HLP asset disclosure by public officials and G20 Common Principles for Action: Denial of Safe Haven.</p> <p>As indicated above, A.7 PPL Procurement Ethics requires that all parties involved in procurement must comply with listed ethics including avoidance and prevention of: conflict of interest; misuse of public funds; abuse of power, collusion, and not accepting, offering or promising to give or receive gifts, rewards, commission or rebates. A.51 PPL provides that a tender/selection of consultant shall be considered failed in specified cases including where participants are involved in corruption, collusion and nepotism, referencing the KKN in this context "Korupsi, Kolusi dan Neptisme, KKN". A.77 PPL Public Complaints confirms that the public may submit complaints which shall be investigated and in the event of an indicator of corruption, collusion or nepotism" which causes damages to the state finances the matter shall be referred to the authorized institution.</p> <p>A.78 PPL Sanctions (administrative debarment and blacklist sanctions) provides for sanctions applied to participants in procurement, including in the case of indicators of corruption, collusion or nepotism. (See indicator 1(d)(c) for more information on administrative debarment and blacklist sanctions).</p> <p>Based on clarification provided by LKPP on April 12, 2022 Business actors / providers who are subject to blacklist sanctions related to fraud and corruption cases occur during the procurement process (selection of providers s.d handover). While the case in the KPK is a case after the procurement process is completed. The law on corruption, it is said to be corruption if there is a loss of the state. In the procurement process until the contract has not occurred, so we do not enter the realm of it.</p> | | | | |
| (b) definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law. | <p>Definitions relating to fraud and corruption including individual responsibilities, accountability and penalties for government employees and private firms/individuals are set out anti-corruption legislation of general application. The PPL has specific provisions requiring compliance with procurement ethics, including references to avoidance and prevention of corruption and it includes, and it also defines conflict of interest in the context of public procurement.</p> <p>A.7 PPL Procurement Ethics, requires that all parties involved in procurement must comply with listed ethics including avoidance and prevention of: conflict of interest; misuse of public funds; abuse of power, collusion, and not accepting, offering or promising to give or receive gifts, rewards, commission or rebates. . A.78 PPL Sanctions (administrative debarment and blacklist sanctions) provides for sanctions applied to participants in procurement, including in the case of indicators of conspiracy to set a bid price, corruption, collusion or nepotism. (See indicator 1(d)(c) for more information on administrative debarment and blacklist sanctions).</p> <p>Law No 31 of 1999 on implementation of Eradication of Criminal Act of Corruption and Law No 20 of 2001 on Amendment to Law No. 31 of 1999 defines responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption that includes related to procurement.</p> <p>Article 7 of Law no 20 of 2001 provides for imprisonment and a fine, applying to contractors, consultants and supervisors, for conviction for corrupt activities in the construction sector which may result in endangering public safety or national safety in the case of war.</p> <p>Article 8 of Law no 20 of 2001 provides for imprisonment and a fine where " A civil servant or non-civil servant who is assigned to take up a general post continuously or temporarily who intentionally embezzles money or securities kept because of his/her position, or lets or helps other person take or embezzle the money or securities" Article 12 of Law no 20 of 2001 elaborates further on the responsibilities, accountabilities and penalties for a "civil servant or state apparatus [sic]" including receipt of "a payment or a promise believed to have been given to encourage him/her to do something or not to do anything because of his/her position in violation of his/her obligation;" and ".. who directly or indirectly takes part in a contract work, procurement, or lease, in which at the time the activities is carried out he/she is assigned to arrange or supervise it wholly or partially "</p> <p>Article 12 B Law no 20 of 2001 deals with "Bribe" and onus of proof. Any gratification for a civil servant or state apparatus shall be considered as a bribe when it has something to do with his/her position and is against his/her obligation or task, with the provision that: a. when the gratification amounts to Rp10, 000, 000(ten million rupiahs) or more, it is the recipient of the gratification who shall prove that the gratification is not a bribe; b. when the gratification amounts to less than Rp10.000.000 (ten million rupiahs), it is the public prosecutor who shall prove that the gratification is a bribe.</p> | | <p>Criterion partially met</p> <p>Due to lack of alignment between provisions of PPL Law No 31 of 1999 on implementation of Eradication of Criminal Act of Corruption and Law No 20 of 2001 on Amendment to Law No. 31 of 1999 defines responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption that includes related to procurement.</p> | | As above |
| (c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials. | A.7 PPL Procurement Ethics, requires that all parties involved in procurement must comply with listed ethics including avoidance and prevention of conflict of interest. PPL s.7(2) defines seven situations where conflicts of interest arise. These are essentially business-related conflicts (unfair business competition) covering issues related to ownership/control and prior involvement in a procurement project. | | Criterion met. | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | <p>Perlem LKPP No. 12/2021 s.3.4.1 f.6) prevents the Government officer/officials (either on active or unpaid leave status) to be concurrently assigned in leadership and management position of a firm who participates in the procurement process as part of the administrative legality/qualification requirements of the Service Provider. On the other hand, a government officer taking unpaid leave is allowed to participate in selection of individual consultant, while there is no specific provision on participation of government officers as Expert in a firm proposal/bid.</p> <p>It also prohibits any government official, not just procurement officials, from participating as a provider in a public procurement, unless that official is on a leave of absence.</p> | | | | |

