

Assessing Public Procurement Practice in Indonesia - 2017

General Description of the Public Procurement System

X. Management of the Public Procurement System

Please provide a brief description of how the public procurement system is managed in your country by answering the following questions:

Is there a single state body responsible for managing the public procurement system, or is this function distributed among more than one state body? What is its/their authority and responsibilities and are legal requirements met in practice in this regard? What is the level of independence of this body/ies and are legal requirements met in practice? Is there duplication of authority?

Please provide the answer in a maximum of 5-10 sentences.

Comment:

Different from most countries, the Indonesia regulation regarding PP is regulated in the form of Presidential Decree, which in the history have been amended several times. Currently the PPL that applies is Number 16 of 2018. This regulation is a simplification of the previous PPL because it only focuses on the general norms of PP, while for more detailed arrangement, LKPP as a PP agency has the authority to draft technical regulation.

LKPP is formed through Presidential Decree Number 106 of 2007. **LKPP is the only non-departmental government institution that has the authority to develop and formulate PP policies.** LKPP is coordinated directly by the State Minister of National Development Planning and is responsible directly to the President.

In carrying out the tasks referred to PPL No 106 of 2007, LKPP organizes functions as follow:

1. Preparation and formulation of strategies as well as determining policy and procedure standards of PP, including the procurement of business entities in the framework of government cooperation with business entities;
2. Preparation and formulation of strategies and determining policies for fostering human resources in the PP;
3. Monitoring and evaluating the implementation of PP;
4. Guiding and developing information systems and supervise the implementation of PP electronically (electronic procurement);
5. Providing technical guidance, advocacy and legal assistance;
6. Organizing general administrative services in the field of planning, administration, staffing, finance and equipment and general affair within the institution.

LKPP is not an independent agency since in carrying out its duties and functions it is supposed to be under coordination of the State Minister of National Development Planning and is responsible directly

to the President. The head of LKPP is elected and dismissed by the President.
(<http://www.lkpp.go.id/v3/>).

Although LKPP is the only PP institution, there are several other state institutions established to oversee government revenues and expenditures, including PP. The Supreme Audit Agency (BPK RI) is an independent state institution and is mandated to conduct audits of all state entities that use state funds on a regular basis (www.bpk.go.id). While the Business Competition Supervisory Commission is an independent institution formed to oversee fair business competition, including competition in government tenders (www.kppu.go.id).

X. Are tenders electronic or paper based? In cases when tenders are solely electronic, are there cases of paper-based tendering? Is there insufficient enforcement of PPL?

Please provide the answer in a maximum of 3-4 sentences.

Comment:

According to PPL in Indonesia, there are various methods in PP that combine electronic methods and paper bases. Both of them apply simultaneously, although the existing PPL is intended to encourage electronic PP mechanisms for all types of procurement. As stipulated in PPL, the procurement mechanism consists of self-managed procurement, procurement through provider, e-purchasing, tender, selection, direct appointment and direct procurement.

X. Is public procurement conducted through a centralized, single website or are there multiple websites for conducting public procurement? Is its/their use mandatory or voluntary?

Please provide the answer in a maximum of 3-4 sentences.

Comment:

PP is carried out in a decentralized manner. Each government institution, both at the central and regional levels, has a special unit tasked with organizing procurement, both electronically and manually. For providers of goods / services who want to take part in the bidding, they need to register as provider in a special portal provided by each government institution.

X. If there is a register of suppliers, what is the number of registered suppliers in it?

If possible, please provide a comparison with several (at least 5) previous years?

Comment:

Year	Number of Registered Suppliers
2018	NA
2017	NA
2016	27,759

2015	40,092
2014	59,728

Source: <http://report-lpse.lkpp.go.id/v2/public/penyedia?status=terdaftar#>

There are two analysis regarding above data:

1. The total registered providers as shown above is only from electronic procurement
2. The total number of registered providers unlikely reflect the real data since the data entry of each registered provider depend upon each special unit in each government agency to effectively input the information

X. What is the total number of competitive procedures?

If possible, please provide a comparison with several (at least 5) previous years.

Comment:
DNA

X. What is share of public procurement in the country's GDP?

Comment:

2018:

PP budget ceiling US \$ 23.340.933.250,93

GDP NA

2017:

PP budget ceiling US\$ 27.138.824.337,32

GDP US\$ 933.182.255.184,73

2016:

PP budget ceiling US\$ 27.399.747.218,79

GDP US\$ 932.300.000.000,00

2015:

PP budget ceiling US\$ 27.249.409.147,10

GDP US\$ 860.900.000.000,00

2014:

PP budget ceiling US\$ 21.302.067.092,43

GDP US\$ 724.007.691.251,20

Note: currency being used for the entire calculation US\$ 1 = IDR 14.529,00

X. What are the monetary thresholds for single source procurement (works, goods, services)? _____

Is the monetary threshold acceptable? Why or why not?

