



MAPS

Methodology for Assessing
Procurement Systems

ASSESSMENT OF INDONESIA PUBLIC PROCUREMENT SYSTEM

2024





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Indonesia

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May 2024



Indonesia: Assessment of the Public Procurement System

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1818 H Street NW

Washington DC 20433

Telephone: 202-473-1000

Internet: www.worldbank.org

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Acronyms

ADB	Asian Development Bank
AMEL	Aplikasi Monitoring-Evaluasi Lokal (Local Monitoring-Evaluation Application)
APBD	Anggaran Pendapatan dan Belanja Daerah (Regional Budget)
APBN	Anggaran, Pendapatan dan Belanja Negara (State Budget)
APIP	Aparat Pengawasan Intern Pemerintah (Government Internal Supervisory Apparatus)
APK	Aksi Pencegahan Korupsi (Corruption Prevention Action)
ASN	Aparatur Sipil Negara (State Civil Apparatus)
ATIGA	ASEAN Trade in Goods Agreement
ATISA	ASEAN Trade in Services Agreement
ASEAN	Association of Southeast Asian Nations
BAKN	Badan Administrasi Kepegawaian Negara (Public Account Committee)
Bappenas	Badan Perencanaan Pembangunan Nasional (National Development Planning Agency)
BEPS	Base Erosion and Profit Shifting
BKN	Badan Kepegawaian Negara (National Civil Service Agency)
BKPM	Badan Koordinasi Penanaman Modal (Investment Coordinating Board)
BLI	Badan Litbang dan Inovasi (Research & Development and Innovation Agency)
BLU	Badan Layanan Umum (Public Service Agency)
BLUD	Badan Layanan Umum Daerah (Regional Public Service Agency)
BO	Beneficial Ownership
PBJ	Pengadaan Barang/Jasa (Procurement of Goods/Services)
BPK	Badan Pemeriksa Keuangan (Supreme Audit Agency)
BPKP	Badan Pengawasan Keuangan dan Pembangunan (Finance and Development Supervisory Agency)
BUMN	Badan Usaha Milik Negara (State-owned Enterprise)
CEPA	Comprehensive Economic Partnership Agreement
CMEA	Coordinating Ministry for Economic Affairs
COSO	Committee of Sponsoring Organizations of the Treadway Commission
CPAR	Country Procurement Assessment Report
CPI	Corruption Perception Index
CPIs	Compliance/ Performance Indicators
CPS	Country Partnership Strategy
CPSD	Country Private Sector Diagnostic
CPV	Common Procurement Vocabulary
CSO	Civil Society Organization
DFAT	Department of Foreign Affairs and Trade
DIPA	Daftar Isian Pelaksanaan Anggaran (Budget Implementation List)
DPD	Dewan Perwakilan Daerah (Regional Representative Council)
DPR	Dewan Perwakilan Rakyat (The House of Representative of the Republic of Indonesia)
EFTA	European Free Trade Association

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e-GP	Electronic Government Procurement
EITI	Extractive Industries Transparency Initiative
EPC	Engineering Procurement Construction
E-Procurement	Electronic procurement
e-PS	e-Procurement System
EU	European Union
FAQ	Frequently Asked Questions
FMIS	Financial Management Information System
FSOL	Financial Sector Omnibus Law
FY	Financial Year
GCC	General Conditions of Contract
GDP	Gross Domestic Product
GoI	Government of Indonesia
GPA	Government Procurement Agreement
GPPB	Government Procurement Policy Board
GPSA	Global Partnership for Social Accountability
HPP	Hydro Power Plants
IAPI	Ikatan Ahli Pengadaan Indonesia (Indonesian Procurement Experts Association)
ICB	International Competitive Bidding
IDR	Indonesian Rupiah
IG	Inspectors General
IHPS	Ikhtisar Hasil Pemeriksaan Semester (Semester Examination Results Overview)
IIGF	Indonesia Infrastructure Guarantee Fund
IFPI	Ikatan Fungsional Pengadaan Indonesia (Indonesian Procurement Functional Association)
IFPSM	International Federation of Purchasing and Supply Management
ILO	International Labor Organization
INKINDO	Ikatan Nasional Konsultan Indonesia (National Association of Indonesian Consultants)
IsDB	Islamic Development Bank
ISO	International Organization for Standardization
ISSAIs	International Standards of Supreme Audit Institutions
ITKP	Indeks Tata Kelola Pengadaan (Procurement Governance Index)
JF PPBJ	Jabatan Fungsional Panitia Pengadaan Barang/Jasa (Functional Position of Procurement Committee of Goods/Services)
Juknis	Petunjuk Teknis (Technical Guidelines)
KADIN	Kamar Dagang dan Industri (Chamber of Commerce and Industry)
Keppres	Keputusan Presiden (Presidential Decree)
KKN	Korupsi, Kolusi dan Nepotisme (Corruption, Collusion, and Nepotism)
KPA	Kuasa Pengguna Anggaran (Budget Holder)
KPIs	Key Performance Indicators
KPK	Komisi Pemberantasan Korupsi (Corruption Eradication Commission)
KSI	Knowledge Sector Initiative
LKPP	National Public Procurement Agency
LPJK	Lembaga Pengembangan Jasa Konstruksi (Construction Services Development Institute)
LPSE	Layanan Pengadaan Secara Elektronik (Electronic procurement services)
LT	Long Term

MADANI	Civil Society Support Initiative Program
MAPS	Methodology for Assessing Procurement Systems
MDTF	Multi Donors Trust Funds (The Government of Canada, the Government of Swiss Confederation and the European Union)
MOF	Ministry of Finance
MoHA	Ministry of Home Affairs
MONEV	Monitoring and Evaluation
MONEV NG	Monitoring and Evaluation Next Generation
MPDs	Model Procurement Documents
MPWH	Ministry of Public Works and Housing
MSOEs	Ministry of State-Owned Enterprises
MSMEs	Micro, Small and Medium Enterprises
MT	Medium Term
NCT	National Coordinating Team
NPPO	National Public Procurement Office
NTMs	Non-tariff Measures
OCDS	Open Contracting Data Standard
OECD/DAC	Organization for Economic Co-operation and Development/ Development Assistance Committee
OGC	Office of Government Commerce
OGP	Open Governance Partnership
PA	Pengguna Anggaran (Budget User)
PDN	Produksi Dalam Negeri (Domestic Product)
PEFA	Public Expenditure and Financial Accountability
PerkaANRI	Procurement Archives Retention Regulation
Perpres	Peraturan Presiden (Presidential Regulation)
PFM	Public Financial Management
PIM	Public Investment Management
PP	Peraturan Pemerintah (Government Regulation)
PPK	Pejabat Pembuat Komitmen (Commitment Making Officers)
PPL	Public Procurement Law
PPP	Public-Private Partnership
PPPO	Public Procurement Policy Office
PPR	Public Procurement Regulations
PPS	Public Procurement Service
PPSDM	Pusat Pengembangan Sumber Daya Manusia (Human Resource Development Center)
RECEP	Regional Comprehensive Economic Partnership
REDD+	Reducing Emission from Deforestation and Forest Degradation
RUP	Rencana Umum Pengadaan (General Procurement Plan)
RKA-KL	Rencana Kerja dan Anggaran Kementerian Negara/Lembaga (Line ministries/Institution's annual work plans and budgets)
SAI	Sistem Akuntansi Instansi (Accounting System Institution)
SBDs	Standard Bidding Documents
SDGs	Sustainable Development Goals
SI	Sub-Indicator
SIKaP	Sistem Informasi Kinerja Penyedia (Service Provider Performance Information System)

SIPTL	Sistem Informasi Pemantauan Tindak Lanjut (Follow-up Monitoring Information System)
SIRUP	Sistem Rencana Umum Pengadaan (General Procurement Plans System)
SMART	Specific, Measurable, Achievable, Realistic, and Timely
SMEs	Small and Medium Enterprises
ST	Short Term
SNI	Standard Nasional Indonesia (Indonesian National Standards)
SOEs	State-Owned Enterprises
SPAN	Sistem Perbendaharaan dan Anggaran Negara (Government Financial Management Information System)
SPKN	Standard Pemeriksaan Keuangan Negara (National Financial Audit Standards)
SPP	Sustainable Public Procurement
SPSE	Sistem Pengadaan Secara Elektronik (e-Procurement System)
SSKK	Syarat-Syarat Khusus Kontrak (Special Contract Conditions)
SSUK	Syarat-Syarat Umum Kontrak (General Contract Conditions)
Swakelola	Self-management Procurement
THL	Tax Harmonization Law
TI	Transparency International
TPK	Tindak Pidana Korupsi (Corruption Crime)
UKPBJs	Unit Kerja Pengadaan Barang/Jasa (Procurement Service Working Units)
ULPs	Unit Layanan Pengadaan (Procurement Service Units)
UNCAC	United Nations Convention Against Corruption
UNSDCF	United Nations Sustainable Development Cooperation Framework
UMKM	Usaha Micro, Kecil dan Menengah (Micro, Small and Medium business enterprises)
USAID	United States Agency for International Development
USD	US Dollar
UU	Undang-Undang (General Law/Constitution)
VfM	Value for Money
WB	The World Bank
WBP	Whistle Blower Protection
WBS	Whistle Blower System
WTO	World Trade Organization

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The Assessment Team was led by Ahmed Merzouk (Lead Procurement Specialist, World Bank) as Task Team Leader (TTL), supported by Budi Permana (Senior Procurement Specialist, World Bank), Achmad Zacky Wasaraka (Procurement Specialist, World Bank) and Arun Kumar Kolsur (Senior Procurement Specialist, World Bank). The other Assessment Team members were Cut Dian Agustina (Economist, World Bank), I Gusti Ngurah Wijaya Kusuma (Financial Management Specialist, World Bank), Keiko Koiso (Senior Procurement Specialist, ADB); Olga Suyatmo (Senior Procurement Officer, ADB), Suharyani (Senior Procurement Officer, ADB), and Enggar Prasetyaningsih (Field Procurement Officer, IsDB).

The Assessment Team consisted of a team of experts hired by the partner institutions, that included Devesh Chandra Mishra (Lead Consultant), Susan Smith (Legal Consultant), Joe Fagan (Consultant, e-GP expert), Afaf Khalil Abbasi (Consultant), and Fenty Dolores Halim (Consultant) with overall coordination and support provided by Sri Hastuti (Program Assistant).

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Executive Summary

The Government of Indonesia (GoI) has made substantial and consistent procurement reform efforts over the last two decades. Capitalizing on these reforms, this assessment applying the Methodology for Assessing Procurement System (MAPS 2018) constitutes the first ever comprehensive review of the country's public procurement system. This MAPS assessment has been conducted under the full ownership of the Government with support led by the World Bank (under a shared financing received from PFM-MDTF), in partnership with the Asian Development Bank (ADB) and the Islamic Development Bank (IsDB). The broad development objective of this MAPS assessment is to identify priorities for development of a modern procurement system, underpinned by sustainability considerations and delivering better Value-for-Money (VfM) outcomes.

In addition to the broad development objective, this MAPS assessment presents an opportunity to identify ways in which to further improve the quality and the performance of Indonesia's public procurement system, continue the drive for greater transparency and promote integrity and citizen engagement in public procurement. Priority areas for improvement are listed below and explored in more detail in the Report. There are major reform challenges and opportunities, as capital expenditure from the central government budget has consistently remained low over the past decade in Indonesia and a recent World Bank study¹ has highlighted the ongoing challenges in both the regulatory framework and institutions of Public Financial Management (PFM) in Indonesia. These include delays in the completion of the procurement process, constraints of annual budget planning, problems with payment processing and concerns as to the absorptive capacity of the line ministries. Further there are concerns about the quality of capital budget implementation and challenges faced by the private sector seeking to invest in infrastructure².

The COVID-19 pandemic led to the first recession in Indonesia in two decades. The economy contracted by 2.1 percent in 2020, driven by declines in private consumption and investment associated with income losses and heightened uncertainty, although a strong policy response avoided potentially worse outcomes.³ In this context, LKPP promptly issued guidelines and a booklet on use of emergency procurement including contact details to obtain assistance from LKPP. The main activities of the MAPS assessment were undertaken in the period from October 10, 2019, with Initiation Workshop with all key stakeholders to the Stakeholder Validation Workshop on June 27, 2022. Restrictions arising from the ongoing impact of the COVID-19 pandemic, in particular limitations on travel and added challenges relating to data collection, had a significant impact on the conduct of the MAPS Assessment. In addition, in the first quarter of 2021, there were substantial revisions to the procurement legal framework.⁴ This necessitated extensive reassessment and revision of the work already undertaken, which was achieved with the support of the national public procurement agency (LKPP) and other stakeholders.

Key findings of the MAPS assessment are presented below, under four headings using the "pillars" of the MAPS Methodology.

¹ Indonesia: Revenue and Budget Management: Institutional Diagnostic of Low and Slow Government Capital Budget Execution (June 28, 2020), World Bank.

² [Indonesia Public Expenditure Review 2020: Spending for Better Results \(worldbank.org\)](https://www.worldbank.org/Indonesia/Public-Expenditure-Review-2020)

³ Indonesia Economic Prospect (June 2021)- Boosting the Recovery

⁴ Presidential Regulation (PerPres) no. 12 of 2021 and PerLem No. 12 of 2021 (PPR 2021).

Pilar I Legal, Regulatory and Policy Framework

Adequacy of Legal and Regulatory Framework. The legal and regulatory framework is comprehensive, well recorded and organised in an appropriate hierarchical manner. LKPP actively promotes availability of information on the procurement legal framework through its website, which provides a central up to date repository of current laws, regulations, LKPP guidelines as well as a large collection of standard/model bidding documents and standard contract conditions, all accessible to the public at no cost.

Level of transparency: The level of transparency and information on procurement opportunities is notably high due to the mandatory use of the e-procurement system (SPSE), flowing through into the clear regulations on conduct of competitive procurement procedures, including online clarifications.

Procurement methods: There is a good range of well-described competitive and less competitive procurement procedures, including international bidding over specified financial thresholds. Conditions for participation and qualification, as well as the process of evaluation and award criteria are clearly set out in the legal framework. It is unclear what is the impact of use of self-management procurement (Swakelola).

Procurement by State Owned Enterprises (SOEs): Procurement by SOEs, which dominate in provision of infrastructure, is excluded from application of the PPL and is governed by a separate procurement regime and public availability of SOEs' own procurement rules is mixed. PPL only covers procurement that are financed through the state budget and procured by line ministries, agencies, and local governments, whereas procurement that are financed from SOE's owned Budget and executed by SOE is governed by a separate rules and regulations issued by the Minister of SOE.

Use of 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.

Right of bidders to challenge: The legal framework clearly establishes the right of bidders to challenge decisions or actions of the public bodies using an "objection" (challenge) process, at both pre/qualification and tender award stages.

Pilar II Institutional Framework and Management Capacity

Integration: The procurement process is well integrated with the public finance management system, which is underpinned by a strong legal and regulatory framework that aligns with most international standards on PFM. Procurement planning is aligned with the budget cycle with appropriate flexibilities available to permit advance procurement and multi-year contracting.

Institution in charge of normative/regulatory function: There is strong normative/ regulatory institution function led by LKPP which covers a wide range of appropriate functions in support of the development and operation of the system as a whole. The legal framework clearly defines responsibilities and formal powers of procuring entities at all stages of the procurement process.

e-Procurement system (SPSE): SPSE is well established, provides open access to public tenders and supports e-tendering, e-purchasing and e-catalogues, from planning through to award of contracts. All line ministries

and local government use SPSE to support e-procurement for state-funded procurement activities and make use of LKPP's e-purchasing and e-catalogue system. There is room for improvement to enable greater efficiency, transparency and more effective planning, in particular establishing INAPROC as a full national e-procurement service for vendors offering a single point of entry to access and respond to government procurement opportunities.

Procurement training and recognition of procurement as a profession: There are substantive training programs relating to public procurement. Procurement is recognized as a profession for civil servants, with regulated accreditation and competency standards.

Pilar III Public Procurement Operations and Market Practices

Quality and performance of public procurement: The practices and mechanisms to promote and measure the quality and performance dimensions of the public procurement system are inadequate or absent. There is evidence of excessive use of non-competitive methods and levels of competition appear low. These factors point to the objectives of efficiency, fairness and value-for-money not being fully achieved.

Use of best value-for-money and sustainability criteria considerations: The lowest price and scoring system appear to be the mostly often used technique for evaluation of bids/proposals. Sustainability criteria, in particular for green procurement, have started to be used.

Compliance with quality control and payment: Compliance with regulatory and contractual provisions for inspection, quality control, and supervision procedures is very high. Payment of invoices is in line with the applicable payment processing procedures, supported by a good treasury database and system.