14(b) Provisions on prohibited practices in procurement documents

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|--|
| (a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents. | <p>Section 7(1) <i>Perpres No.12 of 2021 on Procurement Ethics</i> lists that all parties involved in procurement shall subject to ethics by (a) carrying out tasks on an orderly manner, accompanied by a sense of responsibility to achieve the target, the proper execution and fit for purposes of the Procurement; (b)working professionally independently as well as maintaining the confidentiality of information which by its nature must be kept confidential to prevent violations of Procurement ; (c)not influencing each other directly or indirectly which may result in unfair business competition; (d) accepting and taking responsibility for any decisions adopted in accordance with any written agreements of the relevant parties; (e) avoiding and preventing the occurrence of any conflict of interests of related parties, either directly or indirectly, which may result in unfair business competition for the Procurement ; (f) avoiding and preventing lavishness and leakage of state finance; (g) avoiding and preventing abuse of power and/or collusion; and (h) not accepting, offering, or promising to give or receive gifts, rewards, commissions, rebates, and any other matters from or to anyone who is known or reasonably presumed to have relations with the Procurement</p> <p>In the case of Sampled Works Contracts (lumpsum & unit price), the contract comprises the contract agreement, general and special conditions of contract with standard provisions in the general conditions of contract including: Definition (GCC 1), fraud and corruption (GCC 4). More details given by an example.</p> | | Criterion met | | |
| (b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework. | <p>Provisions in Model Bidding Document on KKN (Corruption, Collusion and Nepotism)</p> <p>Example: Integrated Construction Work – Design and Build – Two Files- Value System (2021) Clause No 4 on Instructions to participants (IKP) <i>inter alia</i> stipulates that Participants and parties associated with the procurement are obliged to comply with the procurement rules by not taking the following actions: (a) submit false/incorrect documents or statements to meet the requirements specified in the Tender Document; (b) attempt to influence members of the Election Pokja in any form and manner, to fulfill the wishes of participants contrary to the Tender Document, and/or the laws and regulations; and conspire with other participants to set the bid price; and corruption, collusion, and/or nepotism (KKN) in the Provider Tender</p> <p>Participants who are proven to perform the actions referred to in the number 4.1 are among other things subject to the following administrative sanctions if: (a) aborted from the Tender process or cancellation of the determination of the winner; and Black-list sanctions.</p> <p>In addition, Participants are prohibited from <u>involving</u> Government officials/officers as leaders and/or managers and/or labor except under unpaid leave. <i>[the later exceptional condition on being involved while on unpaid leave is not stipulated in the relevant provision in the PerLemLKPP No. 12/2021].</i></p> <p>Clause No 5 of IKP on Conflict of Interest <i>inter alia</i> requires that the parties in carrying out their duties, functions and roles, avoid and prevent conflicts of interest of the parties concerned, either directly or indirectly. Conflicts of interest include: (a) Board of Directors, Board of Commissioners, or permanent personnel of a Business Entity</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive.</p> <p>Based on clarification provided by LKPP on April 12, 2022 section 77 is not applicable unless procurement process is completed.</p> <p>In general law on corruption, it is said to be corruption if there is a loss of the state. In the procurement process until the contract has not occurred, so as per LKPP they do not enter the realm of KKN and there is nothing to report</p> <p>The definition given in procurement document on Corruption, collusion, and/or nepotism (KKN) is not consistent with Section 77 of PPL where the ministers/agency heads/regional heads are required to report to the authority if they believe that there are indicators of corruption, collusion, and/or nepotism (KKN) harming public finance.</p> | | <p>Recommendation</p> <p>To consider aligning the provisions of procurement related fraud, corruption and other prohibited practices in the entire set of legal/regulatory framework including in draft law on corruption eradication and the draft law on asset forfeiture to be consistent with UNCAC/G20 ACWG commitments by ©</p> |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|--|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>concurrently as Board of Directors, Board of Commissioners, or permanent personnel in other Business Entities that follow the same tender; (b) Providers who have been appointed as construction management consultants act as implementers of Integrated Construction Work Design and Build; (c) PPK / Pokja Pemilihan either directly or indirectly controlling or running the participant's business entity; and/or (d) Several business entities that follow the same Tender, controlled either directly or indirectly by the same party, and/or their shareholdings of more than 50% (fifty percent) are controlled by the same shareholders.</p> <p>Further Government officers are prohibited from being participants except leave under unpaid leave. Participants who are found to violate the provisions of the conflict of interest, then aborted as participants [<i>participants' shall be further clarified either as bidder/proposer or contractor/supplier/consultant</i>]</p> <p>Clause No 6 of IKP on Tender Participants/ Providers Subject to Blacklist Sanctions, stipulates that Blacklist sanctions are imposed on tender/provider participants if: (a) Tender participants submit documents or false/incorrect statements to meet the requirements specified in the Tender Document; (b) Tender participants are indicated to conspire with other participants to set the bid price; (c) Tender participants indicated corruption, collusion, and/or nepotism in the Tender; (d) tender participants who resigned for reasons that were unacceptable to the Election Party; (f) the winner of the Tender resigns prior to the signing of the Contract on reasons unacceptable to the PPK; (g) Providers who do not carry out contracts, do not complete work, or are unilaterally terminated by PPK caused by the fault of the Provider of Goods / Services; or (h) The Provider does not perform its obligations in the maintenance period as appropriate.</p> <p>Clause No 36 of IKP on Failed Tender stipulate among other things, the situations when all participants engage in corruption, collusion, and/or nepotism; all participants involved in unfair business competition; and not carrying out procedures based on election documents; or Pokja Pemilihan/PPK involved in corruption, collusion, and/or nepotism;</p> <p>Clause No 37 on follow-up of Failed Tender require that In the case of re-tendering caused by corruption, collusion, and/or nepotism involving Pokja Pemilihan/PPK, the re-tender is carried out by the new Pokja Election/PPK.</p> <p>Encashment of Offer Guarantees: in situation of corruption collusion, and/or nepotism by provider of the guarantee.</p> <p>Clause No 21 of IKP on the Integrity Pact contains the statement to be given by the Provider that they (a) will not commit corrupt practices, collusion, and/or nepotism; (b) will follow the procurement process in a clean, transparent, and professional manner to provide the best results of work in accordance with the provisions of the laws and regulations; (c) if in violation of the matters stated in this integrity pact, willing to accept administrative sanctions, accept blacklisting sanctions, be civilly sued and/or criminally reported.</p> <p>By registering as a tender participant through SPSE (e- Procurement) , the sole participant / on behalf of himself or KSO participants (<i>lead firm</i> and KSO members), has agreed and signed the Integrity Pact.</p> <p>Further as per e- Procurement website the declaration on Integrity Pact is as under: Integrity Pact⁹⁸</p> <ol style="list-style-type: none"> 1. Will not practice KKN. 2. Will report to the authorities/authorities if they know there are indications of KKN in this auction process. 3. In this procurement process, he promises to carry out his duties in a clean, transparent, and professional manner in the sense that he will optimally mobilize all capabilities and resources to provide the best work results starting from the preparation of bids, implementation, and completion of this work/activity. 4. If I violate the things that I have stated in this INTEGRITY PACT, I am willing to be subject to moral sanctions, administrative sanctions and demanded compensation and criminal penalties in accordance with the provisions of the applicable laws and regulations. | | <p>The above interpretation of KKN is flawed also as per Indonesia's Global Commitment on UNCAC and G20 ACWG (2012- 2020) published on 27 July 2021⁹⁹,</p> | | |

⁹⁸<https://inaproc.id/pakta-integritas>

⁹⁹https://www.kpk.go.id/images/pdf/Buku_Komitmen_Indonesia_pada_UNCAC_and_G20_ACWG_2012-2020_english_ver.pdf

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | <p>To elaborate further from another Contract Document for Goods, under General Conditions of Contract Clause 4,Prohibited Actions and Sanctions Based on the ethics of government procurement of goods/services, the parties are prohibited from : (a) offer, accept or promise to give or receive gifts or rewards of any kind or take other actions to influence anyone who is known or reasonably suspected to be related to this procurement; and/or (B0 create and/or incorrectly submit documents and/or other information required for the preparation and implementation of this Contract.The Provider warrants that it (including all members of the Partnership) and its sub-Providers (if any) will not take any action prohibited. Providers who, according to the Contract Signing, Officer's assessment, are proven to have carried out the above prohibitions may be subject to administrative sanctions as follows: (a) Termination of Contract; (b)The Performance Guarantee is disbursed and deposited as stipulated in the SSKK (c) The remaining down payment must be repaid by the Provider or the Down Payment Guarantee is disbursed ; and (d) Subject to Blacklist Sanctions.</p> <p>The above clause further stipulates that, imposition of administrative sanctions inabove is reported by the Contract Signing Officer to the PA/KPA.. Contract Signing Officials who are involved in corruption, collusion, and/or nepotism and fraud are subject to sanctions based on the provisions of laws and regulations.</p> <p>GCC 38 on Termination of Contract by Contract Signing Officer in Goods document requires that notwithstanding Articles 1266 and 1267 of the Civil Code, the Contract Signing Officer may terminate this Contract through written notification to the Provider upon the occurrence including of the following. The provider is proven to have committed corruption, collusion, and/or nepotism, fraud and/or falsification in the procurement process decided by the competent agency;</p> | | | | |