Comment:

The single source procurement according to PPL only can be done for projects with the budget allocation under US\$ 13.734,38 for good, work and service. In addition, the maximum budget spending for consultancy service is under US\$ 6.867,19. Above these value, the PP should be done by competitive bidding.

Public Procurement Scope and Spending Breakdown

X. What share (% in terms of procurement value) of government spending is conducted through competitive public procurement procedures? 69,48% in 2018

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment:

Year	PP Competitive (IDR Billion)	PP Non Competitive (IDR Billion)	Total PP	%
2018	529.604,68	232.563,95	762.168,63	69,48
2017	649.193,90	259.553,93	908.747,83	71,43
2016	586.797,07	135.754,65	586.797,07	76,86
2015	570.255,78	111.180,59	570.255,78	80,50
2014	NA	NA	NA	

The decrease of competitive PP as can be seen from the above table shows the growing number of self-management type of project. Self-management project define as a method to obtain good/ service that are done by the Ministry/Gov Institution/ Sub-national gov, community organization, or community group. This method has been introduced since 2010. The purpose of this method is actually to provide an opportunity for community development group/CSO/NGO to involve in government project.

However, there are another political landscape need to be consider since in Indonesia context, corruption in government project is typically high in term of the accident. Therefore, it may that the public official want to get more benefit for their own via self management type of project rather than to open the competition.

X. What share (% in terms of procurement value) of total public procurement spending is conducted through single source procurement? _____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by the list of legal exemptions considered acceptable or unnecessary by the TPPR Methodology (Pre-tendering phase, Indicator 9).

Comment: DNA

LKPP as the only PP Agency does not provide detail information concerning this issue. More over, the decentralized PP in Indonesia resulting unorganized information and no standard of data of which public find a problem to access freely.

X. What is the share (% in terms of procurement value) of below threshold single source procurement in total public procurement spending? _____

Please provide an analysis of this data point in 2-3 sentences (if possible, provide data from previous 5 years).

Comment: DNA. Similar to previous question, LKPP only share data and information concerning past contract and on going procurement in general sense. Therefore, it is difficult to make the procurement spending data in more specific category.

X. If your country has any unreasonable exemptions to the Public Procurement Legislation (e.g. contingency funds, utilities, certain procuring entities or sectors of the economy), provide your estimate of the volume spent in this way and the share (% in terms of value) these exemptions would constitute in total procurement spending? Volume : ____ share: ____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA. Similar to previous question.

X. What is the volume of secret government procurement? What is the share (value in %) of secret government procurement in total public procurement expenditures? Volume: _____ share: _____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA, since the secret government procurement does not under control of LKPP

Competitiveness

X. What is the average number of bidders? _____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by goods, works and services.

Comment: DNA. What LKPP provided to public is providers, not bidders. The providers is classified into two types. First is registered provider and the second is verified provider.

Registered provider:

2015: 40.092

2016: 27.759

2017: NA

2018: NA

Verified provider:

2015: 24.587

2016: 17.906

2017: 123

2018: 20

This data shows that the electronic procurement system has been introduced but has not been able to stimulate new private sector to engage in PP. Otherwise, the number of registered provider declined quiet significant.

X. What is the share (% in terms of procurement value) of competitive procedures with single bidders in total competitive spending? ____

If possible, please provide information on the share (number) of competitive contracts won by single bidders in the total number of competitive procedures.

Comment: DNA

X. What is the share (% in terms of procurement value) of competitive procedures with five or more bidders in total competitive spending? ____

If possible, please provide information on the share (number) of competitive contracts with three or more bidders in the total number of competitive procedures.

Comment: DNA

X. What share (% in terms of procurement value) of public procurement contracts is won by commercial state-owned enterprises (above 50% ownership)? ____

Provide an analysis of this data point. If applicable, provide a comparison with several previous years. If possible, provide a breakdown of this data point by type of procedure, i.e. competitive procedures vs. direct procurement. Is there any reason to believe that state owned companies are getting preferential treatment?

Comment: DNA

X. What share (% in terms of procurement volume) of public procurement contracts is won by foreign enterprises? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA

X. What is the share (%) of procuring entities which only used single source procurement in the total number of procuring entities? _____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA

Efficiency

X. What is the share (%) of failed tenders in the total number of tenders? _____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by tenders with no bidders, cancelled tenders or unsuccessful tenders where no relevant competitor was found.