Contracts management and data analytics: There are shortcomings in contract management. Time overruns are common and a system for tracking payment of invoices is missing.

Pilar IV Accountability, Integrity, and Transparency of the Public Procurement System

Enabling environment for public consultation and monitoring: Civil Society Organizations (CSOs) can engage in the procurement policy preparation process.

Transparent and accountable financial management of budget implementation system. Commitment controls are in place at the spending unit level and effectively limit commitments to actual cash availability and approved budget ceilings.

External audit, internal control system and financial reporting. Indonesia's supreme audit institution, the Financial Supervisory Agency (BPK) is independent of the executive and has a mandate to conduct audits of all central government entities, as well as local government agencies.

Procurement Audit. There are written standards for procurement audit and systems in place for follow up and monitoring of the implementation/enforcement of the audit recommendations. Procurement audit is included in the regular training programs of both the Supreme Audit Institution (BPK) and the Finance and Development Supervisory Agency (BPKP).

Existence of Appeals Mechanism: A bidder who is wished to appeal against a decision by a procuring entity in response to an objection (challenge) has a number of potential routes available, including using LKPP complaints procedure and the public complaints procedure. There exists the possibility of making an application in respect of a decision on objection to the Administrative Court.

Prohibited practices and reporting cases of Fraud and Corruption. There are strong ethics provisions on prohibited practices in procurement. There are legal provisions covering reporting of cases of fraud and corruption and public grievance available related to possible collusion, corruption and nepotism (KKN), as well as Whistle Blower Protection (WBP). There is a secure mechanism for reporting prohibited practices or unethical behavior, but there is reluctance by the public to report procurement related fraud and corruption. The definitions of corruption are not fully aligned with UNCAC definitions and there are no data on procurement related fraud and corruption.

The MAPS assessment has identified priority areas for improvement. To help the GoI prioritize its measures and reforms initiatives, the MAPS assessment team identified the following priority areas for improvement. See Section 4 of this Report] for more detail on each priority area for improvement:

1. Coverage of the legal and regulatory framework – Undertake critical review of procurement using Swakelola and SOEs procurement: Undertake a study/analysis to assess the use and impact of Swakelola and, in particular whether, how and to what extent Swakelola has an adverse impact on value outcomes in procurement. Consider also the classification of each of the types of Swakelola. Consider conducting a study of SOE procurement, to assess both the impact and operation of the separate procurement regime for procurement by SOEs of public funds and the impact including on competition, integrity and VfM outcomes of business cooperation among SOEs, their subsidiaries and affiliated companies.

#2. E-procurement system and financial procedures and the procurement cycle: Ensure that the SPSE and other LKPP systems supporting e-procurement remain current and up to date with current trends and security requirements. A technology refresh through a digital transformation initiative would allow LKPP to enhance the e-GP service offering, security of the system environment and leverage additional value from the data. Expand reporting and information management systems to take full advantage of the information collected through systems to offer notification services to vendors and advanced monitoring and planning tools for procuring entities and LKPP using Open Contracting Data concepts and additional classifications applied to procurement transactions. Consider ensuring an efficient level of interoperability between the SPSE and SPAN (PFM system) so that the government could have a full end-to-end procurement and contract information.

#3. Strengthening the performance monitoring and measurement mechanisms: Enhanced data analytics dashboard for real-time monitoring and measurement of public procurement performance using pertinent KPIs, including for improving competition, value-for-money, and contract management.

4. Sustainable public procurement: prepare strategy, action plan and practical guidelines including use of Life-Cycle Costing principles in entire procurement process: Consider undertaking an in-depth assessment to inform the strategic planning process leading to the preparation and adoption of a comprehensive SPP policy/strategy in support of national policy objectives supported by an implementation plan and to support increased participation of women in public procurement. Consider promoting the use of life-cycle costing, issuing technical guidance on its application throughout the procurement cycle.

5. Complaints review mechanism - review of routes and process for appeal against decisions on objection: 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. In preparation for the critical review, identify information and data required in order to better understand the functioning of the current arrangements.

6. Procurement performance Audit: Issue written standards and procedures for procurement performance audit, widely disseminate procurement audit guidelines to all Inspectors General of line ministries and include targets for specialized procurement audit in the audit plan of BPK (Supreme Audit Institution) and BPKP (Finance and Development Supervisory Agency).

7. Bring Clarity on definition of procurement related Fraud and Corruption and availability of related data: Consider implementing activities at inter-ministerial/agency level to ensure full alignment with UNCAC definitions of corruption, to review and update bribery offenses, clarify definition of KKN and to address and remedy issues raised, including in the context of administrative debarment (blacklisting) in procurement.

#8. Improve accessibility of legal framework documents: Consider ways to improve presentation of procurement legal framework documents and search functions to assist identification of relevant documents and specific parts of documents pertinent to particular issues, for practical use and application by stakeholders. Consider also broadening the LKPP's central collection of procurement legal framework documents to provide access to and search functions for procurement related regulations and guidelines issued by ministries and other organizations.

Next Steps: It is envisaged that the findings and recommendations of the MAPS assessment will help inform the strategic planning process for future procurement reforms and system development by the GoI. A suggested strategic Action Plan is included in Chapter 5 of this report. Preparation of the detailed action plan, and sequencing of implementation is left to the discretion of the GoI. The findings of this assessment offer the opportunity for the GoI and participating development partners to explore possible ways and means for future support.

The following table provides an overview of the findings of the assessment at the level of sub-indicators. Each sub-indicator is color-coded as per the compliance overview matrix (Volume II) to match the findings according to the following scheme:

Colour	Remarks
Green	No criteria of the sub-indicator have gaps (No gap)
Yellow	Some criteria of the sub-indicator have minor gaps, but none have substantive gaps (Minor gap)
Red	At least one criterion of the sub-indicator has a substantive gap (Substantive gap) In case red flags are identified, the respective sub-indicator is marked with an asterisk (*)

Table 1: Overview of the Assessment Findings at the Level of Sub-Indicators

PILLAR I	
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
	1(b) – Procurement methods
	1(c) – Advertising rules and time limits
	1(d) – Rules on participation (*)
	1(e) – Procurement documentation and technical specifications
	1(f) – Evaluation and award criteria
	1(g) – Submission, receipt, and opening of tenders
	1(h) – Right to challenge and appeal (*)
	1(i) – Contract management
	1(j) – Electronic Procurement (e-Procurement)
	1(k) – Norms for safekeeping of records, documents and electronic data.
	1(l) – Public procurement principles in specialized legislation
	2. Implementing regulations and tools support the legal framework.
2(b) – Model procurement documents for goods, works, and services	
2(c) – Standard contract conditions	
2(d) – User’s guide or manual for procuring entities	
3. The legal framework reflects the country’s secondary policy objectives and international obligations	3(a) – Sustainable Public Procurement (SPP)
	3(b) – Obligations deriving from international agreement
PILLAR II	
4. The public procurement system is mainstreamed and well integrated into the PFM system.	4(a) – Procurement planning and the budget cycle
	4(b) – Financial procedures and the procurement cycle
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
	5(b) – Responsibilities of the normative/regulatory function
	5(c) – Organisation, funding, staffing, and level of independence and authority
	5(d) – Avoiding conflict of interest
6. Procuring entities and their mandates are clearly defined.	6(a) – Definition, responsibilities and formal powers of procuring entities
	6(b) – Centralized procurement body
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology
	7(b) – Use of e-Procurement
	7(c) – Strategies to manage procurement data
8. The public procurement system has a strong capacity to develop and improve.	8(a) – Training, advice and assistance
	8(b) – Recognition of procurement as a profession
	8(c) – Monitoring performance to improve the system
PILLAR III	
9. Public procurement practices achieve stated objectives.	9(a) – Planning
	9(b) – Selection and contracting
	9(c) – Contract management
10. The public procurement market is fully functional.	10(a) – Dialogue and partnerships between public and private sector
	10(b) – Private sector’s organization and access to the public procurement market
	10(c) – Key sectors and sector strategies
PILLAR IV	

11. Transparency and civil society engagement foster integrity in public procurement.	11(a) – Enabling environment for public consultation and monitoring
	11(b) – Adequate and timely access to information by the public
	11(c) – Direct engagement of civil society
12. The country has effective control and audit systems.	12(a) – Legal framework, organisation and procedures of the control system
	12(b) – Coordination of controls and audits of public procurement
	12(c) – Enforcement and follow-up on findings and recommendations
	12(d) – Qualification and training to conduct procurement audits
13. Procurement appeals mechanisms are effective and efficient.	13(a) – Process for challenges and appeals (*)
	13(b) – Independence and capacity of the appeals body (*)
	13(c) – Decisions of the appeals body (*)
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
	14(b) – Provisions on prohibited practices in procurement documents
	14(c) – Effective sanctions and enforcement systems
	14(d) – Anti-corruption framework and integrity training
	14(e) – Stakeholder support to strengthen integrity in procurement
	14(f) – Secure mechanism for reporting prohibited practices or unethical behaviour
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules
<i>Refer to Detailed Matrix (IND MAPS Report Volume II) and a chart on: Criterion Met, Criterion Partially Met and Criterion Not Met for all 210 Assessment Criteria covering 55 sub-indicators</i>	

1. Introduction

Strategic Context and Rationale of the Assessment

1. Public Procurement is a crucial component of public services delivery, good governance and sustainable economies with inclusive growth. Governments around the world spend an approximate annual average of USD 9.5 trillion with public procurement constituting around 12-20% of individual countries' GDP⁵. In 2020, GOI total spending through public procurement, covering ministries, institutions, and local government, reached around 1027 trillion Indonesian rupiah (IDR)⁶ (equivalent to USD 70.8 billion). This constitutes about 47.8 percent of the total value of GOI's expenditures (estimated at IDR 2148 trillion)⁷, and represents around 6.67% of its national GDP. An efficient public procurement system that ensures effective management of public financial resources is therefore vital for GOI's socio-economic sustainable development and for the achievement of overall objectives of Vision 2045.

2. The MAPS Assessment of Indonesia Public Procurement was initiated at the GOI request through its National Public Procurement Agency (LKPP).⁸ LKPP requested that the WB assists the Government to assess Indonesia public procurement system using MAPS 2018⁹ methodology. The assessment comes after more than a decade of substantial procurement reform efforts in Indonesia. It constitutes the first ever comprehensive assessment to be conducted under the full ownership of the Government, with support led by the WB in partnership with the ADB and the IsDB. The assessment has taken a broad view of the public procurement system, reflecting on the procurement reform efforts made so far and the outstanding challenges. Qualitative and quantitative analysis and findings led to conclusions that support evidence-based recommendations summarized later in this report.

3. In 2001, the WB carried out the last comprehensive assessment of Indonesia public procurement system, presented through the Country Procurement Assessment Report (CPAR). The Public Expenditure and Financial Accountability (PEFA) assessment, on the other hand, was conducted in 2017¹⁰. It looked at few indicators and pointed to continuing challenges including: (i) significant portion of the procurement in the country being carried out through non-competitive methods (ii) procurement complaint handling mechanism being not sufficiently independent (iii) lack of a functional monitoring and evaluation system with required level of granular indicators that enable procurement and contract performance analysis. No comprehensive assessment has been carried out recently while the government has introduced from time-to-time various measures intended to strengthen the public procurement regulatory framework.

Development objectives

4. Considering the above, the MAPS assessment is deemed paramount and timely for taking stock of the status and functioning of the country's overall public procurement system. It allows establishing to what extent the individual measures have collectively resulted in establishing a robust public procurement system and how the system is performing in delivering the desired outcomes. The

5 MAPS 2018 - Foreword

6 Currency Unit 1 US \$= Rupiah (IDR) 14,500

7 National Procurement Profile Summary Report LKPP (2020)

8 LKPP was established in 2007 as the regulatory agency responsible for formulating, developing and implementing public procurement policies.

9 Methodology for Assessing Procurement Systems (MAPS) is a universal tool based on a set of quantitative and qualitative indicators reflective of leading international procurement practice that serves as a guide towards sustainable and inclusive Public Procurement Reform.

10 <https://www.pefa.org/node/546>

assessment is also required to incorporate additional features designed for a strategic approach to public procurement, and thereby enable the government and the development partners to use its findings and recommendations to prioritize the attention and support to areas in need of further improvement.

5. The MAPS assessment aims to (i) identify possible and significant gaps that negatively impact the quality and performance of the public procurement systems; (ii) provide a comparative analysis and recommendations that enhance the efficiency and performance of the public procurement system; (iii) prioritize attention and support to areas in need of further improvement in order to achieve the VfM consideration with use of sustainable and modern procurement system, and (iv) set an agreed strategic road map and action plan that support the country's efforts towards a well-governed public procurement system, both from modernization and professionalization perspectives, a system that contributes to meeting the government policy objectives, improving efficiency in public services delivery, increasing public trust, and enhancing the prosperity of the population while achieving VfM with high transparency, fairness and good governance.

Scope and methodology

6. The assessment covers the core areas under the four pillars of the MAPS methodology i.e. (i) Legal, regulatory and policy framework, (ii) Institutional Framework and Management Capacity, (iii) Procurement Operations and Market Practices, and (iv) Accountability, Integrity and Transparency. The Government may consider the need for undertaking subsequent assessments of particular aspects using MAPS Supplementary Modules in future.

7. The assessment scope encompasses the overall government public procurement system under the jurisdiction and advisory functions of LKPP, excluding procurement under PPP schemes and by SOEs as these are governed by separate procurement regulations. Nevertheless, a limited desk review of sample SOEs procurement has been conducted to provide an overview of their adopted procurement regulations and a summary report is attached under Annex 9 of Volume III of the Assessment Report.

8. A set of quantitative indicators offers the opportunity to substantiate the assessment of several sub-indicators considering the performance-related data. The assessment includes review of a sample of actual procurement transactions from a set of 15 quantitative sub-indicators and a survey, conducted to substantiate the assessment of the selected procurement sample cases. The analysis employed the MAPS indicators following the three-step approach outlined in the methodology and quoted as shown in table 2 below¹¹:

¹¹ Methodology for Assessing Procurement System (MAPS) 2018

Table 2: MAPS Methodology- The Three-Step Approach

Steps	Assessment
Step 1	Review of the system applying assessment criteria expressed in qualitative terms. To provide detailed information related to this comparison (actual situation vs. assessment criteria) and on changes underway.
Step 2	Review of the system applying a defined set of quantitative indicators (applying at least the minimum set of quantitative indicators defined at Annex 2 of MAPS Methodology 2018). To detail the findings of this quantitative analysis
Step 3	Analysis and determination of substantive or material gaps (gap analysis). Sub-indicators that exhibit a “substantive gap” are to be clearly marked to illustrate the need for developing adequate actions to improve the quality and performance of the system. In case of identified reasons that are likely to prevent adequate actions to improve the system, “red flags” need to be assigned. Red flags highlight any element that significantly impedes the achievement of the main considerations of public procurement and that cannot be mitigated directly or indirectly through the system.

9. The assessment was conducted in three phases – initiating phase, assessment phase and validation phase.

The initiating phase, aimed at building consensus among the parties (LKPP as the main counterpart on behalf of the Government and the other stakeholders) on the assessment methodology. This phase was concluded with an endorsed detailed assessment concept note;

The assessment phase included desk review of documents and other procurement data collected from selected implementing agencies or obtained from other relevant sources. Within this context and with the support of the National MAPS Task Team interviews and focused group discussions with key stakeholders of the procurement system were conducted to obtain their input on the MAPS relevant indicators. In addition, and in order to substantiate the assessment of some MAPS sub-indicators a survey sought input from private sector participants both electronically and through face-to-face interaction *inter alia* on their perception of public procurement and factors that inhibit competition. The data and other information also including information on the country context were analyzed following the MAPS three-step approach mentioned above.

The validation phase started with discussing the intermediate outputs of the assessment report with assigned representatives of LKPP and selected government units identified in Stakeholder Analysis. A draft Public Procurement Assessment Report is then prepared in English language incorporating their feedback. The validation phase calls also for sharing findings of the assessment with the main counterpart of the Government and other key stakeholders for their comments once the draft assessment report is ready. The Final Assessment Report will, after taking into account all suggestions and comments be endorsed by LKPP and other counterparts.

During the above three phases, several missions took place. The preparatory mission was conducted between October 7 and 11, 2019 by representatives from the WB and the ADB and was concluded with the successful launching of the Public Procurement System assessment using MAPS 2018.¹²

The Second mission was conducted between December 16 and 20, 2019. The Assessment Team consisting of the WB/ADB staff and consultants supported LKPP in completing important preparatory tasks including the assessment Terms of Reference, establishment of the Assessment Steering Committee, questionnaire and launch of Private Sector survey, sample procuring agencies and data requirements, List of key stakeholders to be consulted during the assessment, and a revised work plan.