14(c) Effective sanctions and enforcement systems

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|---|---------------------|--|
| (a) Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this. | <p>As per Section 77 of PPL, Public Complaints, the public may submit complaints to APIP accompanied by factual, credible, and authentic items of evidence. Law Enforcement Officer forwards the complaints submitted by the community to APIP for follow-up. The APIP as referred follows up the complaints in accordance with its authority. APIP reports the results of the follow-up on complaint to the minister/head of institution/head of local government. The minister/head of institutions/head of local government reports to the authorized institution, in the event of an indication of corruption, collusion, and nepotism (<i>Korupsi, Kolusi dan Nepotisme</i>, KKN) which causes damage to the state finance. The minister/head of institutions/head of local government facilitates the public in supervising the implementation of Procurement.</p> <p>However, based on clarification provided by LKPP on April 12, 2022, for reporting cases of “indication of corruption, collusion, and nepotism (<i>Korupsi, Kolusi dan Nepotisme</i>, KKN) which causes damage to the state finance” there has been to harming of public finance and therefor there are very cases reported on allegations of fraud, corruption and other prohibited practices to law enforcement authorities on procurement related corruption.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>The definition of “indication of corruption, collusion, and nepotism (<i>Korupsi, Kolusi dan Nepotisme</i>, KKN) is not consistent with UNCAC and also provisions of the bidding/tender document and therefore there are very few cases of Procuring entities reporting allegations of fraud, corruption and other prohibited practices to law enforcement authorities.</p> | | <p>Recommendation</p> <p>Procurement related fraud and corruption to cover both actual and potential loss of public finance and section 77 of PPL to be amended.</p> |
| (b) There is evidence that this system is systematically applied, and reports are consistently followed up by law enforcement authorities. | <p>As per Section 77 LKPP is required to develop a complaint system for the Procurement. The system namely <i>e-pengaduan</i> provides open access through registration. The procedures for lodging the complaint is also provided in the website: https://pengaduan.lkpp.go.id/storage/286/1625020981_tatacara-menyampaikan-pengaduan.pdf. The online platform also provides information of the top-ten packages with most complaints.</p> <p>LKPP also provides other open access for reporting allegations of fraud, corruption and other prohibited practices through the national integrated complaint management system namely LAPOR https://www.lapor.go.id/tentang and whistle blowing system namely https://wbs.lkpp.go.id/ which applies to the reporting of the misconduct by LKPP’s official and staffs.</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>A system is in place for complaint, but there is no evidence/data related to follow-up of procurement related (starting from bidding process) fraud and corruption</p> | | <p>Recommendation</p> <p>A system should be in place to monitor evidence/data related to follow-up of procurement related (starting from bidding process) fraud and corruption.</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|---|----------|--------------------------------|------------------------------|-----------------------------|---------------|--|--------------|----------|--------|---------|---|--|--|--|--|--|--|------------------------------|---|---|--|---|--|---|--|---|---|--|---|--|-----------------------|---|---|--|---|--|--|--|---|---|--|--|--|--|--|--|--|--|--|--|--|---|---|--|--|--|--|--|--|--|--|--|--|--|--|---|---|--|--|--|------------------------|--|--|--|--|---|------------------------------------|--|--|--|--|---|---|--|--|--|--|---|---|--|--|--|--|---|------------------------------------|--|--|--|--|---|--|---|--|---|
| | Based on clarification by by LKPP on April 12, 2022 D4 (Deputy for Legal Affairs and Dispute) provides actionable fraud complaint data to Law Enforcement Officer (APH : Aparat Penegak Hukum) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (c) There is a system for suspension/debarment that ensures due process and is consistently applied. | <p>Administrative debarment/blacklisting</p> <p>PPL ss.78-83 include provisions on administrative debarment/blacklisting that includes situations If bidders: (a) Provide false/incorrect documents or information in order to meet requirements under Bidding Documents; (b) Are indicative of rigging bid prices with other bidders; (c) Are indicative of corruption, collusion and/or nepotism (KKN) in the bidding process; or (d)Withdrawing from the bidding process for reasons unacceptable to the Procurement Official/Bidding Pokja/Procurement Agent. These situations lead to administrative sanctions. Also, if a winning bidder withdraws for unacceptable reasons prior to Contract signature, the bidder shall be subject to administrative sanctions. Further If Providers: (a) Fail to execute the Contract, finish the work or fulfill obligations during the maintenance period; (b) Cause a structural failure; (c) Submit a non-cashable bond; (d) Make mistakes in calculating amount/volumes of work on the basis of an audit;(e) Hand over goods/services of quality different from that contained in the Contract on the basis of an audit; or (f) Are late to complete the work as per the Contract, they shall be subject to administrative sanctions.</p> <p>As per Section 79 of PPL, The Blacklist Sanction as referred to in Section 78 is determined by PA/KPA at the recommendation of the Procurement Officer/Selection Committee/ Procurement Agent or as applicable under these provisions including those related to catalogue process. Section 82 of PPL details sanctions administrative sanction is imposed on PA/KPA/PPK/Procurement Officer/Selection Committee/who fails to perform its obligations. Section 83 of PPL on “National Blacklist” states that PA/KPA shall disclose information on Blacklisted bidders/Providers on a National Blacklist and LKPP shall maintain the National Blacklist</p> <p>Cause of administrative sanction, types of administrative sanction (PPL s 78 (4)) and parties to declare blacklisting is tabulated below:</p> <table><tr><th rowspan="3">Cause of Administrative Sanction</th><th colspan="5">Type of Administrative Sanction (PPL s.78 (4))</th><th>Party to Declare Black Listing</th></tr><tr><th rowspan="2">Rejection / Disqualification</th><th rowspan="2">Forfeited- Encash Guarantee</th><th colspan="2">Black Listing</th><th rowspan="2">Compensation</th><th rowspan="2">Penalty*</th></tr><tr><th>1 Year</th><th>2 Years</th></tr><tr><td colspan="7">Bidders Misconduct (PPL 12/21 s.78(1):</td></tr><tr><td>a Submit false/fake document</td><td>√</td><td>√</td><td></td><td>√</td><td></td><td rowspan="4">PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Procurement Officer/Committee/Agent'</td></tr><tr><td>b Indicated for collusion with other bidders</td><td>√</td><td>√</td><td></td><td>√</td><td></td></tr><tr><td>c Indicated for "KKN"</td><td>√</td><td>√</td><td></td><td>√</td><td></td></tr><tr><td>d Withdraw without unjustified reason and not accepted by the procurement committee/officers/agent</td><td></td><td>√</td><td>√</td><td></td><td></td></tr><tr><td colspan="7">Winner Misconduct (PPL 12/21 s.78(2):</td></tr><tr><td>Refuse to sign the Contract after issuance of the Letter of Acceptance</td><td></td><td>√</td><td>√</td><td></td><td></td><td>PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK)</td></tr><tr><td colspan="7">Service Provider/Contractor Default (PPL 12/21 s.78(3):</td></tr><tr><td>a in breach of its contract due to non-performance (no presence/no works, failure to complete the works, failure to complete the remedial works)</td><td></td><td>√</td><td>√</td><td></td><td></td><td rowspan="6">PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK)</td></tr><tr><td>b construction failure</td><td></td><td></td><td></td><td></td><td>√</td></tr><tr><td>c the guarantee cannot be encashed</td><td></td><td></td><td></td><td></td><td>√</td></tr><tr><td>d miscalculation of volume of works (as per the audit findings)</td><td></td><td></td><td></td><td></td><td>√</td></tr><tr><td>e quality of goods/services delivered not based on the contract (as per the audit findings)</td><td></td><td></td><td></td><td></td><td>√</td></tr><tr><td>f delay in completion of the works</td><td></td><td></td><td></td><td></td><td>√</td></tr></table> <p>* liquidated damages is not considered as administrative