Comment: DNA

X. What share (%) of planned public procurement expenditure was saved as a result of competitive procedures? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: LKPP provide information regarding efficiency in term of the margin between procurement budget ceiling and real value of contract. This data assumes that the real value of competitive contract.

Efficiency (PP Budget Ceiling vs Real Value Contract)

Year	Efficiency Value (million IDR)	Percentage (%)
2018	33.571.550,00	10,98
2017	35.712.008,00	11,32
2016	28.312.260,00	9,26
2015	24.606.058,00	10,14
2014	21.378.848,00	10,00

It shows that the efficiency value of competitive contract has increased in average. The amount of money the government can secure has also significant. It suggests that the competitive contract contribute to budget efficiency and better budget allocation.

X. What is the share (% in terms of procurement value) of tenders where price is the only criterion compared to competitive procedures where other criteria are also used? ____

If possible, provide a comparison with several (at least 5) previous years, as well as a brief analysis of this data point.

DNA

X. What is the share (%) of non-executed contracts in the total number of contracts? ____

If relevant, provide a comparison with several (at least 5) previous years. If possible, provide a breakdown of this data point by type of procedure, i.e. competitive procedures vs. direct procurement. If possible, indicate the share (%) of non-executed contracts awarded through competitive procedures, as well as single source procurement.

Comment:
DNA

Accountability

X. Describe the dispute settlement mechanism in public procurement, its composition, authority, level of independence, and decision-making procedures. What are the major strengths and problems in law and practice:

Comment:

Under new PPL, the dispute settlement has been extended into several approach. The main objectives of new dispute settlement is that the government agency and provider do not need to go to court to settle the dispute since court will very delay in dealing with the issue. In addition, the government need to take into account the possible of contract delay.

The LKPP has established the Contract Dispute Resettlement Service. The mechanism to deal with contract dispute under new PPL comprise of 3 stages namely mediation, conciliation, and arbitrate. The CDRS structure comprise of head of the CDRS, secretary section and administrative section. In addition, this unit has mediator, conciliator and arbitrator. The secretariat of CDRS focus on handling any dispute file to this unit. The secretariat provides expertises come from various background either practitioners and academics in order to maintain the credibility of the output. The CDRS is an independent in term of providing services.

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X. What is the number of complaints submitted to the dispute resolution board (or equivalent body)? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA since this unit is apparently new.

X. What is the share (%) of disputed tenders in the total number of tenders? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment: DNA

X. What share (%) of disputes was won by the initiator in the Dispute Resolution Board (or equivalent body)? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment: DNA

X. What share of decisions of the Dispute Resolution Board have been taken to courts? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA

X. What share (%) of the total competitive procurement spending was received by companies that have donated (including private donations by their owners) to the current government? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment: DNA

X. What share (%) of the total single source procurement spending was received by companies that have donated (including private donations by their owners) to the current government? ____

If possible, please provide an analysis of this data point in 2-3 sentences. Have there been any high profile cases of politically affiliated companies receiving single source contracts?

Comment: DNA

Transparency

X. Can public procurement related data be downloaded in bulk? If yes, can data be downloaded in any of the following formats - CSV, JSON, or XML?

Information related PP that has been fully provided in the LKPP portal among other the annual planning of PP, the past tender, the on going procurement, the average budget, the number of providers, the classification of provider. Most of the data is XML. Some of the data can be exported into excel.

X. Are there any significant data quality issues? (Are any control mechanisms in place to ensure data quality is maintained?)

This is one of the issue. LKPP is national agency and most of the data they managed come from PP ministry and local office which operate independently. Therefore, the credibility of the information in the LKPP portal really depend on how PP Ministry/PP Non-Ministry/PP local office input the data.

X. Please fill the Data Transparency Table below by indicating either “Yes”, “No” or “N/A” in each empty slot:

Data Transparency Table - Access to Public Procurement Related Documents							
Type of document	Is this information required to be public by law?	Is this information publicly available?	Is the database complete?	Electronic	Machine-readable *	Free of charge	Exact format
PPL documents	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual public procurement plans	Yes	Yes	No	Yes	Yes	Yes	No
Notices of intended procurement	Yes	Yes	Yes	Yes	Yes	Yes	No
Amendments to tender documentation	Yes	No	No	No	No	No	No

Tender candidate applications	yes	No	No	No	No	No	No
Bids	yes	No	No	No	No	No	No
Tender commission decisions	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Information on subcontractors	Yes	No	No	No	No	No	No
Procurement contracts	Yes	No	No	No	No	No	No
Contract amendments	Yes	No	No	No	No	No	No
Contract performance information	Yes	Yes	No	Yes	Yes	Yes	No
Payment receipts	Yes	No	No	No	No	No	No
Inspection and quality control reports	Yes	No	No	No	No	No	No
Complaints	Yes	No	No	No	No	No	No
Dispute resolutions	Yes	No	No	No	No	No	No
Internal and external audit reports	Yes	No	No	No	No	No	No

* For the purposes of this questionnaire, machine-readable means: for quantitative data formats, such as: JSON, CSV, XML, and for text documents - document that are NOT uploaded in the form of a scanned photo or PDF file.