The assessment of the legal procurement framework was conducted in January 2020. The Assessment Team identified relevant acts, Presidential Regulations, LKPP regulations, and other regulations and guidelines that regulate GOI public procurement and used them as basis for the review. As most of these documents are in Bahasa Indonesian, with only few officially translated, The Team utilized public translation software, with support from its native speaking members for translating the other documents. The contribution of the Team legal experts to the first draft of the MAPS Indicators Matrix was ready by end of January 2020. The draft Matrix was used as basis for the internal discussions that took place on February 11, 2020

10. Keeping in view the significant influences that affected the assessment implementation period, most importantly the outbreak of COVID 19, it is contended that there were huge challenges and substantial delays or rather stoppage of the tasks intermittently in 2020. Nevertheless, this did not prevent some achievements. Virtual meeting was held on November 25, 2020, in preparation for a two-day virtual mission meeting held on Dec 10 and 11, 2020, setting the way forward for input by LKPP to be provided by mid-January 2021 and a draft assessment report to be completed by mid- April 2021.

11. The issuance of PerPres no. 12 of 2021 and PerLem No. 12 of 2021(PPR 2021) in February and March 2021 respectively and the successive development of ten implementing regulations and a number of MPDs /SBDs) necessitated introducing extensive revisions to the earlier MAPS assessment and extending it to cover the new developments in the Indonesia Public Procurement legal and regulatory framework. This, together with the continuous impact of COVID 19 pandemic, resulted in rescheduling the completion of the assessment until June 2022.

12. Sample Cases: the approach and methodology for sampling is elaborated under Annex 8 of Volume III of the Assessment Report.

13. The Stakeholder analysis is presented under Annex 5 of Volume III of the report. The analysis followed a mapping of key stakeholders of GOI public procurement system and covers the main players who are formally and informally associated with the public procurement institutional set up and structures.

¹² The Assessment Launch Workshop was held in Jakarta on October 10, 2019, attended by around 100 participants from LKPP, line ministries, oversight agencies, local governments, and PFM-MDTF donors including representatives from EU, Canada and Swiss Confederation and other development partners.

14. Consultations with the Private Sector and Civil Society Organization: a summary of consultations with private sector and Civil Society Organization is given under Annex Volume III of Assessment Report.

Table 3: Assessment Timeline-Important Milestones

- **October 10, 2019:** initiation workshop held in Jakarta
- **December 16-20, 2019:** Main face to face assessment mission.
- **December 10-11, 2020:** virtual assessment meeting due to covid restrictions
- **September 29, 2021:** second virtual assessment to review the status of implementation and next step.
- **April 12, 2022:** Virtual focus group meeting with LKPP to discuss and clarify the assessment preliminary key findings and recommendations
- **June 21, 2022:** MAPS Pre-validation meeting with LKPP.
- **June 27, 2022:** Stakeholder Validation Workshop (hybrid virtual/in person)
- **February 6, 2024:** Review by Assessment's Technical Advisory Group
- **March, 2024:** Final MAPS Report and Certification by MAPS Secretariat
- **June, 2024:** Dissemination/Publication of Final MAPS Report

Delays experienced in the delivery of the Indonesia MAPS assessment were mainly due to the following:

- Challenges of the Covid-19 situation in Indonesia which resulted in delays in collection of required data and information and direct interaction with the assessment key stakeholders.
- While the team was about to complete the assessment of the legal and regulatory framework in early 2021, a new development in the Indonesia Public Procurement legal and regulatory framework has occurred with the issuance of the amendment to the Presidential Regulation No.16/2018 (Presidential Regulation No.12/2021) which has caused the extension of the initial scope of the MAPS assessment by adding the detailed review of the new amended regulations which has entered into effect on February 2, 2021.
- On March 29, 2021, LKPP announced the process of successive development of ten (10) implementing regulations which required another round of review of the assessment till March 31, 2022. Based on comments and feedback from relevant stakeholders during validation workshop, the reports have to be further analyzed and revised, which also took time.

2. Analysis of Country Context

2.1. Political, economic and geostrategic situation of the country

19. Indonesia, the world's largest island country, has made important development progress over the past twenty years. A country with a diverse population and a complex geographical landscape, Indonesia is the world's fourth most populous nation with approximately 270 million¹³ people living in over 6,000 inhabited islands as of 2020. As the largest economy in Southeast Asia and the 15th largest in the world,¹⁴ Indonesia has sustained robust GDP growth between 2000 and 2019, driven primarily by private consumption that is supported by a large and growing middle class, and halved the incidence of poverty during this period.¹⁵ These gains allowed Indonesia to achieve upper-middle-income status prior to the COVID-19 crisis. However, based on classification with 2020 GNI/capita of US\$ 3870 as of July 1, 2021, Indonesia moved to lower-middle income group.¹⁶



Figure 1: Indonesia Map

20. Indonesia's system of political governance is referred to as a presidential representative democratic republic system. This is a multi-party system, with a notional separation of executive, legislative and judicial powers that are derived from a constitution. Democratic institutions set in motion since the late 1990s have become deeply institutionalized in Indonesia, with regular, free elections now the norm. The President of Indonesia, who is elected by general election every five years, is both the head of state and

¹³ BPS (Statistics Indonesia) 2020 Population Census.

¹⁴ In 2020, Indonesia's GDP was ranked 15th in current USD terms, 17th in constant 2010 USD terms, 7th in current international dollars at purchasing power parity, and 7th in constant international dollars at purchasing power parity. See WB World Development Indicators.

¹⁵ World Bank (2019). *Aspiring Indonesia – Expanding the Middle Class*.

¹⁶ <https://blogs.worldbank.org/opendata/new-world-bank-country-classifications-income-level-2021-2022>

the head of government. Executive power is invested in the government, comprised of the President, a Vice President and a Cabinet. The government is largely, but not entirely, separate from the legislative branch, People's Consultative Assembly (MPR) that comprised of the People's Representative Council (DPR) and the Regional Representative Council (DPD). Members of this bicameral legislative bodies, like the President, are elected every five years via a regional election. Of these two bodies, only the DPR has the power to pass legislation, while the DPD can only propose and opine on them. However, all legislative bills must also receive endorsement from the government and, therefore, the President, before they are enacted into law. The bicameral legislature acts as a single combined entity when exercising its power to make constitutional amendments or conduct presidential inauguration and impeachment processes. Indonesia's judiciary is an independent institution from the government and legislature. The Supreme Court oversees all lower courts (general, military, administrative, religious, and commercial). It is the final court of appeals.

21. Indonesia's macroeconomic performance over the past decade was strong. GDP growth was robust, averaging at 5.7 percent over 2010-14 before slowing down to 5 percent in 2015-19 due to declining commodity prices. The economy created new jobs at an impressive pace: an average of 2 million net new jobs per year between 2010 and 2019,¹⁷ with the unemployment rate reaching a record low of 5.3 percent in 2019. This was supported by prudent macroeconomic and fiscal policies, and overall favorable external conditions. During this period, the current account deficit was moderate and inflation low under a managed float exchange rate regime, healthy foreign exchange reserves and overall favorable external conditions. The fiscal deficit averaged 2 percent of GDP in 2010-2019, staying well below the fiscal deficit limit of 3 percent of GDP. The general government public debt ratio rose from 24.4 to 30.2 percent of GDP during this period, well below the legal limit of 60 percent of GDP. All major credit rating agencies had assessed Indonesia's credit rating as investment grade since 2017,¹⁸ corroborating the country's improved economic environment, fiscal management, and overall credit worthiness.

22. The COVID-19 pandemic led to the first recession in two decades although a strong policy response avoided potentially worse outcomes. The economy contracted by 2.1 percent in 2020, driven by declines in private consumption and investment associated with income losses and heightened uncertainty. Contact-intensive sectors such as transport and accommodation were more severely hit due to social distancing and a still weak labor market.¹⁹ To respond to the pandemic, the government lifted the fiscal deficit limit until 2022, implemented an emergency fiscal package amounting to 3.8 percent of GDP in 2020 and allocated 4.8 percent of GDP in 2021. The fiscal deficit rose from 2.2 to 6.1 percent of GDP in 2021 and is projected at 5.8 percent of GDP in 2021. Bank Indonesia loosened monetary policy by cutting the benchmark interest rate by 150 basis points to 3.5 percent between February 2020 and March 2021. It also provided liquidity by loosening macro-prudential regulations and implementing a substantial 'government bond purchase program' (3.7 percent of GDP in 2020). The recession took a heavy toll on households and firms. The unemployment rate increased from 5.3 to 6.8 percent between September 2020 and February 2021 while the poverty headcount rose from 9.2 to 10.1 percent. The government's strong social assistance and firm support avoided potentially worse outcomes.²⁰

¹⁷ [World Bank \(2020\), Indonesia Systematic Country Diagnostic – Indonesia: Eliminating extreme poverty, enlarging the middle class.](#)

¹⁸ Standard and Poor's (BBB), Fitch (BBB), Moody's (Baa2), and the Japan Credit Rating Agency (BBB+).

¹⁹ [World Bank \(2021\), Boosting the Recovery.](#)

²⁰ [World Bank \(2021\), Boosting the Recovery.](#)

23. The economy was expected to start rebounding in 2021 but uncertainty remains exceptionally high.

Based on the WB report²¹ the economy was projected to rebound by 3.7 percent in 2021 driven by low base effects and gradual improvements in consumer spending and investment, as well as stronger global growth and export commodity prices. Growth could strengthen to 5.2 percent in 2022 assuming successful rollout of COVID-19 vaccines. In the capital city Jakarta and the Bali tourism hub, between 68 and 51 percent of the target population has received two vaccine doses as of August 2021, but the national vaccination rate is only 16 percent. As a result, Indonesia remains vulnerable to new COVID-19 waves. Policy normalization in advanced economies could lead to external pressures and heighten growth-stability tradeoffs for monetary and fiscal policies.

24. Successful implementation of structural reforms is critical to improve medium-term prospects.

Potential growth is projected to drop to 4.2 percent in 2021-2025 from 5.2 percent in 2011-2019 due to weak investment and productivity growth. Successful implementation of structural reforms - including the Omnibus Law for Job Creation aimed at attracting more investment - are critical to mitigate potential COVID-19 scars and improve medium-term prospects.

25. The government is committed to maintaining adequate fiscal support while gradually reducing the deficit.

The government is targeting to reduce the fiscal deficit to 4.9 percent of GDP in 2022 and to return to the 3 percent of GDP fiscal deficit limit by 2023.²² Spending is expected to remain high in 2022 while revenue growth would be subdued. The 'BI government bond purchase program' has been extended until 2022 to meet the higher financing needs. Public debt is expected to rise but to remain low compared to peers and the legal debt ceiling (60 percent of GDP). The government recently submitted to Parliament a General Tax Law, which aims to strengthen revenues by expanding the tax base.

26. The Country Partnership Framework for FY 2021- FY 2025 highlights four pathways to promote sustainable and inclusive recovery from the pandemic:²³

- *Strengthen the competitiveness and resilience of the economy* by improving revenue collection and fiscal and debt sustainability; increasing efficiency, equity, and effectiveness of public spending; reducing barriers to trade and investment; and creating a deeper, broader, more resilient financial sector.
- *Improve infrastructure* by boosting quality of service and provision of infrastructure; and commit to decarbonization and universal access to reliable and sustainable energy.
- *Nurture human capital* in the wake of the pandemic and rapid technological change by boosting the quality and equity of education as well as skills in the workforce; investing more and better in healthier families; and strengthen worker and social protection.
- *Manage natural assets* by improving agriculture and natural resources-based livelihoods; managing natural assets and the environment; as well as strengthen multi-hazard disaster resilience.

Cutting across these four engagement areas are three themes – digitalization, gender, and climate change, which are necessary to support sustainable growth as many diagnostic works have shown.

²¹ <https://www.worldbank.org/en/country/indonesia/publication/indonesia-economic-prospect>
A Green Horizon – Towards a high growth and low carbon economy – December 2021

²² The fiscal projections for 2022 are based on the government's latest projections as of August 2021.

²³ [World Bank \(2021\). Indonesia Country Partnership Framework FY21-FY25.](#)

27. As part of its efforts to improve the quality of public spending in recent years, the government has implemented important reforms in the area of public sector procurement.^{24,25} For instance, the government has increased its usage of early procurement for capital projects in order to improve planning and reduce the inefficiencies that can arise when procurement processes and decisions are left until late²⁶. Ministries and agencies have also been enabled to engage in Availability Payment Contracts²⁷ for infrastructure projects with the private sector.

Table 4: Key Social and Economic Indicators

Basic Statistics	2016	2017	2018	2019	2020	Basic Statistics	2016	2017	2018	2019	2020
Population (millions)	262	265	268	271	274	Life expectancy (years)	71.0	71.3	71.5	71.7	..
GDP (current \$ billions)	932	1,016	1,042	1,119	1,058	School enrollment, primary (%)	96.7	97.1	97.5	97.6	97.7
Real GDP growth (%)	5.0	5.1	5.2	5.0	-2.1	Mat. mortality (/100,000 live births)	184	177
GDP per capita (current \$)	3,563	3,838	3,894	4,135	3,870	Govt. expenditure (% GDP)	15.0	14.8	14.9	14.6	16.8
Poverty rate (%)	10.9	10.6	9.8	9.4	9.8	Govt. education expenditure (% GDP)	3.4	3.1	3.0	3.1	..
Unemployment rate (%)	5.6	5.5	5.2	5.2	7.1	Govt. health expenditure (% GDP)	1.4	1.4	1.4	1.5	..
Inflation rate (%)	3.5	3.8	3.2	3.0	1.9	Government gross debt (% GDP)	28.3	29.4	30.1	30.2	39.4
Fiscal balance (% GDP)	-2.5	-2.5	-1.8	-2.2	-6.1	Current account balance (% GDP)	-1.8	-1.6	-2.9	-2.7	-0.4

28. With higher incomes and better access to services on average, Indonesians have become healthier and more educated. Despite constraints on government spending, access to basic services has improved over the past two decades: between 2000 and 2017, the electrification rate increased from 86.3 to 98.1

²⁴ [World Bank \(2016\). Program document for the First Indonesia Fiscal Reform Development Policy Loan.](#)

²⁵ [World Bank \(2017\). Program document for the Second Indonesia Fiscal Reform Development Policy Loan.](#)

²⁶ Major barriers to the government issuance of multi-year procurement contracts have been reduced by: (a) not requiring the land acquisition process, which remains necessary, to be completed prior to submission of multi-year contracts to the Minister of Finance; (b) eliminating the requirement for an external audit for no-cost contract extensions; and (c) increasing the flexibility of annual budget reallocation for multi-year contracts.

²⁷ These are where concessionary payments are made for the availability of services provided by the private sector to the government, and are often used in large infrastructure projects.

percent.²⁸ Likewise, households' access to basic drinking water and sanitation services also increased from 75.7 and 41.1 percent, respectively, in 2000, to 89.3 and 73.1 percent, respectively, in 2017.²⁹ As a result, human development outcomes have also improved. Between 2000 and 2017, life expectancy at birth increased from 65.8 to 71.3 years.³⁰ Over the same period, under-five mortality declined from 52.4 to 25.9 per 1,000 live births.³¹ The government has successfully ramped up access to education, increasing net enrollment rates at primary and secondary levels. These significant improvements in public service delivery have been generally enabled by the environment of strong macroeconomic fundamentals and prudent fiscal management discussed above.

29. Indonesia faces a host of new and old challenges in seeking to fulfil its long-run development aspirations. While Indonesia has made significant strides in its development, much more work remains to be done. Large human capital and infrastructure gaps impede economic competitiveness as well as the economy's ability to create jobs and reduce poverty in the medium term.³² Indonesia's level of human capital is far below those of its peers.³³ Years of underinvestment have led to a large infrastructure deficit, with a per capita public capital stock that is only a third of other emerging economies.³⁴ The country risks losing the regional race for attracting productivity-inducing investments that are needed to create good jobs that can support better lives with higher standards of living.³⁵ Moreover, growth has been decelerating, inequality remains wide and persistent, and commodity-dependence is proving costly.³⁶ There are also large geographic and income-related disparities in service delivery and outcomes, which challenge the narrative of Indonesia's recent development progress.³⁷

30. Indonesia can become a rich country—and Indonesians a prosperous people—through firm government commitment to action in five areas:³⁸

- **Create world-class human capital** by launching a national campaign to boost the quality of basic education; partnering with the private sector to teach new skills for workers; and investing more and better in healthier families.
- **Build more infrastructure faster** by committing to attract more private sector investment; ensuring SOEs make more room for the private sector; and boosting government resources and implementation capacity.
- **Manage natural assets** by completing One Map everywhere to end land encroachment; conserving critical coastal, forest and peat land areas to maximize their potential; and making Indonesia the global leader of geothermal energy.
- **Import capital from job creators rather than from speculators** by attracting export-oriented foreign

²⁸ World Bank World Development Indicators.