sanction, while penalty is considered as administrative sanction</p> | Cause of Administrative Sanction | Type of Administrative Sanction (PPL s.78 (4)) | | | | | Party to Declare Black Listing | Rejection / Disqualification | Forfeited- Encash Guarantee | Black Listing | | Compensation | Penalty* | 1 Year | 2 Years | Bidders Misconduct (PPL 12/21 s.78(1): | | | | | | | a Submit false/fake document | √ | √ | | √ | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Procurement Officer/Committee/Agent' | b Indicated for collusion with other bidders | √ | √ | | √ | | c Indicated for "KKN" | √ | √ | | √ | | d Withdraw without unjustified reason and not accepted by the procurement committee/officers/agent | | √ | √ | | | Winner Misconduct (PPL 12/21 s.78(2): | | | | | | | Refuse to sign the Contract after issuance of the Letter of Acceptance | | √ | √ | | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK) | Service Provider/Contractor Default (PPL 12/21 s.78(3): | | | | | | | a in breach of its contract due to non-performance (no presence/no works, failure to complete the works, failure to complete the remedial works) | | √ | √ | | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK) | b construction failure | | | | | √ | c the guarantee cannot be encashed | | | | | √ | d miscalculation of volume of works (as per the audit findings) | | | | | √ | e quality of goods/services delivered not based on the contract (as per the audit findings) | | | | | √ | f delay in completion of the works | | | | | √ | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>There are very few cases of administrative debarment/blacklisting for cases relating to procurement related fraud and corruption. Also, there is no evidence if any due process is followed in cases related to administrative debarment/blacklisting</p> | | <p>Recommendation</p> <p>KPK to publish data on handling cases of procurement related (including in award and selection process) fraud and corruption and clarify in legislation on following due process related to administrative debarment/blacklisting</p> |
| Cause of Administrative Sanction | Type of Administrative Sanction (PPL s.78 (4)) | | | | | Party to Declare Black Listing | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Rejection / Disqualification | | Forfeited- Encash Guarantee | Black Listing | | Compensation | Penalty* | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | 1 Year | | 2 Years | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bidders Misconduct (PPL 12/21 s.78(1): | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| a Submit false/fake document | √ | √ | | √ | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Procurement Officer/Committee/Agent' | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| b Indicated for collusion with other bidders | √ | √ | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| c Indicated for "KKN" | √ | √ | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| d Withdraw without unjustified reason and not accepted by the procurement committee/officers/agent | | √ | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Winner Misconduct (PPL 12/21 s.78(2): | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Refuse to sign the Contract after issuance of the Letter of Acceptance | | √ | √ | | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Service Provider/Contractor Default (PPL 12/21 s.78(3): | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| a in breach of its contract due to non-performance (no presence/no works, failure to complete the works, failure to complete the remedial works) | | √ | √ | | | PA/KPA (Minister/Chairman/Governor/Major) as per the proposal from Contracting Officer (PPK) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| b construction failure | | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| c the guarantee cannot be encashed | | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| d miscalculation of volume of works (as per the audit findings) | | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| e quality of goods/services delivered not based on the contract (as per the audit findings) | | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| f delay in completion of the works | | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | |
|--|---|--------------------------------------|---|---------------------|-----------------------------------|-----------------------------|--|--|---|
| | <p>PerlemLKPP No.4 of 2021¹⁰⁰ Guidance of business actors for government goods/services procurement elaborates upon the provisions in the PPL and includes standard forms for use in the blacklisting process.</p> <p>As indicated under sub-indicator 1(d) (c), PPL s.83 National Blacklist requires the PA/KPA (Budget holder/Authorized Budget Holder) to disclose information on blacklisted providers on the National Blacklist, which is maintained by the LKPP and is accessible on-line. PerlemLKPP No.4 of 2021 Guidance of business actors for government goods/services procurement, Appendix II sets out further detail on the information to be provided to the LKPP. 2020 data published by LKPP refers to 294 blacklisted firms/individuals, with 201 being from the construction works sector. Based on Presidential Regulation No. 16 of 2018, the airing of blacklist sanctions is an obligation of the PA, not the LKPP. Therefore, LKPP does not carry out a clarification process to both the PA and the provider.</p> <p>LKPP monitors and evaluates the administrative completeness of the delivery of business actors / providers who are blacklisted.</p> <p>It is not clear if views of Providers are considered before blacklisting as part of due process.</p> | | | | | | | | |
| <p>(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):</p> <p>- Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred).</p> <p>Source: Normative/regulatory function/anti-corruption body.</p> <p>- Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted.</p> <p>Source: Normative/regulatory function/anti-corruption body.</p> <p>- Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %).</p> <p>Source: Survey.</p> | <p>Based on the website on Blacklist¹⁰¹ there 340 Active blacklists as on January 25, 2022 with period of validity and for each reasons stated. The most common example being non-performance of contract as per “LKPP Regulation No. 4 of 2021 Appendix II number 3.1 letter g Providers who do not carry out the contract, do not complete the work, or unilaterally terminate the contract by the PPK caused by the fault of the Goods/Services Provider.</p> <p>Based on details provided by KPK, the number of handlings of corruption cases that have obtained a final and binding decision are as under. This shows a huge decline in 2020 (the data for 2021 is till 31 March 2021 and hence not comparable)</p> <p>Based on LKPP Procurement Profile of 2020, 294 firms/individuals had been blacklisted, whereas majority of them under Construction Works (68%) and for contracts above IDR 100 billion (44%). The sanction given mostly during contract implementation.</p> <p>The statistics shows there are nine (9) cases related to Fraud and Corruption (eight of which are collusions amongst bidders).</p> <p>Related gifts to secure contracts, based on results of private sector survey the situation is as under:</p> <p>46. DO YOU CONSIDER THAT COMPANIES MUST GIVE GIFTS TO OBTAIN GOVERNMENT PROCUREMENT CONTRACTS?</p> <table><tr><td>YES</td><td>70</td></tr><tr><td>NO</td><td>526</td></tr></table> <p>Statistics from KPK showed that fraud and corruption related to procurement are amongst 21% of the overall cases in the last decade. But there is no data on enforcement and on Government officials found guilty of fraud and corruption in public procurement: number/prosecuted/convicted. Based on clarification provided by LKPP on April 12, 2022 Business actors / providers who are subject to blacklist sanctions related to fraud and corruption cases occur during the procurement process (selection of providers until handover). While the case in the KPK is a case after the procurement process is completed. The law on corruption, it is said to be corruption if there is a loss of the state. In the procurement process until the contract was signed, no state losses had occurred, so LKPP does not enter into this area.</p> | YES | 70 | NO | 526 | Please see data on the left | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>There is no evidence of follow-up of procurement related fraud and corruption and any statistical information.</p> | | <p>Recommendation</p> <p>KPK to publish data related to follow-up of procurement related fraud and corruption.</p> |
| YES | 70 | | | | | | | | |
| NO | 526 | | | | | | | | |