In the comment box below, please elaborate on any irregularities or important details related to the above table.

Comment:
Some important data but still absent among other the detail information about providers/bidders and the detail and structure information concerning PP and its budget allocation for any type of tender.

X. In addition to what is listed in the Data Transparency Table above, are there any gaps in the public procurement database/s? (e.g. gaps in the completeness of data from specific procurers or specific time periods?)

The contribution of competitive bidding/electronic procurement to the efficiency of PP budget per annual and the completeness of PP data in each PP Ministry/PP Non Ministry and PP local official

Major Strengths and Weaknesses

X. What are the 3 major gaps between the country's public procurement legislation requirements and their implementation in practice? (e.g. ignored provisions, legal loophole, etc.) What are your recommendations for how to align the practice with the legislation? Please provide a brief description of each in a maximum of 4-5 sentences.

1.

Gap: the electronic procurement does not fully implemented

Recommendation: government and LKPP needs to create action plan on how and when each government entities enter to full electronic procurement. In addition, the Government and LKPP need to identify the possible setback of electronic procurement implementation

2.

Gap: the information of PP does not fully provided

Recommendation: The Government and LKPP need to push each PP office to immediately share their data and information in order to maintain the validity of the data

3.

Gap: The public access and engagement to PP policy reform agenda and PP implementation monitoring

Recommendation: The Government and LKPP need to take into account the important of civil society and private sector role in monitoring the PP policy and its implementation. They need to establish stakeholders forum to discuss issue concerning of improvement of PP environment.

X. What are the 3 major weaknesses / challenges of the country's public procurement system as a whole? And what are your recommendations for overcoming them? Please provide a brief description of each in a maximum of 4-5 sentences.

1.

Challenge: Data completeness, reliable and valid

Challenge faced by the public procurement system in Indonesia is the availability of detailed data and information for each stage of PP. Information about procurement is currently very limited, and relies on technical institutions to provide important information to LKPP as the institution that manages public procurement policies. Though accurate and complete information is needed by the community to carry out the monitoring function. The complete data is also needed by the private sector to be more actively involved in providing goods and services needed by the government so as to reduce monopolistic practices.

Recommendation:

The government and LKPP need to register and list what important information is needed by the community, both for the procurement supervision function and the business sector's need to be involved in the supply of goods and services needed by the government, which is currently not provided in the LKPP portal.

2.

Challenge: PP System partially applied

Although PP policies in Indonesia have led to optimizing use of technology and information through the implementation of electronic procurement, but legally, the PP system developed by LKPP only applies to parts of the state sector. Only the central and regional governments and technical institutions using APBN and APBD funds that utilize this system. While other sectors such as state own enterprise that do not use the state budget are not included in the PP system. Likewise with procurement in the defense sector.

Recommendation:

The Procurement System needs to be applied to all mechanisms for the procurement of goods and services needed by the government and public institutions as a whole in order to ensure the transparency and accountability of the government.

3.

Challenge: The accountability of LKPP

the implementation of electronic procurement is something that is intended to reduce corruption practices, while increasing transparency. Unfortunately, various aspects in implementing this electronic system have not been accountable. For example, LKPP has the authority to determine the

list of companies included in the e-catalog. The problem is that the mechanism for determining which companies can enter the e-catalog has not been transparent. This situation could trigger new corruption problems.

Recommendation:

LKPP needs to establish a transparent standard and mechanism to determine which companies are eligible to be included in the e-catalog. The implementation of this mechanism must also be able to become the object of LKPP's internal audit to ensure that the entire process in determining the list of companies in the e-catalog really works professionally and accountable.

X. What are the 3 major strengths / successes of the country's public procurement system as a whole?
Please provide a brief description of each in a maximum of 4-5 sentences.

1.

PP in Indonesia has succeeded in driving changes from the adoption of conventional public procurement system to electronic based. This change makes public spending more efficient, more transparent and provide greater opportunity the involvement of the private sector in the supply of goods and services needed by the government.

2.

The public procurement system succeeded in pushing for the establishment of certified procurement agencies in all government institution. This institution has been largely autonomous and professional in nature, making the PP faster and easier.

3.

LKPP as an institution responsible for developing procurement systems and policy in Indonesia has succeeded in increasing public access to procurement data. This has led to innovation in procurement monitoring due to the availability of sufficient data, even though it is not complete.