²⁹ World Bank World Development Indicators.

³⁰ World Bank World Development Indicators.

³¹ World Bank World Development Indicators.

³² World Bank (2020). Indonesia Public Expenditure Review 2019: Spending for Better Results, January 2020 draft.

³³ World Bank (2020). Indonesia Public Expenditure Review 2019: Spending for Better Results, January 2020 draft.

³⁴ World Bank (2020). Indonesia Public Expenditure Review 2019: Spending for Better Results, January 2020 draft.

³⁵ World Bank (2020). Indonesia Development Policy Review – Indonesia 2030: Rich nation, prosperous people. Draft Booklet. Mimeo.

³⁶ World Bank (2020). Indonesia Development Policy Review – Indonesia 2030: Rich nation, prosperous people. Draft Booklet. Mimeo.

³⁷ World Bank (2020). Indonesia Public Expenditure Review 2019: Spending for Better Results, January 2020 draft.

³⁸ World Bank (2019). Indonesia Development Policy Review – Indonesia 2030: Rich nation, prosperous people. Overview presentation. Mimeo.

direct investment; creating legal certainty to build the confidence of entrepreneurs; and creating a deeper, broader, more resilient financial sector.

- **Collect more and spend better** by collecting more at central and local levels; reallocating spending from inefficient subsidies to more effective programs, and taking government performance to the next level.

31. Based on the report of the WB in April 2020, COVID -19 pandemic has profoundly affected the region’s economies, but the depth and duration of the shock are unusually uncertain. This update, presents both a baseline and a lower-case scenario. Growth in China is projected to decline to 2.3 percent in the baseline and 0.1 percent in the lower-case scenario in 2020, from 6.1 percent in 2019. Growth in the rest of the developing EAP region is projected to slow to 1.3 percent in the baseline and to negative 2.8 in the lower-case scenario in 2020, from an estimated 4.7 percent in 2019. Containment of the pandemic would allow recovery, but the risk of durable financial stress is high even beyond 2020. Most vulnerable are countries that have poor disease control and prevention systems; that rely heavily on trade, tourism, and commodities; that are heavily indebted; and that rely on volatile financial flows.³⁹

Based on this report of the WB, growth in the region is projected to decline significantly in all scenarios. Malaysia, Thailand, and Timor-Leste, as well as some of the Pacific Islands, are likely to see varying degrees of contraction in all scenarios. The economies of Indonesia, Papua New Guinea, and the Philippines are expected to shrink in the lowercase scenario, but to see some positive growth in the baseline, albeit at a much lower rate than in 2019 as depicted in the following figure below:

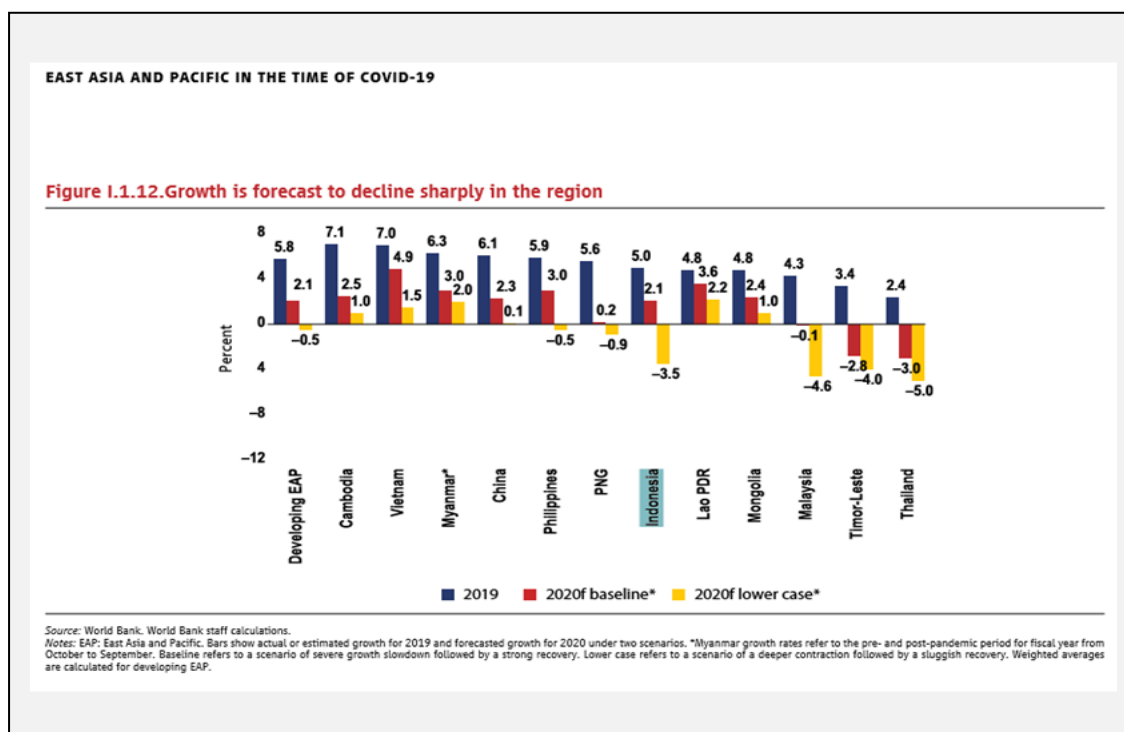


Figure 2: East Asia and Pacific economies in the time of COVID-19

³⁹ East Asia and Pacific in the Time of COVID-19 (The World Bank, April 2020)

Based on the report of the WB, the baseline scenario is a severe slowdown followed by a strong recovery. The lower-case scenario is a deeper contraction followed by a sluggish recovery. Continued financial difficulties and negative feedback loops are embedded in the lowercase scenario. Prolonged financial market stress could exacerbate existing balance sheet weaknesses in the highly leveraged banking, corporate, and household sectors, hindering investment and consumption growth. The number of bankruptcies in the region could increase rapidly due to the broad-based and sharp global economic slowdown, with small and medium sized enterprises (SMEs) particularly vulnerable. In the extreme case, a significant deterioration in the quality of loan portfolios and assets of the major commercial banks and other financial institutions, could trigger a full-blown financial crisis unless mitigated by effective and internationally coordinated policy measures.

Table 5: Financial difficulties- Baseline scenario

Table ES.1: The Recovery is Projected to Strengthen but Uncertainty Remains Exceptionally High						
		2019	2020	2021	2022	2023
Real GDP growth	(Annual percent change)	5.0	-2.1	3.7	5.2	5.1
Inflation	Percent	2.8	2.0	1.6	2.2	2.5
Current account balance	(Percent of GDP)	-2.7	-0.4	0.2	-1.2	-1.6
Fiscal balance	(Percent of GDP)	-2.2	-6.1	-5.0	-3.9	-3.0
Public debt	(Percent of GDP)	30.2	39.4	41.8	43.7	44.3

Source: BI; Central Bureau of Statistics (BPS); Ministry of Finance; World Bank staff calculations

The baseline projection is subject to substantial downside risks. There is considerable uncertainty about the pandemic, global financial conditions, financial sector performance and the scarring effects of the crisis. A

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According to IEP Dec 2021 report, other reforms are needed to respond to the COVID19 crisis and build a more competitive, resilient, inclusive, and greener economy inter alia include improving (i) business environment - Business environment: The quality of product market regulation is relatively low due to a combination of high market involvement and interventions by the State – such as SOE presence, price controls, heavy regulatory burden - as well as barriers to firm entry, investment, and trade; (ii) Financial sector: The Financial Sector Omnibus Law (FSOL) is a window of opportunity to address gaps in financial sector depth and stability. The law can help promote legal certainty, clarity, and confidence in the legal frameworks on financial innovation, macro prudential mandates, and supervision; (iii) Digitalization: Improving access to the internet for all by enhancing regulation and competition in the digital infrastructure sector, digital skills and services, and e-government can help close the digital divide and boost the development of the digital economy; (iv) Human capital: Reversing learning losses and building a more resilient education system will involve providing more remedial classes, investment in school water and sanitation infrastructure and better preparedness for effective distance learning; and (v) Lower carbon transition: Indonesia is among the top ten greenhouse gas emitters in the world due mainly to land and energy use.

32. Based on the latest WB publication⁴⁰, GDP growth forecast for Indonesia for 2022 is 5.2%. Regarding the recovery, it is stated in the report that “At the beginning of 2022, the EAP countries appeared to be

⁴⁰ Braving the Storm- World Bank East Asia and Pacific Economic Update (April 2022)

on the path of sustained recovery. The region had emerged from the difficult Delta wave and suffered relatively little from omicron wave. External trade and financial conditions remained benign, and governments were contemplating fiscal consolidation” and further “Finally, governments should reconcile spending needs with tightening budget constraints, by committing (a) to restoring fiscal discipline through the (re)introduction of fiscal rules, as Indonesia is planning to do in 2023; and (b) to fiscal reform through enactment of legislation to be implemented conditional on objective measures of recovery. For example, new tax reform legislation in Indonesia is expected to raise revenue by 1.2 percent of GDP in the medium term”. As per this report output in Indonesia surpassed the pre-pandemic level at the end of 2021.

32. Related to global value chains as per IEP⁴¹ “Indonesian firms need to be able to import easily and to export competitively. Imports are essential inputs into production, particularly for exports, as companies cannot successfully compete in international markets by sourcing all their inputs from domestic markets only. In Indonesia, for instance, two-thirds of exports are generated by firms that both export and import, demonstrating that imported inputs play a key role in generating export revenues. In turn, performance in international markets is positively related to the degree of competition in the domestic market (Porter, 1990) as lower import competition reduces exports by stifling productivity-enhancing investments”.

Further, “non-tariff measures (NTMs) are increasingly used as a trade policy tool in Indonesia. While certain NTMs are used to achieve legitimate non-trade objectives such as protection of consumer health and safety, there are many that unnecessarily distort trade. The four NTMs that have been found to be among the most burdensome and costly for Indonesian firms are: *pre-shipment inspections, restrictions on port of entry, import approvals and certification of compliance with Indonesian national standards (SNI)*. Import approvals and pre-shipment inspections affect more than one-third of Indonesian imports and close to two-thirds of firms, while SNI and port of entry restrictions about 5-10 percent of imports and a third of firms”

35. The Indonesian government has been identifying shortcomings in its taxation treaties and is taking steps to update these agreements. The government has been seeking to curtail practices that erode the tax base and shift profits overseas; but some of these have been enabled by provisions under taxation treaties—such as double tax agreements—signed long before base erosion and profit shifting (BEPS) practices were so commonplace. A model tax treaty has been developed that seeks to avoid double taxation and double non-taxation, while protecting the taxation rights of the source country in a more balanced way. This has been used by the government to identify priority treaties in need of re-negotiation and has served as a basis for the commencement of tax treaty negotiations.⁴²

Based on Indonesia Economic Prospect of Dec 2021 “The recently adopted Tax Harmonization Law (THL) is a critical step to help redress the structural challenge of low tax collections. The tax-to-GDP ratio was just 9.8 percent in 2019 and dropped to 8.3 percent in 2020. The WB analysis estimates the tax collection gap between Indonesia and peers at 6 percent of GDP. The THL is expected to raise tax revenues by 0.7 to 1.2 percent of GDP per annum in 2022-2025”. Accordingly, achieving these results will require effective implementation that includes preparing the implementing regulations for the VAT on small firms and e-commerce platforms, the carbon tax, and the tax amnesty.

⁴¹ <https://www.worldbank.org/en/country/indonesia/publication/indonesia-economic-prospect>

A Green Horizon – Towards a high growth and low carbon economy – December 2021

⁴² [World Bank \(2019\). Program document for the Third Indonesia Fiscal Reform Development Policy Loan.](#)

35. Indonesia is party to an extensive range of international treaties and agreements.⁴³ It is a founding member of the Association of Southeast Asian Nations (ASEAN) and, in turn, of the ASEAN Free Trade Area. It is a founding member of the Asia-Pacific Economic Co-operation forum and participates in its Government Procurement Experts' Group. The country has signed onto the United Nations Convention Against Corruption (UNCAC) including its global commitment at G20 Anti-Corruption Working Group (2012-2020) as published by the Corruption Eradication Commission (KPK)⁴⁴. G20 anti-corruption working group kick-off meeting was held on March 04, 2022⁴⁵. Indonesia recently ratified the Multilateral Convention to Implement Tax Treaty Related Measures to prevent BEPS and is an observer to the World Trade Organization (WTO) Government Procurement Agreement (GPA). It has also signed a Comprehensive Economic Partnership Agreement (CEPA) with the European Free Trade Association (EFTA) which represents Iceland, Liechtenstein, Norway and Switzerland. Indonesia has also declared its intent to join the Trans-Pacific Partnership though progress is currently unclear.

36. Importance of women in decision -making and gender gap: Based on a World Economic Forum publication,⁴⁶ equal contribution of women and men in the process of deep economic and societal transformation is critical. The Global Gender Gap index was introduced in 2006 by the World Economic Forum for capturing the magnitude of gender-based disparities and tracking their progress over time. This includes measurement on four dimensions: (a) economic participation and opportunity; (b) educational attainments; (c) health and survival; and (d) political empowerment.

Based on this report covering 153 countries, Indonesia retains its 85th position on the Global Gender Gap Index, despite a small improvement in its score (70.0, up 1 percentage point). The country has closed 70% of its gender gap. The economic gap remains large but has narrowed considerably since 2006. For example, in the last year alone, Indonesia jumped 28 places on the Economic Participation and Opportunity sub-index rankings (68.5%, 68th), constituting one of the most significant improvements on this dimension globally. Indonesia boasts the world's largest share (55%) of senior and leadership roles held by women and is one of the six countries in the world where a majority of such roles are held by women. As per 2021 report the rank of Indonesia was 101 out of 156 countries.

37. The above scenario in the area of political, economic and geostrategic context though optimistic, it requires huge efforts to fulfil its long-run development aspirations as reflected in Indonesian Vision 2045 of transforming itself into high income country in 2036 and goal of achieving 7th highest GDP in the world in 2045. This will require substantial efforts and improvements in the governance, PFM and procurement system in Indonesia.

⁴³ An extensive list of treaties that Indonesia is party to is available at: https://en.wikipedia.org/wiki/Category:Treaties_of_Indonesia

⁴⁴https://www.kpk.go.id/images/pdf/Buku_Komitmen_Indonesia_pada_UNCAC_and_G20_ACWG_2012-2020_english_ver.pdf

⁴⁵ <https://g20.org/kpk-holds-g20-anti-corruption-working-group-kick-off-meeting/>

⁴⁶ Global Gender Gap Report of 2020 https://www3.weforum.org/docs/WEF_GGGR_2020.pdf

2.2. The Public Procurement System and its links with the Public Finance Management and Public Governance Systems

38. **Public procurement system has close links with public finance management and public governance system.**

39. **GDP of Indonesia was USD 1.06 trillion in 2020⁴⁷**. As mentioned earlier in the report Government's total spending through public procurement reached around IDR 1027 trillion (47.8 percent of total value of government expenditures of IDR 2148 trillion). Based on the data public procurement expenditure as covered in national procurement profile of 2020 translates to 6.67% of GDP.