¹⁰⁰Replacing and revoking PerlemLKPP no.17 of 2018 Blacklisting guidelines

¹⁰¹ <https://inaproc.id/daftar-hitam>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

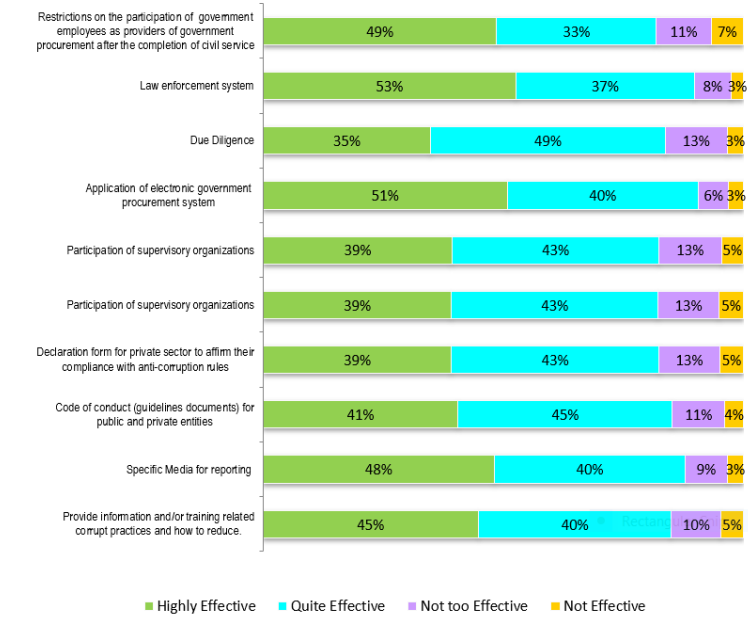
| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---------------------|---|--------------------------------------|---|---------------------|-----------------------------------|
| | If there is a case of fraud after the contract is handled by law enforcement officials. (requested data on the last 3 years of business actors who have proven fraud / corruption cases: number and sanctions) . | | | | |

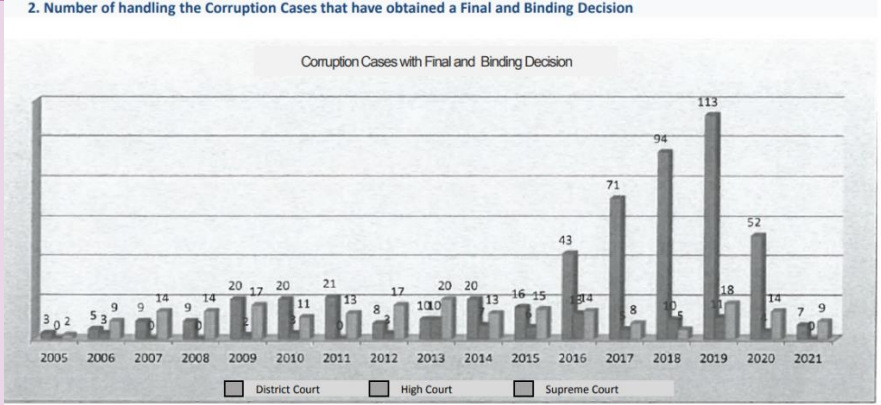
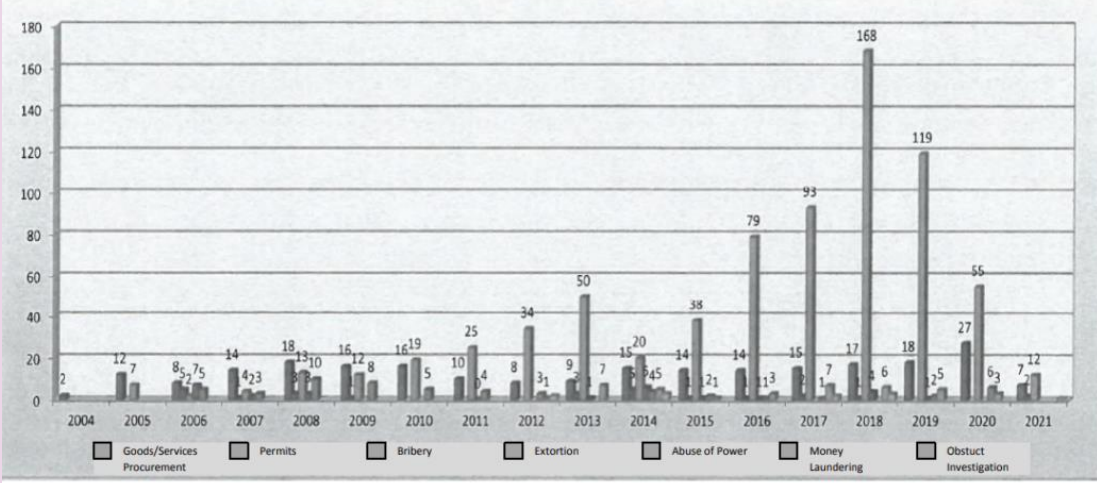
14(d) Anti-corruption framework and integrity training

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|-----------------------------------|
| (a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalize corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.* *Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a): - percentage of favorable opinions by the public on the effectiveness of anti-corruption measures (in % of responses). Source: Survey. | Government Regulations No. 54 2018 sets out national strategy for preventing corruption and outline focus and target for preventing corruption as the basis for each line ministries, agencies and local government and other stakeholders through the Corruption Prevention Action (APK) in the form of program and activities. https://www.stranaspk.id/about.html Based on the survey ¹⁰² carried out by KPK, the SPI National Integrity Index was obtained with a score of 72.43 from the 2021 target, which is a score of 70 as stated in the 2020-2024 RPJMN, with the lowest index range of 42.01 and the highest 91.72. Then there are 7 (seven) elements that are assessed including: Management of Procurement of Goods and Services, Integrity in the Implementation of Duties, Budget Management, Transparency, Trading Influence (<i>Trading Influence</i>) , Human Resource Management, and Anti-Corruption Socialization. Based on the results of the SPI, the risk of corruption is still found to be widespread in almost all agencies. Some of the main findings mapped based on the results of the 2021 SPI are: Misuse of office facilities for personal interests, the risk of corruption in the management of procurement of goods/services, and bribery/gratuities still occur in almost all agencies. | | Criterion met | | |

¹⁰²<https://www.kpk.go.id/berita/siaran-pers/2435-indeks-integritas-nasional-lampai-skor-target-rpjm-2020-2024>