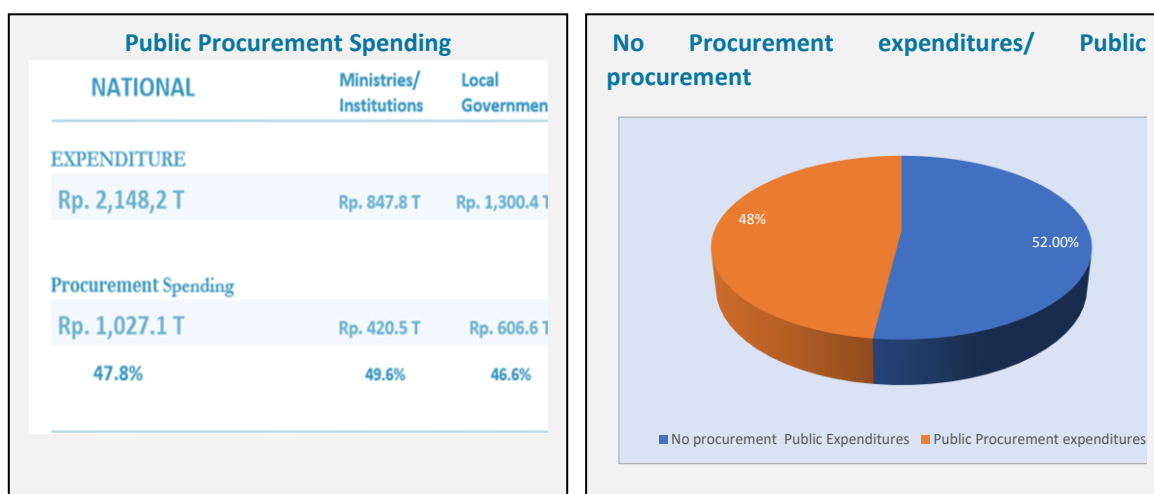


Figure 3: Public Procurement Spending

40. **The PFM system in Indonesia has shown significant improvements over time.** The latest PEFA report (2017) concludes that Indonesia has established a strong legal and regulatory framework that aligns with most international standards on PFM with score is slightly below “B”. This is above the basic level of performance and is broadly consistent with good international practices although the effectiveness of the PFM systems in place and the monitoring of performance can still be strengthened⁴⁸. Out of 31 PEFA performance indicators 17 scored either “A” or “B”. The remaining indicators received scores of either “C” or “D”, which suggests basic alignment with the international standards for a “C” and weak performance for a “D”, both presenting further opportunities for strengthening PFM practices.

41. **Based on PEFA 2017, the weaknesses related to the strategic allocation of resources, the accountability of budget implementation and the efficient delivery of public services.** These are areas where reform efforts are taking place, but where these efforts have yet to realize full performance. Among the most important of these ongoing efforts are: (i) improving budget credibility by strengthening the budget forecast, establishing consistent budgeting framework, and

⁴⁷ <https://data.worldbank.org/indicator/Ny.Gdp.Mktp.Cd?locations=ID>

⁴⁸ PEFA Assessment Report 2017

increasing revenue mobilization and compliance of tax and non-tax collection; (ii) improving the system capacity to deliver infrastructure outcomes by harmonizing the selection, implementation and monitoring of capital expenditure with formal guidelines and oversight, efficient management of public assets, as well as consolidation and monitoring of public procurement operations; (iii) the inclusion in the budget of performance information, linking resource planning in the most appropriate manner for better service delivery; (iv) promoting effective reporting of subnational⁴⁹

42. Significant spending takes place through the public procurement system. The indicator PI- 24 of PEFA, examines key aspects of procurement management to ensure the effective use of public funds in acquiring inputs for, and achieving VfM in, the delivery of programs and services by the government. It focuses on the transparency of arrangements and emphasizes open and competitive procedures for monitoring procurement results, and access to appeal and redress arrangements. The scope of the indicator covers the procurement of goods, services, civil works and major equipment investments implemented at the central government level, excluding the defense sector, as this information is typically classified and confidential by law. Based on this assessment, the overall score on PI-24 is “C” with brief justification as: “most procurement contracts are monitored centrally and maintained through the SPSE. An estimated 70% of contracts are awarded through competitive methods and three out of six key procurement information elements are complete and reliable. There is no independent procurement complaints system as the review of the complaint mechanism involves both procuring and contracting entities by law”⁵⁰. These aspects are dealt with in greater detail through more intensive assessment as per MAPS indicator system.

43. Capital Expenditure from the central government budget has consistently remained low over the past decade in Indonesia. Based on recently completed WB study⁵¹ based on survey on budget execution, weak execution of the capital expenditure budget in recent years highlights the ongoing challenges in both the regulatory framework and institutions of PFM in Indonesia. This raises a particular concern over the absorptive capacity of the line ministries and quality of capital budget implementation, particularly in view of the Government’s stated priority of significantly increasing infrastructure spending. Capital Expenditure from the central government budget has consistently remained low over the past decade in Indonesia. In 2007, it was 1.6 % of the GDP. In 2017, it continued to remain at a low 1.4 % of the GDP. The low capital expenditure is because of two factors, *first*, the limited fiscal space does not allow the government to allocate enough funds for capital expenditure, and *second*, institutional challenges of PFM limit the overall level and pace of capital budget execution.

In term of the budget execution performance, in FY2019, the aggregate realization of capital expenditure budget was ‘low’ at IDR 173 trillion, which was 82 % of the end of year budget allocation of IDR 211 trillion. The execution of capital budget was also ‘slow’ considering 49% of the capital budget expenditure was made in the fourth quarter of FY2019 and 28% in the month of December 2019. Since the annual APBN is approved on a cash basis, the bunching of capital expenditure budget spending at the end of the year increases fiduciary risks of hasty implementation, as spending units rush to spend their budgets in the closing stages of the year to prevent the budget appropriation from lapsing.

⁴⁹ Third Indonesia Fiscal Reform Development Policy Loan (P167297)- The World Bank (April 2019)

⁵⁰ PEFA 2017

⁵¹ Indonesia: Revenue and Budget Management: Diagnostics of Low and Slow Capital Budget Execution (June 28, 2020)

The top 4 out of 86 Ministries/Agencies on capital expenditure are: The Ministry of Public Works and Housing (MPWH), Ministry of Defense, Ministry of Transportation, and the State Police. These have a combined capital expenditure budget allocation (DIPA) of IDR 164 trillion, which is 77.6% of the total capital expenditure DIPA for 2019⁵². Major reasons for low and slow capital budget execution, *inter alia* include the delay in the completion of the procurement process and delays in land acquisition. Other reasons include budget planning where capital expenditure is budgeted annually and where spending units are concerned that they have only a short period of time for preparing and planning the (capital) budget proposals and delays in payments that include lack of transparency in processing of payments to vendors and contractors.

44. PFM is impeded by systemic challenges: “complex relationships between planning and budgeting; poor intervention logic between outputs produced by budgetary spending and outcomes envisaged in the budget plan; operational disconnect between “money follows program approach”; different classification structures of plan and budget; lack of performance orientation in budget management; and weaknesses in capital budget execution. The intergovernmental financing system provides few incentives for performance and leads to large regional inequities in per capita spending. There is no harmonized and standardized Chart of Accounts for the central and subnational governments. There is lack of systematic M&E to gauge the performance and effectiveness of public procurement and absence of interconnectivity between e-government procurement and other PFM systems. There is suboptimal capacity of internal audit organization to conduct performance audits and lack of citizens’ participation in the budget process leading to low social accountability”⁵³.

45. The functions of the main regulatory and normative body on public procurement- LKPP are dealt with in greater detail as part of Chapter 3 on assessment and the following paragraphs deal with functions of other key institutions which are the Ministry of Finance (MOF), Bappenas, the State Audit Board (BPK), the KPK and their role related to public procurement as control and oversight bodies. The Law on *State Finances* (No. 17/ 2003), although at a high level of generality, underpins the reform of the Government budgeting process. *The State Treasury Law* (No. 1/ 2004) provides the basis for modernizing budget execution and reporting and as per Article 58 of this law, “in order to improve the performance, transparency and accountability of the state finance management, the President as the Head of Government shall govern and implement the internal control systems within the government as a whole”⁵⁴

46. Reforms have been implemented to improve coordination between Bappenas and the MOF and to address the issue on the effective functioning of planning and budgeting. For example, Finance Minister Regulation PMK 163/2016 covers the process of rolling over and updating the forward estimates and indicative ceilings. It was used in the preparation of 2018 budget based on the first year forward estimate included in the previous budget. Early in 2017, the government issued PP No. 17/2017 on the

⁵² Indonesia: Revenue and Budget Management: Diagnostics of Low and Slow Capital Budget Execution (June 28, 2020) <https://documents1.worldbank.org/curated/en/929691614338793107/pdf/Institutional-Diagnostic-of-Low-and-Slow-Central-Government-Capital-Budget-Execution.pdf>

⁵³ World Bank (2021). Indonesia Country Partnership Framework FY21-FY25

⁵⁴ The State Treasury Law (No. 1/ 2004)

Harmonization of Planning and Budgeting for the National Development Process. This regulation provides a framework to synchronize the planning and budgeting process between Bappenas and the MOF⁵⁵.

47. In order to implement the power over fiscal management, the Minister of Finance has the following tasks in accordance with Law No.17 of 2003 on State Finance as per Article 8: a) to formulate the fiscal policy and macroeconomic framework; b) to draft the APBN and its Amendment; c) to approve the budget execution documents; d) to conduct international agreements in the field of finance; e) to implement the state revenues collection that have been established by law; f) to carry out the functions of the state treasurer; g) to prepare the financial statement which is the accountability of the APBN implementation; h) to perform other tasks in the areas of fiscal management under the provisions of law⁵⁶.

48. The MOF , Indonesia’s main PFM institution, has reduced major barriers for ministries and agencies to issue multi-year contracts for government procurement by: (a) not requiring the land acquisition process, which remains necessary, to be completed prior to submission of multi-year contracts to the Ministry of Finance; (b) eliminating the requirement for an external audit for no-cost contract extensions; and (c) increasing the flexibility of annual budget reallocation for multi-year contracts, as evidenced through the Minister of Finance Regulation 238/2015⁵⁷. To address impediments to budget execution identified by this study, the Government issued its Regulation No. 45/2013 (and its amendment of GR 50/2018) to improve the policy and regulatory framework to accelerate disbursement of capital budget. However, based on the recently completed study⁵⁸ on “Institution Diagnostics of Low and Slow Central Government Capital Budget Execution”, this is because not all spending units are initiating the early procurement process before the start of the fiscal year as is permissible under regulations. The execution of capital budget did not improve for reasons indicated above. It was less than 85 % before 2012. The average capital budget execution in the past three years was 85%, of which, 45% was executed in the last quarter. Furthermore, not all spending units are using the provision of multi-year contracts, which can potentially free them from the procurement process for the next few years and allow their implementations to be smoother.

49. Based on Public Expenditure Review of 2020 there are constraints to private sector participation to invest in infrastructure. Despite the establishment of a PPP regulatory and organizational framework, the private sector faces challenges when looking to invest in infrastructure. While progress has been made, with the setting up of a joint office for PPP schemes representing seven key agencies involved in such arrangements. This joint office is based at Bappenas and includes the Coordinating Ministry for Economic Affairs (CMEA), MoF, LKPP, Investment Coordinating Board (BKPM), Ministry of Home Affairs (MoHA) and the Indonesia Infrastructure Guarantee Fund (IIGF) the private sector faces four key challenges when looking to invest in infrastructure. First, the still complex legal landscape for PPP schemes has resulted in project delays and cancellations, acting as a disincentive to new investments. Second, the multitude of different actors and a lack of standardized processes at the project identification, planning and preparation stages have resulted in few attractive projects being put to the market. Third, the dominance

⁵⁵ PEFA 2017

⁵⁶ Law No.17 of 2003 on State Finance

⁵⁷ Third Indonesia Fiscal Reform Development Policy Loan (P167297)- The World Bank (April 2019)

⁵⁸ Indonesia: Revenue and Budget Management: Institutional Diagnostics of Low and Slow Central Government Capital Budget Execution (draft of June 27, 2020)

of SOEs in infrastructure provision risks crowding out the private sector. Fourth, local debt and equity market limitations make it difficult for private sector players to access long-term local currency financing⁵⁹.

50. Among other key institutions impacting the functioning of public procurement system, the BPK, as Indonesia's Supreme Audit Institution (SAI), has a mandate to conduct financial audits of all central government entities, as well as local government agencies. The audits can be done in the form of a financial audit, performance audit, and special-purpose audit. BPK expressed an unqualified opinion in the last two years to central government financial reports. The 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. Besides government entities, BPK conducts audits on Bank Indonesia (Central Bank), SOEs and other entities that manage state finances. BPK audit reports on the central government's financial statements are submitted to parliament within two months after the issuance of the unaudited financial statements. Audit reports on line ministries are submitted 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 reports through hearings with the relevant ministries⁶⁰

As a supreme audit institution, the BPK has a strategic position in the hierarchy of Indonesia's government structure

51. Generally, public procurement is susceptible to corruption because of the vast sums of money that government spend, high degree of discretion that public officials enjoy, and difficulty in detecting and investigating cases of corruption. Country Partnership Framework for Indonesia (FY 16- FY 20) recognized poor governance and corruption as a binding constraint to better development outcomes across the economy also well recognized by Indonesia's government with impact on slowing the elimination of poverty and sharing more widely Indonesia's prosperity.

52. Based on Transparency International (TI) on the perceived levels of public sector corruption, in 2019, Indonesia ranks 85 out of 180 countries, with a score of 40 (0- Highly corrupt, 100- Very Clean) on Corruption Perception Index (CPI). Based on this TI report "Indonesia improves its score by two points on the CPI. A promising emerging economy is coupled with repression of civil society and weak oversight institutions. The government is currently thwarting the independence and effectiveness of Indonesia's anti-corruption commission and the KPK. The KPK, is seen as a symbol of progress and modernization, but is undergoing a loss of autonomy and power"⁶¹ As per 2020 report of TI the ranking of Indonesia is 96 out of 180 countries. Based on TI publication Global Corruption Barometer 2020⁶² Indonesia has the highest percentages of citizens (92%) who consider government corruption to be a big problem in their country

53. The KPK was formed under Law Number 30 Year 2002. KPK is mandated to eradicate corruption professionally, intensively and continuously. KPK is an independent state institution, which in carrying out its duties and authority is free from any power. KPK was formed not to take over the task of eradicating

⁵⁹ Indonesia Public Expenditure Review – Spending for Better Results (World Bank, 2020)

⁶⁰ Third Indonesia Fiscal Reform Development Policy Loan (P167297)- The World Bank (April 2019)

⁶¹ Corruption Perception Index 2019 of Transparency International (2020)

⁶² <https://www.transparency.org/en/publications/gcb-asia-2020>

corruption from existing institutions. The explanation of the law states the role of the KPK as a trigger mechanism, which means encouraging or as a stimulus for corruption eradication efforts by pre-existing institutions to be more effective and efficient. The duties of the KPK are: coordination with institutions authorized to eradicate corruption (TPK); supervision of the authority authorized to eradicate TPK; conduct investigations, investigations and prosecutions of TPK; take precautionary measures of TPK; and monitor the implementation of state governance. In performing its duties, KPK is guided by five principles, namely: legal certainty, openness, accountability, public interest, and proportionality. The KPK is accountable to the public and submits its report openly and periodically to the President, DPR, and BPK⁶³.

54. The previous Country Partnership Strategy (CPS) looked at governance and anti-corruption “as a cross-cutting area and aimed to help Government by focusing on transparency and efficiency in PFM, greater efficiency in public service delivery, promoting open and transparent competition, and strengthening subnational governments. The engagement for public service delivery, scaled up to include local communities under PNPM, focused on improved systems (including procurement) and citizen feedback mechanisms”⁶⁴

55. The WB partnered with Indonesian institutions and engaged with CSOs to strengthen accountability, as per CPS (as reflected in CPF FY-16 to FY 20). In some of these interventions, to promote open and transparent competition, the WB focused on natural resources through the Extractive Industries Transparency Initiative (EITI) and REDD+. These initiatives, as well as Indonesia’s leadership in the Open Governance Partnership (OGP), and participation in UNCAC, went some way to support Government’s efforts. Indonesia also participated in the Global Partnership for Social Accountability (GPSA) toward creating space for citizen participation. After long delays, towards the end of the CPS period, direct assistance began with the Indonesia’s premier corruption fighting agency, the KPK, through support for improving the wealth reporting of Indonesian politicians and senior civil servants.

56. This new version of MAPS is timely in the wake of the launch of the Sustainable Development Goals (SDGs), which like MAPS is relevant for all countries, irrespective of income level or development status. MAPS is related to SDG12, which calls for the promotion of sustainable procurement practices in line with the national priorities and policies, and SDG16, which calls for effective and accountable institutions.⁶⁵

57. Indonesian Vision 2045⁶⁶ 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.

⁶³ <https://www.kpk.go.id/en/>

⁶⁴ Country Partnership Framework for the Republic of Indonesia (FY 16- FY 20), November 3, 2015

⁶⁵ Foreword to MAPS 2018.

⁶⁶ Presentation by Minister of National Development Planning (25 Sep 2018)

58. **An effective and accountable institutions as per Goal 16 of SDGs**, was declared in United Nations Resolution R.A/RES/70/1 “Transforming Our World: The 2030 Agenda for Sustainable Development.”⁶⁷ Based on the report by the BPK, as Indonesia’s SAI, “regarding this issue, there is a possibility that the Government has challenges to ensure the effectiveness, accountability, and transparency at all platforms named the government, civil society organizations, philanthropy and business, and academia and experts”.⁶⁸

2.3. National policy objectives and sustainable development goals

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“Regarding this issue, there is a possibility that the Government has challenges to ensure the effectiveness, accountability, and transparency at all platforms named the government, civil society organizations, philanthropy and business, and academia and experts”⁷².

62. Based on Perpres No. 59 of 2017 on the Implementation of SDGs⁷³, as per UN sources actions are as under:

- **2017: Indonesia enacts Perpres No. 59 Year 2017 on implementing the Achievement of SDGs.** The Perpres mandates the establishment of a National Coordinating Team (NCT) led by the President as the Chairman of the Advisory Board, Vice President as the Vice Chairman of the Advisory Board, Minister of National Development Planning/Head of Bappenas as the Implementing coordinator which involves all stakeholders to take part in the implementation of SDGs.

⁶⁷ “Transforming Our World: The 2030 Agenda for Sustainable Development”

⁶⁸ The Performance Audit of the Preparedness for Implementation of SDGs in Indonesia (2018)

⁶⁹ Foreword to MAPS 2018.

⁷⁰ Presentation by Minister of National Development Planning (25 Sep 2018)

⁷¹ “Transforming Our World: The 2030 Agenda for Sustainable Development”

⁷² The Performance Audit of the Preparedness for Implementation of SDGs in Indonesia (2018)

⁷³ <https://unsdg.un.org/un-in-action/indonesia>

- **April 2020: The UN – Indonesia Partnership Framework (UNSDCF 2021-2025) was signed between GoI and the UN.** The United Nations Sustainable Development Cooperation Framework (UNSDCF) has been positioned as the single most important UN country planning instrument, responding to national priorities and in support of the 2030 Agenda, with a more robust planning process from which UN Agency country programme documents are derived.

2.4. Public Procurement Reform

63. The last comprehensive assessment of the Indonesia’s public procurement system was carried out in 2001 when the CPAR was prepared by the WB⁷⁴ with input from a team of staff that included the WB, the ADB and a GOI Working Group. The main objectives of CPAR were to diagnose the public procurement system of Indonesia, assess actual compliance with the country’s procurement laws and regulations on the ground, and identify reforms to improve the existing system in line with the internationally accepted principles. Based on this CPAR, Indonesia’s public procurement system was guided by a number of overlapping legislations, presidential decrees and implementing regulations. Until the issuance of the Presidential Decree in February 2000 (Keppres 18/2000), supplemented by the technical guidelines (Juknis) issued in May 2000 by the then new government, all public procurement was regulated by the Presidential Decree issued in 1994 (Keppres 16/1994). At the higher level, Construction Law was enacted in 1999 which, among other aspects, governed the procurement of civil works and related consulting services (Undang Undang (UU) 18/199). Based on CPAR 2001, the key recommendations for strengthening the legal, regulatory and institutional framework and practices for Indonesia’s public procurement system were as under:

- *Ensuring uniformity in procurement standards at all levels of government:* Allowing local governments to establish their own arrangements for public procurement could further fragment internal market and weaken fiduciary standards. This would result in loss of economy and efficiency in public procurement and eventually limit growth. Maintaining uniform standards for public procurement at all levels of Government will require a revision in PP No. 105/2000
- *Enacting a Public Procurement Law (PPL):* this required that all existing laws, decrees, policies and procedures governing public procurement to be superseded by a uniform and comprehensive law following UNCITRAL also to factor experience gained in Indonesia. It was envisaged that the law would establish a transparent mechanism for handling complaints and recourse available to bidders and contractors if their complaints are not handled properly. The law was to include an effective sanctions mechanism against officials and firms involved in corruption and collusive practice.
- *Establishing a National Public Procurement Office (NPPO):* PPL was also required to provide a legal basis for NPPO and in its functions *inter alia* to include formulate public procurement law, policies and procedures, maintain database on procurement complaints, overseeing compliance including through ex-post audits. As recommended the NPPO should not have any purchasing or contracting function, and it should not be a layer in the procurement processes of executing agencies.

⁷⁴ Indonesia: Country Procurement Assessment Report- Reforming the Public Procurement System (March 27, 2001)

- *Publishing a procurement bulletin:* This required public notification of all procurement opportunities, the use of open competitive procedures where appropriate and disclosure of the results of the bidding process, both on paper and electronically.
- *Increasing competition:* Government to phase out the following requirements to increase competition: (i) restrictions that favor bidders domiciled in the geographical area of procurement for certain size contracts; (ii) bidders for certain size contracts to be from within a given class of bidders; (iii) large enterprises to form mandatory partnerships with or subcontract to small or medium firms; and (iv) foreign bidders to form mandatory partnerships with or subcontract to domestic firms
- *Building professional capacity:* Develop and introduce regular and customized training for senior management, priority to be given to training in the provinces and districts with weak capacity, selected universities to be encouraged to include project management and procurement modules in undergraduate courses on national and international procurement and contracting in public and private sector and a cadre and career streams for project managers and procurement practitioners to be created, and procurement staff be selected only from the pool of trained personnel, certified in public procurement
- *Strengthening enforcement:* This required *inter alia* strict enforcement and application of sanctions in cases of malfeasance or non-performance, require all stakeholders to adhere to a strong code of conduct and ethics, strong anti-corruption program in public procurement and investigate all allegations of fraud and corruption. NPPO to submit annual reports on public procurement to the Parliament, legislative bodies at the local levels and to the public, conduct annual corruption surveys reflecting experience of private sector participants and establish a civil society anti-corruption watchdog group with independent member to advise NPPO

64. LKPP was established in 2007 as the regulatory agency responsible for formulating, developing, and implementing public procurement policies following Perpres No.106 of on 6 December 2007. Its mandate includes the formulation of strategic planning and development, policy-making, as well as legal provisions for regulating public procurement that is adaptable to change. It was envisaged that in harmony and as part of the global community, existence of such an institution would represent Indonesia in the international forums, at par with its counterparts already existing in several countries. Of these are the Office of Federal Procurement Policy (OFPP) in the United States, Office of Government Commerce (OGC) of the United Kingdom, Government Procurement Policy Board (GPPB) in the Philippines, Public Procurement Policy Office (PPPO) in Poland, and the Public Procurement Service (PPS) in the Republic of Korea⁷⁵.

In its practice, LKPP has been designated as a non-ministerial government agency with a reporting duty directly to the President of the Republic of Indonesia. In conducting its function and duties, LKPP was created to be under the coordination of the State Ministry for the National Development Planning/Head of Bappenas.

65. The Snapshot Self-Assessment of Indonesia's Public Procurement System was carried out by the GOI. It was led by the interim "Center for Development of Public Procurement Policy" within Bappenas in 2007

⁷⁵ www.lkpp.go.id/v3/#/page/9
in profile section

to pilot OECD/DAC Procurement JV Baseline Indicator (BLI) Benchmarking Methodology Version 4 of July 2006. The objective of this BLI scoring was to lay the foundation for a subsequent Country Procurement Assessment Review (CPAR).

66. Based on results of the above self-assessment in 2007, with respect to Legislative and Regulatory Framework (PILLAR I) the Indonesian system achieved 62.5%. Institutional Framework and Management Capacity (PILLAR II) achieved 55.5%. Procurement Operations and Market Practices (PILLAR III) scored 59.3 percent. Integrity and Transparency of the Public Procurement System (PILLAR IV) scored 69 percent. These scorings among other improvements recommended that Indonesia's legal framework for public sector procurement could best be strengthened by anchoring it with an overarching consolidated and comprehensive national public sector procurement law at the highest level. However, the previous version of MAPS also known as BLI Benchmarking Methodology in combination with compliance/performance indicators (CPIs) changed over time. In the revised 2018 MAPS it has been abandoned. However, each of the MAPS 210 sub-criteria are generally classified as criteria met, criteria partially met, and criteria not met with indication of gaps and recommendations for improvements. With results of assessment, the country can define baseline, set national targets and measure progress over time.

67. Over the last decade, the GOI has made substantial progress in improving the regulatory framework for public procurement. Perpres No. 54/2010 (*Perpres*) was enacted in 2010 to govern all public procurement in the country and has since been amended four times, with the last being in 2015 to promote use of accelerated tender processing with full use of SPSE. Under this regulation, dedicated procurement service units (ULPs) staffed with certified procurement officials were required to be established in each line agency by 2014. Use of full SPSE was mandated in 2015 and an e-catalogue was also established. Various capacity-building initiatives were undertaken to develop procurement knowledge and skills of staff followed with development of a monitoring and evaluation system.

68. Further reform initiative was made to issue a revised public procurement regulation, *Perpres* No. 16/2018, which become effective since July 2018 superseding the previous *Perpres* 54/2010, which had been amended four times. The multiple amendments of the previous *Perpres* 54/2010 introduced further measures for strengthening the public procurement legal framework based on the implementation experience gained. They also aimed to align with changes in other regulations issued by the Government to maximize the use of public funds. The amendments included mandating the establishment of dedicated procurement services units including clarifying the roles and responsibilities of officials involved in procurement and contracting, requiring use of SPSE including e-catalogue, promoting use of SMEs, etc.

69. The regulation *Perpres* 16/2018 sets out main objectives and policies aimed at (i) increasing quality of procurement planning; (ii) promoting transparent, open and competitive procurement; (iii) strengthening the institution and human resource capacity; (iv) developing procurement e-marketplace; (v) using of ITC technology and electronic transaction; (vi) promoting use of local content and national standards; (vii) increasing the opportunities for the MSMEs; (viii) promoting use of research and creative industries; and (ix) implementation of sustainable procurement. All government units at the national and subnational levels are required to adopt the SPSE to increase transparency and efficiency in the procurement process. They also have to establish permanent and independent procurement service working units (UKPBJs) with certified personnel at all levels of government, to standardize the organization of procurement across the entire government.

70. A new *PerPres* No.12 of 2021 was issued on February 2, 2021, and was followed with successive issuances of 10 implementing Regulations and a number of SBDs. The scope of the assessment has been

extended to cover these new sets of regulations and accompanying SBDs as explained further in the summary of Pillar I in the next chapter.

71. The MAPS Assessment Team has taken cognizance of the above background. They carried out an independent analysis and assessment in collaboration with LKPP, ADB, and IsDB and inputs from other stakeholders. The assessment is based on the latest status on laws, regulations, data, and information following the qualitative and quantitative criteria as per 2018 MAPS methodology to identify the strengths, weaknesses, gaps, and recommendations for improvement.

3. Assessment

3.1. Pillar I - Legal, Regulatory and Policy Framework

Pillar I assess the existing legal, regulatory and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards. The practical implementation and operation of this framework is the subject of Pillars II and III. The indicators within Pillar I embrace recent developments and innovations that have been increasingly employed to make public procurement more efficient. Pillar I also considers international obligations and national policy objectives to ensure that public procurement lives up to its important strategic role and contributes to sustainability.

The analysis under Pillar I is based primarily on the review and assessment of the Government public procurement law PerPres No.16 of 2018, as amended by PerPres No.12 of 2021 (PPL)⁷⁶. The analysis, as well, considers the 16 main Implementing Regulations issued by LKPP (PerLem LKPP) in 2018 and 2021, which elaborate on the provisions in the PPL. Other relevant documents have also been consulted. A consolidated list of all referenced and consulted documents is included in Annex 9 of Volume III of the Assessment Report.

Summary for Pillar I

The procurement legal framework is comprehensive, well recorded and hierarchically organised. LKPP website provides a central up to date repository. All current laws, regulations and LKPP issuances, including SBDs are published on LKPP website and are accessible to the public at no cost. However, not all documents are machine-readable and the on-line search function is not sophisticated. The collection of procurement related documents is extensive, creating potentially complex interfaces. These factors combine to reduce the clarity and practical accessibility of the legal framework for stakeholders seeking to easily understand which rules apply in a particular situation or to gain an overview of the system operation as a whole.

The subject matter of procurement by public bodies is widely defined and exclusions are specified, covering procurement of goods, consultancy services, services and construction works. PPP schemes are separately regulated by a specialised PPP legislation. Procurement by SOEs using public funds is excluded from the application of the PPL and is covered by a separate regime. In order to gain additional insight into procurement by SOEs using state funds, 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 Summary Review is included in Annex 7 of Volume III of the Assessment Report.

The legal framework has clear provisions on available procurement methods and includes international bidding over specified financial thresholds. Financial thresholds or conditions apply to determine which procedure may be used. The range of competitive and less competitive procurement procedures is sufficiently wide to ensure delivery in a manner that should ensure VfM. Nevertheless, the provision of

⁷⁶ Unless otherwise specified, references to the PPL are to PerPres No.16 of 2018 as amended by PerPres No.12 of 2021.

the legal framework for open using competitive tender method where the other methods cannot be used, might give a false impression on that the open tender method is not the standard procurement method and the use of less competitive or non-competitive procurement methods could thus be favored. Inappropriate narrowing of competition through fractioning (splitting) contracts, on the other hand, is prohibited under specific provisions of the PPL.

The level of transparency of open procurement opportunities is high, whereby all opportunities must be publicly advertised on the e-Procurement System (e-PS). Procurement documents are also available through e-PS, thus enabling potential bidders to determine at the outset their ability and interest in submitting a bid. Time-frames for bids submission are to set with a view to maximising competition, taking into consideration the complexity of the procurement, with longer time-frames for international tenders/general selections.

The legal and regulatory framework establishes that participation of interested parties is based on qualification and in accordance with rules on eligibility and exclusions. Suppliers qualify through SIKaP where registration is relatively straight-forward. The legal framework describes the administrative, legal, technical and financial requirements for eligibility. It does not explicitly list as grounds for exclusion convictions by final judgement for offences related to participation in criminal organisations or offences relating to terrorism, money laundering and child labour or trafficking. The legal framework provides for administrative debarment, subject to due process. There is a national blacklist, which is maintained by LKPP and accessible on-line. Requirements on foreign businesses seeking to participate in public procurement processes to establish business cooperation with national businesses are barriers to participation. Provisions in the PPL concerning use of domestic products have the potential to deter competition and reduce efficiency and VfM outcomes in the expenditure of public funds.

There is a large collection of MPDs/SBDs, which provides options to ensure that the content is both relevant and sufficient. There are no provisions in the PPL requiring the use of “neutral” specifications, although use of National Standards is required in preparation of technical specifications. Preparation and use of specifications, including functional specifications, is part of the procurement competency standards framework, but the legal framework does not specifically refer to use of functional specifications. Bidders are able to submit requests for bid clarification and receive responses using an online function through the SPSE.

The PPL permits three methods of evaluation of goods, construction works and other services, being: value system (scoring system), economic life cycle cost, or lowest price and sets out circumstances where these methods may be used. Quality is a major consideration in evaluating proposals for consulting services. The legal framework defines the way in which evaluation criteria are combined and relative weights (where relevant) are determined. The legal framework requires the bid evaluation approach to be set out in the tender documents, prohibits changes to the published evaluation criteria and for assessed elements to be quantitative or quantifiable.

The process for and timing of opening of tenders is defined in the legal framework and is conducted electronically, ensuring high levels of regulation, security and confidentiality in the process and publication of live information on the process. The legal framework requires that all parties involved in procurement must keep information strictly confidential and security of electronic bids is managed through a custom utility. There are no additional provisions to clearly regulate and prohibit disclosure of specific information legitimately identified as proprietary and commercially sensitive by a bidder.

The law clearly establishes the right of bidders to challenge decisions or actions of the public bodies using an “objection” process. There is a right of objection at both the pre-qualification stage and tender award stage, following determination of the winner. The objection is submitted to the procuring entity through the SPSE and it is the procuring entity that makes the decision on the objection. The grounds for objection at the pre-qualification stage and tender award stage, the timeframes for submitting an objection and providing a response to an objection are set out in the PPR 2021. There are no provisions in the PPL/ Public Procurement Regulations (PPR) 2021 concerning the possibility of responding to a decision 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 several potential routes available to respond to the decision on objection, including using LKPP complaints procedure and the public complaints procedure. Nevertheless, these routes do not satisfy all 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. There is, however, the possibility of making an application in respect of a decision on objection to the Administrative Court, which has the power of suspension and may grant remedies. There are no meaningful data and information available on the actual use, operation of and decisions by the Administrative Court as a route of review.

Functions for undertaking contract management are defined and responsibility is clearly assigned to the contract-making officer. Conditions for contract amendments are clearly set out in the legal framework and are subject to a general financial cap on increase in contract value, which may not always result in the best economic outcome. There is a variety of methods for resolution of disputes appropriate to contracts of different types and complexity, including arbitration. There is a dispute resolution service offered by LKPP operating outside the courts. Outcomes of dispute resolution processes are enforceable.