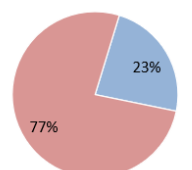
*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|--------------------------------------|--|---------------------|---|---------------|--|-----|-----|-----|----|------------------------|-----|-----|----|----|---------------|-----|-----|-----|----|---|-----|-----|----|----|--|-----|-----|-----|----|--|-----|-----|-----|----|---|-----|-----|-----|----|--|-----|-----|-----|----|------------------------------|-----|-----|----|----|--|-----|-----|-----|----|--|--|--|--|
| | <div><p>Survey on the Perception of Private Sector of the Government Procurement System in Indonesia</p><p>47. HOW EFFECTIVELY DO YOU THINK THE FOLLOWING METHODS CAN REDUCE CORRUPTION PRACTICES IN GOVERNMENT PROCUREMENT?</p><table><thead><tr><th>Method</th><th>Highly Effective</th><th>Quite Effective</th><th>Not too Effective</th><th>Not Effective</th></tr></thead><tbody><tr><td>Restrictions on the participation of government employees as providers of government procurement after the completion of civil service</td><td>49%</td><td>33%</td><td>11%</td><td>7%</td></tr><tr><td>Law enforcement system</td><td>53%</td><td>37%</td><td>8%</td><td>3%</td></tr><tr><td>Due Diligence</td><td>35%</td><td>49%</td><td>13%</td><td>3%</td></tr><tr><td>Application of electronic government procurement system</td><td>51%</td><td>40%</td><td>6%</td><td>3%</td></tr><tr><td>Participation of supervisory organizations</td><td>39%</td><td>43%</td><td>13%</td><td>5%</td></tr><tr><td>Participation of supervisory organizations</td><td>39%</td><td>43%</td><td>13%</td><td>5%</td></tr><tr><td>Declaration form for private sector to affirm their compliance with anti-corruption rules</td><td>39%</td><td>43%</td><td>13%</td><td>5%</td></tr><tr><td>Code of conduct (guidelines documents) for public and private entities</td><td>41%</td><td>45%</td><td>11%</td><td>4%</td></tr><tr><td>Specific Media for reporting</td><td>48%</td><td>40%</td><td>9%</td><td>3%</td></tr><tr><td>Provide information and/or training related corrupt practices and how to reduce.</td><td>45%</td><td>40%</td><td>10%</td><td>5%</td></tr></tbody></table></div> <div><p>Survey on the Perception of Private Sector of the Government Procurement System in Indonesia</p><p>48. IF YOU HAVE ANY OTHER CRITERIA THAN THE ABOVE QUESTION, PLEASE SPECIFY</p><div><p>Same perception of regulatory changes that are quite fast and overlapping</p><p>Integrity pact of government civil servant to anti-corruption</p><p>Transparency of Procurement Process that can be publicly monitored</p><p>Media and Security for whistle blowers</p><p>Standardization of the technical requirements that it does not lead to a particular provider</p><p>Enhancements of Electronic Procurement System (SPSE)</p></div></div> | Method | Highly Effective | Quite Effective | Not too Effective | Not Effective | Restrictions on the participation of government employees as providers of government procurement after the completion of civil service | 49% | 33% | 11% | 7% | Law enforcement system | 53% | 37% | 8% | 3% | Due Diligence | 35% | 49% | 13% | 3% | Application of electronic government procurement system | 51% | 40% | 6% | 3% | Participation of supervisory organizations | 39% | 43% | 13% | 5% | Participation of supervisory organizations | 39% | 43% | 13% | 5% | Declaration form for private sector to affirm their compliance with anti-corruption rules | 39% | 43% | 13% | 5% | Code of conduct (guidelines documents) for public and private entities | 41% | 45% | 11% | 4% | Specific Media for reporting | 48% | 40% | 9% | 3% | Provide information and/or training related corrupt practices and how to reduce. | 45% | 40% | 10% | 5% | | | | |
| Method | Highly Effective | Quite Effective | Not too Effective | Not Effective | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Restrictions on the participation of government employees as providers of government procurement after the completion of civil service | 49% | 33% | 11% | 7% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Law enforcement system | 53% | 37% | 8% | 3% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Due Diligence | 35% | 49% | 13% | 3% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Application of electronic government procurement system | 51% | 40% | 6% | 3% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Participation of supervisory organizations | 39% | 43% | 13% | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Participation of supervisory organizations | 39% | 43% | 13% | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Declaration form for private sector to affirm their compliance with anti-corruption rules | 39% | 43% | 13% | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Code of conduct (guidelines documents) for public and private entities | 41% | 45% | 11% | 4% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Specific Media for reporting | 48% | 40% | 9% | 3% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Provide information and/or training related corrupt practices and how to reduce. | 45% | 40% | 10% | 5% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (b) As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle. | Based on information given by KPK they have a system of identifying corruption risks as captured in following slides shared by KPK in Nov 2021 https://www.stranaspk.id/about.html | | Criterion partially met Minor GAP – may be considered as non-substantive No statistics or data available on systematic identification and mitigation of procurement related fraud and corruption | | Recommendation KPK to consider publication of statistics on procurement related fraud and corruption and steps taken on systematic identification and mitigation of procurement related fraud and corruption | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| © As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually. | Based on details provided by KPK, the number of handlings of corruption cases that have obtained a final and binding decision are as under. This shows a huge decline in 2020 (the data for 2021 is till 31 March 2021 and hence | | Criterion partially met Minor GAP – may be considered as non-substantive | | Recommendation KPK to consider publication of statistics on related legal proceedings and convictions on procurement related fraud and corruption | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| Assessment criteria | Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria) | Step 2: Quantitative analysis | Step 3: Gap analysis / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|-------------------------------|---|---------------------|--|------|------|------|------|------|------|------|------|------|------|------|------|-------|------|-------|----------------|---|---|---|---|----|----|----|---|----|----|----|----|----|----|-----|----|---|-----|------------|---|---|---|---|---|---|---|---|----|---|---|----|---|----|----|---|---|----|---------------|---|---|----|----|----|----|----|----|----|----|----|----|---|---|----|----|---|-----|-------|---|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|----|----|-----|--|--|--|--|
| | <div><p>2. Number of handling the Corruption Cases that have obtained a Final and Binding Decision</p><p>CUT OFF 31 March 2021</p><table><thead><tr><th></th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2009</th><th>2010</th><th>2011</th><th>2012</th><th>2013</th><th>2014</th><th>2015</th><th>2016</th><th>2017</th><th>2018</th><th>2019</th><th>2020</th><th>2021</th><th>Total</th></tr></thead><tbody><tr><td>District Court</td><td>3</td><td>5</td><td>9</td><td>9</td><td>20</td><td>20</td><td>21</td><td>8</td><td>10</td><td>20</td><td>16</td><td>43</td><td>71</td><td>94</td><td>113</td><td>52</td><td>7</td><td>521</td></tr><tr><td>High Court</td><td>0</td><td>3</td><td>0</td><td>0</td><td>2</td><td>3</td><td>0</td><td>3</td><td>10</td><td>7</td><td>6</td><td>13</td><td>5</td><td>10</td><td>11</td><td>4</td><td>0</td><td>77</td></tr><tr><td>Supreme Court</td><td>2</td><td>9</td><td>14</td><td>14</td><td>17</td><td>11</td><td>13</td><td>17</td><td>20</td><td>13</td><td>15</td><td>14</td><td>8</td><td>5</td><td>18</td><td>14</td><td>9</td><td>213</td></tr><tr><td>TOTAL</td><td>5</td><td>17</td><td>23</td><td>23</td><td>39</td><td>34</td><td>34</td><td>28</td><td>40</td><td>40</td><td>37</td><td>70</td><td>84</td><td>109</td><td>142</td><td>70</td><td>16</td><td>811</td></tr></tbody></table></div> <p>not comparable</p> <p>Related to mode of corruption, cases include bribery, abuse of power and money laundering the situation is as under:</p> <div><p>3. Mode of Corruption</p></div> | | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | Total | District Court | 3 | 5 | 9 | 9 | 20 | 20 | 21 | 8 | 10 | 20 | 16 | 43 | 71 | 94 | 113 | 52 | 7 | 521 | High Court | 0 | 3 | 0 | 0 | 2 | 3 | 0 | 3 | 10 | 7 | 6 | 13 | 5 | 10 | 11 | 4 | 0 | 77 | Supreme Court | 2 | 9 | 14 | 14 | 17 | 11 | 13 | 17 | 20 | 13 | 15 | 14 | 8 | 5 | 18 | 14 | 9 | 213 | TOTAL | 5 | 17 | 23 | 23 | 39 | 34 | 34 | 28 | 40 | 40 | 37 | 70 | 84 | 109 | 142 | 70 | 16 | 811 | | No statistics or data available on procurement related fraud and corruption on related legal proceedings and convictions on procurement related fraud and corruption | | |
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | Total | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| District Court | 3 | 5 | 9 | 9 | 20 | 20 | 21 | 8 | 10 | 20 | 16 | 43 | 71 | 94 | 113 | 52 | 7 | 521 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| High Court | 0 | 3 | 0 | 0 | 2 | 3 | 0 | 3 | 10 | 7 | 6 | 13 | 5 | 10 | 11 | 4 | 0 | 77 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Supreme Court | 2 | 9 | 14 | 14 | 17 | 11 | 13 | 17 | 20 | 13 | 15 | 14 | 8 | 5 | 18 | 14 | 9 | 213 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | 5 | 17 | 23 | 23 | 39 | 34 | 34 | 28 | 40 | 40 | 37 | 70 | 84 | 109 | 142 | 70 | 16 | 811 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| (d) Special measures are in place for the detection and prevention of corruption associated with procurement. | <p>https://www.stranaspk.id/fokus-aksi-detail.html?id=11</p> <p>Satranas PK provides specific action focus on acceleration of public procurement using electronic platform to provide direct interaction between the procuring entities and suppliers and promote public availability of accurate and integrated Beneficial Ownership (BO) data.</p> <p>Based on clarications given by LKPP on April 12, 2022 In accordance with Presidential Regulation 16/18, Article 7 paragraph 1 letter e and Paragraph 2 letter a, a system is needed that can detect collusion and conflicts of interest. Through the integration of the SPSE system with Beneficial Ownership (BO system) owned by Ministry of Justice and Human Rights (Kemenkumham) detection can be performed during the selection process</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>Based on the given information there is no evidence of detection and prevention of corruption associated with procurement due to flawed interpretation of Section 77 of PPL that requires reporting when there is harming of public finance and not potential of corruptions (KKN), as correctly defined in the bidding/tender document to cover potential corruption</p> | | <p>Recommendation</p> <p>The definition of KKN in legislation to be clarified, made consistent with the bidding document and applied consistently for the entire procurement process starting from the needs assessment till completion of the contract.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|---|---------------------|---|
| (e) Special integrity training programmes are offered and the procurement workforce regularly participates in this training. | <p>Some other CSOs delivered special integrity training attended by procurement workforce. [Need to check the same program developed by KPK and LKPP]</p> <p>Based on clarification provided by LKPP on April 12, 2022 Materials related to integrity are included in any LKPP training (data confirmation with Deputy for Human Resources Development (D3) KPK has also developed an e-learning program related to anti-corruption and integrity that can be accessed by anyone (https://elearning.kpk.go.id).</p> | | <p>Criterion partially met</p> <p>Minor GAP – may be considered as non-substantive</p> <p>No evidence of Integrity Red Flag Training on indication of KKN in the procurement process starting from needs assessment, framing of technical specification evaluation process and contract implementation.</p> | | <p>Recommendation</p> <p>To consider Integrity Red Flag Training on integrity in procurement that is indication of KKN in the procurement process starting from needs assessment, framing of technical specification, evaluation process till contract implementation.</p> |

14(e) Stakeholder support to strengthen integrity in procurement

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis / conclusions</u> (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations | | | | | | |
|---|---|--------------------------------------|--|---------------------|--|--|---|------------------------------------|--|--|---|
| (a) There are strong and credible civil society organisations that exercise social audit and control. | Based on the responses, the involvement of CSO in procurement process in general is not consultative and transparent. 80% of responses are “No” or “Uncertain”. At the time of the pandemic, the level of transparency decreased. Based on the responses, programs to support the capacity of CSOs to participate in public procurement is practically non-existent with 90% of responses as “No” or “Uncertain” (source from 11 (a)(a) and 11 (a) (b)) | | Criterion partially met Minor GAP – may be considered as non-substantive Lack of credible Civil Society Organization that exercise social audit and control as third party monitors to improve integrity in procurement process. | | Recommendation To consider strengthening social audit and control to improve integrity in procurement process through credible Civil Society Organizations. | | | | | | |
| (b) There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government. | Based on findings under Indicator 11 | | Criterion partially met Minor GAP – may be considered as non-substantive Lack of meaningful role as third party monitors to improve integrity in procurement process. | | Recommendation To involve CSOs to meaningful role as third party monitors to improve integrity in procurement process. | | | | | | |
| (c) There is evidence that civil society contributes to shape and improve integrity of public procurement. * * Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil society organizations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement. Source: Survey/interviews. | And Results from Private Sector Survey. Few important slides based on response from 496 participants- and related to exercise of social audit and control by CSOs Survey on the Perception of Private Sector of the Government Procurement System in Indonesia 50. ARE YOU AWARE OF ANY SOCIAL COMMUNITY (NGOs/KSM) THAT ACTICELY PROVIDE SOCIAL SUPERVISION AND CONTROL IN THE GOVERNMENT PROCUREMENT? <table><tr><td>YES</td><td>140</td></tr><tr><td>NO</td><td>456</td></tr></table>  51. IF YOUR ANSWER NUMBER 50 IS YES, PLEASE MENTION. <table><tr><td>Indonesian Corruption Watch (ICW) Forum Indonesia untuk Transparansi Anggaran (FITRA) Masyarakat Anti Korupsi Indonesia (MAKI) Jaringan Advokasi Kebijakan Anggaran (JANGKAR)</td><td>Malang Corruption Watch Independen Pembaharu Indonesia Lumbung Informasi Rakyat (LSM LIRA) LSM Tvkor, LSM LIRA, LSM Cakra, etc</td></tr></table> | YES | 140 | NO | 456 | Indonesian Corruption Watch (ICW) Forum Indonesia untuk Transparansi Anggaran (FITRA) Masyarakat Anti Korupsi Indonesia (MAKI) Jaringan Advokasi Kebijakan Anggaran (JANGKAR) | Malang Corruption Watch Independen Pembaharu Indonesia Lumbung Informasi Rakyat (LSM LIRA) LSM Tvkor, LSM LIRA, LSM Cakra, etc | Please see data on the left column | Criterion partially met Minor GAP – may be considered as non-substantive Based on data 77% of respondents stated that they are not aware of any social community (NGOs/KSM) that actively provide supervision and control in government procurement. | | Recommendation As at (a) and (b) above |
| YES | 140 | | | | | | | | | | |
| NO | 456 | | | | | | | | | | |
| Indonesian Corruption Watch (ICW) Forum Indonesia untuk Transparansi Anggaran (FITRA) Masyarakat Anti Korupsi Indonesia (MAKI) Jaringan Advokasi Kebijakan Anggaran (JANGKAR) | Malang Corruption Watch Independen Pembaharu Indonesia Lumbung Informasi Rakyat (LSM LIRA) LSM Tvkor, LSM LIRA, LSM Cakra, etc | | | | | | | | | | |

| | | | | | |
|---|---|--|---|--|---|
| | <div>Survey on the Perception of Private Sector of the Government Procurement System in Indonesia</div> <div><div>REASON FOR ANSWERING YES :</div><div><ul style="list-style-type: none">Monitor government procurement intenselyAs an independent party that oversees procurement intenselyTo follow up and report if there are corrupt practices</div></div> <div><div>REASON FOR ANSWERING NO :</div><div><ul style="list-style-type: none">Political and conflict of interestsUntrustworthy and SubjectiveOpening a loophole for corruption</div></div> <div>53. IN YOUR OPINION, WHAT ARE THE OBSTACLES (IF ANY) OF NGO's/KSM INVOLVEMENT IN OVERSEEING THE GOVERNMENT PROCUREMENT IN THE CURRENT ECONOMIC AND POLITICAL SITUATION?</div> <div><div><ul style="list-style-type: none">Work becomes slow as work is disruptedCertain political interestsComplicated and intervention occursMoney orientedPartisanship factorIncrease expenses/costs</div><div>Rectangular Snip</div></div> | | | | |
| <div>(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*</div> <div>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - number of suppliers that have internal compliance measures in place (in %). Source: Supplier database.</div> | <div>A sample below is taken from PT Adhi Karya’s website: https://adhi.co.id/tata-kelola-z91QxnJDvrgmpBM4Odri</div> <div>Based on clarification provided by LKPP on April 12, 2022 It seems that no data is available, even though the activity has been carried out by associations and business actors (news on BSN and Google pages) BSN: National Standardization Agency</div> | | <div>Criterion partially met Minor GAP – may be considered as non-substantive</div> <div>Lack of reliable data on activity carried associations and business actors to support integrity and ethical behavior in public procurement</div> | | <div>Recommendation</div> <div>To consider collaborating with Suppliers and business associations who can actively support integrity and ethical behavior in public procurement</div> |