The legal framework mandates the use of e-procurement, to be carried out using the SPSE and supporting systems. Access to the SPSE is via local e-procurement systems (LPSE) and the national portal, INAPROC providing easy access to the system. LKPP defines privacy, security, and authentication standards for the SPSE. All stages of the procurement process are managed electronically.

The LPSE systems retain all related data and documents associated with the procurement process. There is a procurement specific document retention policy, in Regulations issued by the Head of the National Archives. Public access to procurement archives is governed by the UU on Public Information Disclosure. The PPL establishes standards for the services, capacity, and security of the SPSE and the supporting system and protocols are in place, including security protocols to protect electronic records. There are regulations issued by the Head of the National Archives on retention of procurement archives, which include designated list of documents and minimum periods for retention. The minimum retention periods are not fully aligned with the time-periods for lapsing of prosecution for fraud and corruption offenses.

Procurement by SOEs is not subject to the PPL but is covered by Regulations issued by the Minister of SOEs (MSOEs). These guidelines include principles of efficiency, effectiveness, competition, transparency, affording equal treatment, open to all qualified applicants and accountability. Detailed procedures for procurement are further regulated by SOEs’ Board of Directors and public availability of SOEs’ own procurement rules is mixed. 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. The Validation Workshop held on

June 27th, 2022, confirmed that LKPP provides guidance and assistance to SOEs in relation to preparation of their respective procurement regulations through Bappenas. LKPP also provides consultations to SOEs procurement officials regarding policy making and procurement processes, while taking into account aspects related to profit orientation. Public procurement principles including fairness, openness, transparency, and competition apply in the specialised PPP legislation. PPP Bappenas is responsible for coordinating, formulating, and implementing PPP policies.

There are comprehensive regulations, including guidelines that supplement and detail the provisions of the procurement law. There are MPDs/SBDs for mandatory use for a wide range of goods, works and services including consultancy services and for different types of procurement methods. The preparation and maintenance of these regulations, guidelines and MPDs/SBDs are the responsibility of LKPP. The significant numbers of regulations and guidelines supporting the PPL create a heavily regulated and complex environment for stakeholders. The procurement guidelines are comprehensive but lengthy and lack a contents list/index. There are standard General Contract Conditions (SSUK) and Special Contract Conditions (SSKK), which are an integral part of the MPDs/SBDs issued to participants in the procurement and incorporated as part of the procurement contract. They cover most common types of contracts related to goods, works and consultancy.

Indonesia has clear national policy objectives for sustainable development and is committed to achievement of the United Nations SDGs and mainstreaming of sustainable development principles. There is no formal published detailed procurement-specific policy/strategy or implementation plan to employ SPP in support of broader national policy objectives. The legal framework requires sustainability considerations to be incorporated in the planning and 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. 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. Nonetheless, Practical guidance and data on how to apply and evaluate sustainable requirements are lacking.

Domestic law is required to adopt international treaties. Designated ministries and agencies have responsibilities to ensure compliance with international treaties and trade obligations and LKPP is the lead agency on government procurement. Indonesia is a member of the WTO and has observer status in respect of the WTO GPA. Indonesia is a party to the region-wide ASEAN Free Trade Area and is a signatory to the ASEAN Agreements on Trade in Goods (ATIGA) and Trade in Services (ATISA), which do not contain dedicated chapters or annexes on government procurement. Indonesia is a signatory to (but has not yet ratified) the Regional Comprehensive Economic Partnership (RECEP), which includes a government procurement chapter.⁷⁷ Indonesia is also a signatory to several bilateral free trade agreements, including the EFTA⁷⁸, as well as a Partnership and Cooperation Agreement with the European Union (EU) aimed at concluding a free trade agreement. Indonesia has ratified twenty International Labor Organization (ILO) Conventions, including all of the eight Core Conventions.⁷⁹ It is a signatory to and has ratified numerous UN conventions/covenants⁸⁰, including those on the elimination of discrimination, protection of migrant

⁷⁷ RECEP Signed 15 November 2020, Indonesia had not ratified RECEP as at 01 January 2022.

⁷⁸ <http://rtais.wto.org/UI/PublicSearchByMemberResult.aspx?MemberCode=360&lang=1&redirect=1>

⁷⁹ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102938

⁸⁰ Source: UN Treaty Body Database

workers, the rights of the child and rights of persons with disabilities. Indonesia is also a signatory to UNCAC.

Presentation of sub-indicators

Pillar I, Indicator 1 comprises 12 sub-indicators 1(a) to 1(l).

Each of the sub-indicators, under this as well as the other pillars, is addressed separately with summary of the findings highlighting the main strengths and where relevant, an explanation of substantive or material gaps identified. Substantive or material gaps and related recommendations are presented in a summary table at the end of the analysis of each Indicator under every pillar.

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

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, etc.) to detailed regulation, procedures and bidding documents formally in use.

Indicator 1(a) Scope of application and coverage of the legal and regulatory framework

Assessment Criteria

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

- (a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.
- (b) It covers goods, works and services, including consulting services for all procurement using public funds.
- (c) PPP schemes, including concessions are regulated.
- (d) Current laws, regulations and policies are published and easily accessible to the public at no cost.

Summary of Findings

There was no substantive gap found in any of the above sub-criteria, while minor gaps were found in the above sub-criteria (b) and (d).

Main Strengths: The procurement legal framework is comprehensive, well recorded and hierarchically organized. Publication and accessibility of procurement legal framework documents are set out. All public procurement legislation and supporting documents issued by LKPP including MPDs/SBDs are accessible and available to download from well- organized LKPP website, free of charge. This is noted with few gaps in the publication and accessibility system as elaborated under “substantive and material gaps” below.

For the legal and regulatory framework of public procurement, the subject matter of procurement by public bodies is widely defined. The PPL (PerPres No.16 of 2018 as amended by PerPres No.12 of 2021) is the main law on public procurement that sets out the legal framework for the public procurement of goods, construction works, consultancy services and other services. The PPL also contains provisions concerning the availability and conduct of Swakelola. There are four methods of Swakelola described at PPL s.18, to procure goods/services through internal resources. On the other hand, there are sixteen Implementing Regulations (PerLem LKPP) that support and elaborate on the PPL provisions. PerLem LKPP PPR 2021, for example, sets out detailed guidelines for the implementation of government procurement, with appendices including, among others, MPDs/SBDs. In order to consolidate relevant responsibilities within one institution, the publication of guidance, MPDs/SBDs for construction works, integrated design and build construction works has become since 2021 under LKPP responsibility (was under the responsibility of MPWH).

In terms of coverage: The PPL applies to the government procurement of goods, consultancy services, services and construction works covering the entire procurement cycle, from identification of needs to handover of results, with reference to procurement using APBN and APBD.

The PPL lists four exclusions from its scope coverage and specifies circumstances where special procurement arrangements apply. The exclusions are (i) procurement by public services agencies/regional public service agencies (BLU/BLUD); (ii) procurement of goods/services carried out on the basis of published tariffs; (iii) procurement of goods/services according to established business practices; and (iv) procurement regulated in the provisions of other legislation. Special procurement situations are: (a) emergency situations, where direct award is permitted in specified conditions; (b) procurement abroad, where the provisions of the PPL may be adjusted; (c) research; and (d) international tender/general selection and foreign loans/grants where additional requirements apply. Relevant LKPP Guidelines are normally issued to address such cases. An example is LKPP guidelines and booklet on the use of emergency procurement during COVID-19 pandemic.

Procurement by SOEs using public funds is not dealt with under the PPL; it is rather covered by a separate regime. The main legal framework documents for SOEs procurement are set out in Regulation of the MSOEs No. PER-08/MBU/12/2019 supported by individual SOEs internal procurement regulations. In order to gain additional insight on this 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 Summary Review is attached under Annex 9 of Volume III of the Assessment Report.

Similarly, procurement under PPP schemes is regulated outside the PPL framework. The main legal framework documents for PPP procurement are set out in Perpres No. 38 of 2015⁸¹ concerning Cooperation Between Government and Business Entities in Procurement of Infrastructure (PPP Regulation) supported by Regulations issued by Ministers and LKPP.

Discussion on identified minor gaps

Swakelola: According to the procurement profiles 2020 and 2021 published by LKPP, the total budget plan published in SIRUP (General Procurement Plan) for Self-management procurement mechanism

⁸¹ Perpres No.38 of 2015. English translation accessed at: <https://thomaspm.files.wordpress.com/2016/04/english-presidential-regulation-38-2015.pdf>

(Swakelola) is a significant percentage of the total procurement budget (2020: 27%, 2021: 39.5%). There is lack of detailed information and data on the actual spending through Swakelola in the system .

Use of Swakelola is potentially open to abuse, may be vulnerable to integrity issues (due to lack of transparency) and may restrict markets by being used as a proxy for direct procurement, with a negative impact on value outcomes of procurement. It is not entirely clear whether Swakelola (or which of the four types of Swakelola) is properly classified as a form of procurement or whether it is a budget allocation method. Lack of information and data on use and conduct of self-managed procurement means that their impact cannot be assessed, including impact on the market development and operation and value outcomes

Based on the above gap analysis, it is recommended (i) to identify relevant data and information necessary for study/analysis of the current use of Swakelola and to provide greater public transparency on the level and use of each type of Swakelola. (ii) Put into place measures requiring submission and publication of relevant data. Undertake a study/analysis to assess the use and impact of Swakelola and, in particular: whether how and to what extent Swakelola has an adverse impact on value outcomes in procurement; (ii) establish classification each of the types of Swakelola to ensure clarity as to whether the method is properly classified as a form of procurement or whether it is a budget allocation method.

Procurement by SOEs using public funds: Procurement by SOEs using public funds is not subject to the PPL. It is unclear what the impact is, in particular on competition, transparency and VfM outcomes, of the decision to create a separate procurement regime for procurement by SOEs using public funds and the promotion of synergies and prioritizing business cooperation among SOEs, their subsidiaries and affiliated companies.

Based on the above gaps analysis, it is recommended to consider conducting a study to assess the impact of the decision to create a separate procurement regime for procurement by SOEs of public funds 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 the impact on competition, promotion of integrity and delivery of VfM outcomes in the use of public funds.

Accessibility of legal framework documents: Whilst the on-line availability of procurement related documents through a dedicated LKPP website is considered as a strength, there are certain gaps mainly in relation of documents that are not presented in a user-friendly format and/or not machine-readable. In addition, the on-line search function is not sophisticated enough to permit easy identification of laws, regulations, guidelines and other issuances and information when it concerns a particular substance. Further, the collection of procurement related legal framework documents is 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. Please see also, indicators 2(a)-(b) and 2(d)-(a).

Based on the above gaps analysis, it is recommended to consider (i) 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 (ii) 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.

Indicator 1(b) Procurement methods

Assessment Criteria

The legal framework meets the following conditions:

- (a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.
- (b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure VfM, fairness, transparency, proportionality and integrity.
- (c) Fractioning contracts to limit competition is prohibited.
- (d) Appropriate standards for competitive procedures are specified.

Summary of Findings

There was no substantive gap found in any of the above sub-criteria.

Main Strengths: The legal framework has clear provisions on available procurement methods and includes provisions for international bidding over specified financial thresholds. Conditions for use of the different procurement methods are set out and there are provisions prohibiting inappropriate narrowing of competition through fractioning contracts into several packages for the purpose of avoiding a tender or selection process for a consultant. The range of competitive and less competitive procurement procedures is sufficiently wide to ensure delivery in a manner, which should ensure VfM.

Procurement methods and standards for competitive procedures: Procurement methods are clearly and unambiguously established. PPL s.38 lists the bidding methods for procurement of goods, construction works and other services. These are: e-Purchasing, Direct Procurement, Direct Appointment, Quick Tender and Tender. Financial thresholds or conditions apply to determine which procedure may be used, limiting to some extent the discretion available on choice of procedures. Direct Procurement applies to low value procurement and Quick Tender can be used for “off the shelf” type purchases. Direct appointment is permitted only in specified circumstances. In terms of hierarchy, e-Purchasing, Direct Procurement, Direct Appointment and Quick Tender take precedence. The PPL provides that the Tender method is to be used where the other methods cannot be used. The PPL provides for use of international bidding over specified financial thresholds and in other circumstance listed.

Discussion on identified minor gaps

Hierarchical presentation of procurement methods, standard method of procurement and Standards for competitive procedures: Open competitive Tender/ General Selection 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. This

may result in public bodies and individuals being more likely to use non-competitive or less competitive procurement methods.

Based on the above gaps analysis, it is recommended to 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.

1 (c) Advertising rules and time limits

Assessment Criteria

The legal framework meets the following conditions:

- (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)).
- (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.
- (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).
- (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.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths: All open advertised bidding procurement opportunities must be publicly advertised on the e-PS, ensuring high levels of transparency of opportunity. Procurement documents are also available through e-PSs, thus enabling potential bidders to determine at the outset their ability and interest in submitting a bid. Time-frames for submission of bids are set with a view to maximising competition, taking into consideration the complexity of the procurement.

For advertising rules, time limits and content, the procurement legal framework requires public advertisement of procurement opportunities, unless restriction of procurement opportunities is specifically justified. The PPR require opportunities to be announced using the SPSE, which is the standard e-procurement system installed on 700-plus LPSE. In practice, procuring entities post procurement opportunities on their local LPSE, which automatically links through to INAPROC and tender opportunities are thus published nationally. INAPROC is easily accessible at no cost and does not involve technological barriers. The content of the published notice includes sufficient information for potential bidders to determine whether they are able to submit a bid and are interested in submitting one. The PPR provide that, in addition, the announcement can be added to the website of the Ministries/institutions /local governments, official bulletin boards for communities, newspapers and/or other media.

The PPR set out the time schedules for stages in the conduct of the procurement process, including minimum timescales for tender submission. The 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. For example, the single stage tender for procurement of goods the minimum time for submission of bids is five days. For international tender/general selection the minimum time is 30 days.

Indicator 1(d) Rules on participation

Assessment Criteria

The legal framework meets the following conditions:

- (a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions.
- (b) It ensures that there are no barriers to participation in the public procurement market
- (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.
- (d) It establishes rules for the participation of SOEs that promote fair competition.
- (e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.

Summary of Findings

Substantive gaps were found in the above sub-criteria (b) and (d). In addition, minor gap was also found in the above sub-criterion (c).

Main Strengths: Qualification onto the SIKaP system is a straightforward process and no further verification of qualification is required once a supplier is qualified on SIKAP. Eligibility requirements and grounds for exclusion are clearly set out in the legal framework, together with the procedures to be used to determine eligibility. The legal framework includes provisions on administrative debarment, subject to due process.

Concerning participation based on qualification, the legal framework establishes that participation of interested parties is fair and is based on qualification and in accordance with rules on eligibility and exclusion. However, there are **barriers to entry**, whereby the PPL requires foreign business entities and foreign participating in the international tender / general selection to establish business cooperation with national business entities in the form of a consortium, sub-contract, or other forms of cooperation. The PPL lists, as one of the purposes of government procurement, the increased use of domestic products and the PPL and PPR contain various provisions to support implementation of this purpose.

As for eligibility, exclusion and administrative debarment, the PPR set out in detail the administrative, legal, technical and financial requirements for eligibility. The legal framework does not explicitly list as grounds for exclusion convictions by final judgement for offences related to participation in criminal organisations or offences relating to terrorism, money laundering, and child labour or trafficking. The legal framework provides for administrative debarment, subject to due process. Administrative debarment provisions list sanctionable activities and specify "blacklist sanctions", including exclusion from participation in government procurement (blacklisting) for up to two years. These provisions are set

out in the PPL and Regulations. There is a national blacklist, which is maintained by LKPP and accessible on-line.

Considering participation of SOEs as bidders: the legal framework limits participation of SOEs as bidders for construction works to high value projects. There are no rules of general application to government procurement regulating the participation of SOEs as bidders.

Discussion on identified minor gaps

Business cooperation requirements for foreign business entities: Provisions in PPL s.63, requiring foreign business entities participating in the International Tender/ General 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.

Domestic products: Requirements for use of domestic products have the potential to deter competition and reduce efficiency and VfM outcomes in the expenditure of public funds.

Rules for SOEs participation: There are no rules of general application to government procurement regulating the participation of SOEs to ensure a level playing field and promote fair competition in support of competitive neutrality.

Discussion on identified minor gaps

Exclusion for criminal and corrupt activities: 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.

Based on the above gaps analysis, it is recommended to consider adding provisions to the 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.