14(f) Secure mechanism for reporting prohibited practices or unethical behavior

| Assessment criteria | Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria) | Step 2: Quantitative analysis | Step 3: Gap analysis / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|-------------------------------|---|---------------------|---|
| (a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behavior. | <div>There are provisions of public grievance related to indications of corruption (KKN) harming public finance (section 77 of Perpres 12 of 2021)</div> <div>Secure Mechanism to report prohibited practices, unethical behavior Whistle Blower Protection</div> <div>Sub-indicator 14 (f)</div> | | <div>Criterion partially met Minor GAP – may be considered as non-substantive</div> <div>Though there is secure mechanism to report practices, there is not much evidence of reporting in procurement</div> | | <div>Recommendation</div> <div>To consider clarifying the provisions of Section 77 of PPL on Public Grievance and</div> |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--------------------------------------|--|---------------------|--|
| | <p>https://www.integrity-indonesia.com/blog/2017/09/14/corporate-corruption-whistleblowing-indonesia/".</p> <p>Based on clarification provided by LKPP on April 12, 2022, there is a unit in KPK (Directorate of Public Complaints) that specifically handles community complaints. The number of complaints and follow-up data is at the link: https://www.kpk.go.id/id/statistik/pengaduan-masyarakat</p> | | related fraud and corruption due to concept of “harming public finance” and actual loss. | | encouraging public to report to authorities if they believe that there are indications of corruption (KKN), both actual and potential. |
| (b) There are legal provisions to protect whistle-blowers, and these are considered effective. | <p>There is law no.13 of 2006 and https://jdih.setneg.go.id/</p> <p>We find the following on KPK website</p> <p>Based on clarification provided by LKPP on April 12, 2022, The KPK whistle-blowers system can be accessed at kws.kpk.go.id. The system technically preserves the identity and information of whistle-blowers. To further ensure Confidentiality, here are the things to note: *Not filling in personal data or information that allows others to track who you are, such as your name or your relationship with the perpetrators. *Avoid using your office computer if the complaint you are about to submit involves parties within your office. The KPK will keep your personal information secret as a whistleblower, the KPK will only focus on reported cases. Protection procedures and practices can be seen in the link: https://kws.kpk.go.id</p> <p>As per Annual Report of KPK “The KPK and institutions such as the LPSK continue to try to protect the whistleblowers, as well as the family members of the complainants if necessary. We strive to provide a sense of security and comfort for the complainant during the judicial process. Because the support and participation of the community is important and the KPK can never alone fight corruption”.</p> | | Criterion met | | |
| (c) There is a functioning system that serves to follow up on disclosures. | <p>Based on clarification provided by LKPP on April 12, 2022 The receiving officer will verify the report / complaint in the KWS (KPK Whistleblower Ssystem) within 5 working days from the time the report / complaint is received. The officer will verify the report / complaint including checking the completeness of the documents provided and whether the report / complaint submitted is included in the authority of the KPK. If the report / complaint submitted is worthy to be followed up to the next stage, namely the review stage (examination), then the officer will inform the registration number / complaint agenda number registered in the KPK Community Complaint handling system. Furthermore, the report / complaint will be further reviewed by the KPK complaint review team. The complainant will get a response both in writing and verbal follow-up to the results of the review carried out. In the review</p> | | Criterion met | | |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | process, the whistleblower can be contacted by the review team in order to coordinate and extract further information | | | | |

14 (g) Codes of conduct/codes of ethics and financial disclosure rules

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|---|--------------------------------------|--|---------------------|--|
| <p>(a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement. *</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a): - share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities). Source: Normative/regulatory function.</p> | <p>PPL s.7 concerns Procurement Ethics. It includes reference to avoiding and preventing conflicts of interest (PPL s.7(1)(e)), preventing of abuse of power and/or collusion (PPLs.7(1)(g)) and not accepting, offering, or promising to give or receive gifts, rewards, commissions, rebates etc. PPL s.7(1)(h)) neither receiving, nor offering nor promising to give or take any gift, reward, commission, rebate and anything from to anyone known or allegedly related to Procurement.</p> <p>PPL s.7 refers to procurement ethics.</p> <p>Note new PerLemLKPP no.10 of 2021 Procurement work unit, Chapter VI -Code of conduct and standard operating procedures <i>A.22 references the code of ethics.</i></p> <p>LKPP informs that quantitative data on number of procuring entities that have a mandatory code of conduct or ethics is not available.</p> | | Criterion met | | |
| <p>(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements. *</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b): - officials involved in public procurement that have filed financial disclosure forms (in % of total required by law). Source: Normative/regulatory function.</p> | Based on clarification provided by LKPP on April 12, 2022 Every KDP is obliged to report LHKPN (State Officials Wealth Report) every year not every package creation | | Criterion met | | |
| <p>(c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.</p> | LKPP clarified on April 12, 2022 Presidential Regulation no. 16 of 2018 Article 82 related to sanctions for PA / KPA / PPK / Pokja / Procurement Officials. Criminal sanctions are given if there is proven state loss. It can be given an example of PA / KPA / PPK that has been imposed criminal sanctions. | | <p>Criterion partially met Minor GAP- may be considered non-substantive</p> <p>The concept of potential loss not part of definition of fraud and corruption to be clarified</p> | | <p>Recommendation</p> <p>Definition of fraud and corruption to be clarified Refer 14 (a) (a)</p> |
| <p>(d) Regular training programmes are offered to ensure sustained awareness and implementation of measures.</p> | <p>LKPP clarification on April 12, 2022. LKPP confirmed that there is a regular training program on integrity related as per the following link, however there was no available data that can substantiate the analysis.</p> <p>https://ppsdm.lkpp.go.id/statistik-data/statistik-pelaksanaan-pelatihan-ujian</p> | | <p>Criterion partially met Minor GAP- may be considered non-substantive.</p> <p>No data/details available on procurement integrity related training while there is a system in place that facilitate the capacity building program.</p> | | <p>Recommendation</p> <p>Definition of fraud and corruption to be clarified Refer 14 (a) (a). LKPP/KPK to compile details of procurement integrity related training.</p> |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | | | | | |
| (e) Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilized by decision makers to prevent corruption risks throughout the public procurement cycle. | <div>Asset Declaration Compliance for official involved in procurement</div> <div>There is a procedure for Registration, Publication, and Examination of Asset Report of government Officials by Directive of Corruption Eradication No. KEP/07/IKPK/02/2005</div> <div>https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_EN.pdf</div> <div>Further there is a report by UNODC on Asset Declaration System in Indonesia</div> <div>https://www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/Indonesia_Asset_declaration_systems_Country_report_revised_TH_1.pdf</div> <div>Based on the query any additional information/data including Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, by officials involved in public procurement from the stage of preparation of specification till payment and certification of work. <i>(Cross refer item 4 of this table)</i> If this information is utilized by decision makers to prevent corruption risks throughout the public procurement cycle. The response of LKPP on April 12, 2022. Every KDP is obliged to report LHKPN every year not every procurement package</div> | | Criterion met | | |

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.