Indicator 1(e) Procurement documentation and specifications

Assessment Criteria

The legal framework meets the following conditions:

- (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.
- (b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.

- (c) It requires recognition of standards that are equivalent, when 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).

Summary of Findings

Substantive gap was found in the above sub-criterion (c) and minor gap was also found in the above sub-criterion (b).

Main Strengths: There is a large collection of MPDs/SBDs, which provides options to ensure that the content is both relevant and sufficient. Bidders are able to submit requests for bid clarification and receive responses using an online function through the SPSE.

For Procurement documents, the legal framework defines and lists bidding documents and their content. MPDs/SBDs can be downloaded from LKPP website. Full bidding documents are available to interested bidders following a simple process logging onto the SPSE. The content of the MPDs/SBDs varies according to the nature and complexity of the contract to be procured. As for **'Specifications'**, there are no provisions in PPL requiring the use of "neutral" specifications, although use of National Standards is required in preparation of technical specifications. The Indonesian standards body is a member of the International Organization for Standardization (ISO) and standards should, therefore, be harmonized with international standards. The legal framework does not specifically provide for use of functional specifications but knowledge of their preparation and use is part of the procurement competency standards framework.

Clarification of procurement documents is covered under the legal framework, which gives potential bidders the opportunity to request clarification of procurement documents using a media/question forum conducted electronically through the SPSE. There are specified timescales for response and questions and answers are collated in the minutes of the pre-bid meeting. Any resulting changes in the bidding documents must be set out in an Addendum to the Bidding Document.

Discussion on identified substantive gaps

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 is not available encourages wider bidder participation and helps to reduce discriminatory behaviors.

Discussion on identified minor gaps

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 specifications is of particular relevance where procurement seeks to promote innovation.

Based on the above gaps analysis, it is recommended to consider including 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.

Indicator 1(f) Evaluation and award criteria

Assessment Criteria

The legal framework mandates that:

- (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.
- (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 VfM decisions.
- (c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.
- (d) The way evaluation criteria are combined, and their relative weight determined should be clearly defined in the procurement documents.
- (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.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths: The legal framework requires bid evaluation to be set out in the tender documents and for assessed elements to be quantitative or quantifiable. The legal framework defines the way in which evaluation criteria are combined and relative weights (where relevant) are determined. The legal framework prohibits changes to the published evaluation criteria. Quality is a major consideration in evaluating proposals for consulting services.

The PPL permits three methods of evaluation of goods, construction works and other services, being: value system (scoring system), economic life cycle cost, or lowest price and sets out circumstances where these methods may be used. For the evaluation of consultancy services there are four methods of evaluation: quality and cost, quality, budget ceiling or lowest cost. The PPL provides a short explanation of when each method shall be used, with budget ceiling and lowest cost permitted in limited circumstances. The PPL requires all parties involved in procurement to keep information strictly confidential, as its nature requires preventing violations in procurement. In practice, evaluators record their evaluation using the 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.

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

Assessment Criteria

The legal framework provides for the following provisions:

- (a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.
- (b) Records of proceedings for bid openings are retained and available for review.
- (c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.
- (d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.
- (e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.

Summary of Findings

There was minor gap found in the above sub-criterion (d).

Main Strengths: The legal framework defines the process and timing of bid opening, which is conducted electronically ensuring high levels of regulation, security and confidentiality as well as publication of live information on the process.

The SPSE requires the inputting of a schedule of activities for a particular procurement, including the timing of opening of tenders. The SPSE includes a log of bid opening, which is retained on the system. It allows for the uploading and publication of a separate bid opening report, which is a public facing document. There are procurement-specific regulations on retention of procurement archives. PPL s.7 Procurement Ethics requires that all parties involved in procurement must keep information strictly confidential and security of electronic bids is managed through a custom utility.

Discussion on identified material Gaps

Non-disclosure of specific sensitive information: The legal framework (PPL/PPR 2021) does not clearly regulate and prohibit disclosure of specific sensitive bid/bidder information in provisions of general application. In some cases, it is appropriate to prohibit disclosure of parts of bids containing specific sensitive bid/bidder information to 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

Based on the above gaps analysis, it is recommended to consider including relevant provisions of general application in the legal framework to clearly regulate and prohibit disclosure of specific information legitimately identified as proprietary and commercially sensitive by a bidder.

Indicator 1(h) Right to challenge and appeal

Assessment Criteria

The legal framework provides for the following:

- (a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.
- (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.
- (c) Rules establish the matters that are subject to review.
- (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.
- (e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.
- (f) Decisions by the independent appeals body can be subject to higher-level review (judicial review).

Summary of Findings

There was substantive gap found in the above sub-criterion (e) with two minor-gaps found in the above sub-criteria (b) and (d).

Main Strengths: Bidders have a right to challenge decisions or actions taken by the procuring entity by way of submission of an objection to the procuring entity through the SPSE (PPL s.50).

Challenging procurement proceedings: provisions on the right of objection are elaborated in the PPR 2021. There is a right of objection at both the pre/qualification stage and tender award stage, following determination of the winner. It is the procuring entity, which makes the decision on the objection. In the case of procurement of construction works only, the PPL provides that an additional step, "Appeal of Objection" shall apply, with an appeal against the initial objection decision submitted to the procuring entity through the SPSE and payment of an objection appeal bond. There is no right of objection and review (appeal) in respect of procurement conducted using Quick Tender method. The grounds for objection at the pre/qualification stage and tender award stage, the timeframes for submitting an objection and providing a response to an objection are set out in the PPR 2021.

Appeal - Administrative review and matters subject to the right to review: there are no provisions in the PPL/PPR 2021 concerning the possibility of responding to a challenge 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 LKPP complaints procedure and the public complaints procedure. These routes, however, do not satisfy all of the requirements of the MAPS methodology for administrative review of a challenge and/or are limited to specific types of complaint such as competition or corruption. There is no specialized 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.⁸² 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. There are no meaningful data and information available on the actual use, operation of and decisions by the Administrative Court, as a route of review of a decision on objection and applications for appeal and decisions by the local/provincial Administrative Court are not published.

Discussion of identified substantive gaps

Applications for appeal to and decisions by the local/provincial Administrative Court are not published.

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.

Discussion of identified minor gaps

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. It is unclear whether there are rules establishing time frames for the Administrative Court to issue decisions.

Based on the above gaps analysis, it appears a single, clear route for review is likely to enhance confidence in the procurement system, incentivizing competition and further improving transparency. It is further recommended to 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.

In preparation for the critical review, consider what information and data are 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.

⁸² Law No. 5 of 1986 on Administrative Court, as amended by Law No. 9 of 2004 and Law No. 51 of 2009.

Indicator 1(i) Contract management

Assessment Criteria

The legal framework provides for the following:

- (a) Functions for undertaking contract management are defined and responsibilities are clearly assigned.
- (b) Conditions for contract amendments are defined, ensure economy, and do not arbitrarily limit competition.
- (c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.
- (d) The final outcome of a dispute resolution process is enforceable.

Summary of Findings

There was minor gap found as per the above sub-criterion (b).

Main Strengths: Functions for undertaking contract management are defined and responsibility is clearly assigned to the contract making officers (PPK). The conditions for contract amendments are clearly set out in the legal framework. There is a variety of methods for resolution of disputes appropriate to contracts of different types and complexity. The outcomes of a dispute resolutions processes are enforceable.

PPL s.11 clearly assigns the function and responsibility for undertaking contract management to the PPK, referring to a range of activities including those concerning “controlling the contract”, assessment of provider’s performance, keeping records of implementation and payment. PPL s.54 sets out provisions on contract amendments, which are permitted only in specified circumstance and subject to a cap of 10% increase in value of the price stated in the original contract, helping to ensure economy and prevent arbitrary limitation of competition. There are also provisions in the PPL on price adjustment in multi-year contracts. The provisions on contract amendments are elaborated upon in the PPR 2021.

The PPL has provisions covering Contract Dispute Resolution, providing an appropriate range of means for settlement of disputes, including arbitration. LKPP offers a dispute resolution service operating outside the courts to resolve contract disputes through mediation, conciliation, and arbitration. Contract dispute provisions are included in the General Conditions of Contract (GCC). Arbitral awards are enforceable through the courts. In respect of international arbitration, Indonesia has acceded to the New York Convention on the Recognition and Enforcement of Arbitral Awards.

Discussion on the identified minor gaps

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.

Indicator 1(j) Electronic procurement (e-Procurement)

Assessment Criteria

The legal framework provides for the following:

- (a) The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.
- (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.
- (c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths:

All stages of the procurement process are managed electronically. PPL s.69 mandates the use of e-procurement, to be carried out using the SPSE and supporting systems. PPL ss. 4 & 5 set out main objectives and policies which include increasing quality of procurement planning, promoting transparent, open, and competitive procurement, developing procurement e-marketplace and using of ITC technology and electronic transaction. LKPP has developed and maintains the SPSE and supporting systems. LPSE systems are standardized, using the national SPSE. Access to the SPSE is via LPSE, also the national portal INAPROC provides easy access to the system. LKPP defines privacy, security, and authentication standards for the SPSE.

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

Assessment Criteria

The legal framework provides for the following:

- (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.
- (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 fraud and corruption and compatible with the audit cycles.
- (c) There are established security protocols to protect records (physical and/or electronic).

Summary of Findings

There was minor gap found in the above sub-criterion (b).

Main Strengths:

The LPSE systems retain all related data and documents associated with the procurement process and the SPSE defined database of records lists the retained records. There is a procurement specific document retention policy. The PPL establishes standards for the services, capacity, and security of the SPSE; the supporting systems and protocols are in place, including security protocols to protect electronic records.

The retention policy is part of the regulations issued by the Head of the National Archives with a list of procurement records to be retained in the procurement archives. Access to procurement archives is governed by the general Law (UU) on Public Information Disclosure.

Discussion on the identified minor gaps

Document retention policy: 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 increases 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.

Accordingly, it is recommended to carry out review of 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.

Indicator 1(I) Public Procurement principles in specialised legislation

Assessment Criteria

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

- (a) Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.
- (b) (b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.
- (c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.

Summary of Findings

There was minor gap found in the above sub-criterion (a).

Main Strengths:

There is strong emphasis on the application of public procurement principles in the legal framework applying to the PPP procurement.

SOEs are active in six core economic sectors: energy, mineral extraction, financial service, highway infrastructure/construction, property (real estate) and food. Procurement by SOEs using state funds is not subject to the PPL. It is, however, subject to procurement specific Ministerial Regulations, the Minister of SOEs Regulation No. PER-08/MBU/12/2019 General Guidelines for Procurement of Goods and Services carried out by SOEs (Procurement Guidelines for SOEs G&S).⁸³ These set out the aims of procurement including efficiency and VfM, and list procurement principles to be applied which are, in summary: efficiency, effectiveness, competition, transparency, affording equal treatment, open to all qualified applicants and accountability. Detailed procedures are regulated by SOEs' own procurement rules.

PPP Regulation, on the other hand, sets out basic principles applying to the conduct of procurement of PPP, including 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." This requirement is elaborated upon in LKPP regulation requiring that procurement be conducted in accordance with the principles of efficiency, effectiveness, transparency, openness, competition, fairness/non-discrimination and accountability. PPP Bappenas is responsible for coordinating, formulating and implementing PPP policies.

Discussion on the identified minor gaps

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.

Therefore, in order to increase transparency and improve oversight and accountability of expenditure of public funds by SOEs, consider obliging SOEs spending public funds to publish and provide access free of charge to their own procurement rules.

⁸³ PER-08/MBU/12/2019: Revoking Minister of SOEs Regulation No. PER-05/MBU/2008 on General Guidelines for Procurement of Goods and Services carried out by SOEs – as amended by Minister of SOEs 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

Table 6: Pillar I Indicator 1- Identified Substantive Gaps- Risk Rating and Recommendations

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-Indicator 1(d)</i> <i>Assessment Criteria: (b)</i></p> <p>Barriers to participation – The legal framework includes provisions creating potential barriers to participation in the public procurement market, particularly for foreign bidders. *</p> <p>Domestic product provisions - The legal framework requires use of domestic products and to allocate at least 40% (forty percent) of their budget expenditure on goods/services produced by produced by small enterprises and cooperatives.</p>	<p>H</p> <p>H</p>	<p>A red flag should be raised, because the requirements for foreign business entities to establish business cooperation with national business entities potentially generates risk in promoting oligopolistic or monopolistic conditions, rather than promoting local industry and effective competition.</p> <p>No red flag.</p>	<p>Consider removing requirements on foreign business entities to establish business associations with national business entities.</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, the preference to domestic product promote efficiency and improve VfM 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><i>Assessment Criteria: (d)</i></p> <p>Rules for participation of SOEs - 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</p>	<p>M</p>	<p>No red flag.</p>	<p>Consider introducing rules and/or guidelines on participation of SOEs, of different types, as bidders in public procurement to ensure a level playing field and promote fair competition. An assessment of the current regulations followed by SOEs as bidders would help differentiating their</p>

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
enterprises as bidders for other types of procurement.			two different roles- as procuring entities and as bidders. The assessment to also review the procurement regulatory aspect regarding the existence of public funds that enter SOEs not through the state budget, but direct lending.
<p><i>Sub-Indicator 1(e)</i></p> <p><i>Assessment Criteria: (b)</i> Recognition of equivalent standards - 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.</p>	M	No red flag.	Consider including specific provisions of general application in the legal framework requiring the recognition of equivalent standards where neutral specifications are not available.
<p><i>Sub-Indicator 1(h)</i></p> <p><i>Assessment Criteria: (e)</i> 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>	H	A red flag should be raised, because applications for appeal to and decisions by the local/provincial Administrative Court are not published, which significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly by LKPP as such factors lie	In preparation for the critical review, consider what information and data are 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.

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
		outside the sphere of public procurement.	
<p><i>Remarks:*</i></p> <ul style="list-style-type: none"> - <i>*(Red Flags) are element that could significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly as such factors lie outside the sphere of public procurement.</i> - <i>Risk Rating (L: Low; M: Medium; H: High)</i> 			

Indicator 2. Implementing regulations and tools support the legal framework

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model procurement documentation and standard conditions of contract. Ideally, the higher-level legislation provides the framework of principles and policies that govern public procurement. Lower-level regulations and more-detailed instruments supplement the law, make it operational and indicate how to apply the law to specific circumstances.

Indicator 2 comprises four sub-indicators 2(a) to 2(d).

Indicator 2(a) Implementing regulations to define processes and procedures

Assessment Criteria

- (a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.
- (b) The regulations are clear, comprehensive, and consolidated as a set of regulations readily available in a single accessible place.
- (c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly.

Summary of Findings

There was no substantive gap found in the above sub-criteria and one minor-gap found in the above sub-criterion (b).

Main Strengths:

There are comprehensive regulations that supplement and detail the provisions of the procurement law. LKPP is responsible for the preparation and maintenance of the regulations for goods, services, other services and works. LKPP updates regulations as required.

PPL s.91 (1) sets out a list of documents and issues, which shall be detailed in Regulations of the Head of LKPP (PerLem LKPP). There are sixteen core implementing Regulations (PerLem LKPP) that supplement and detail the provisions of the procurement law. The PerLem LKPP are comprehensive and readily available on-line via LKPP website. Since 2021, these include regulations (Guidelines for implementation and standard documents) for construction works and integrated design & build, as well as for goods and service procurement.

Discussion of identified minor gaps

Availability of regulations: There are significant numbers of regulations supporting the implementation of the PPL, which create a heavily regulated and complex environment for stakeholders. Whilst information is available online, 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.

As previously recommended under Indicator 1(a)(d) Accessibility of legal framework documents, 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. In addition, 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.

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

Assessment Criteria

- (a) There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities.
- (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.
- (c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths:

There are MPDs/SBDs for use for wide range of goods, works and services including consultancy services and different types of procurement methods. The MPDs/SBDs are standard template bidding documents for mandatory use in various methods of procurement, including in competitive bidding. Responsibility for the preparation and maintenance of the MPDs/SBDs lies with LKPP. 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.

Indicator 2 (c) Standard contract conditions

Assessment Criteria

- (a) There are standard contract conditions for the most common types of contracts, and their use is mandatory.
- (b) The content of the standard contract conditions is generally consistent with internationally accepted practice.
- (c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths:

There are standard General Contract Conditions (SSUK and Special Contract Conditions (SSKK), which constitute an integral part of the MPDs/SBDs that are issued to participants in the procurement and incorporated as part of the procurement contract. They cover most common types of contracts related to goods, works and consultancy and their use is mandatory.

The PPL lists the types and forms of contract and in what circumstances each form of contract shall be used. The content of the standard contract conditions is generally consistent with internationally accepted practice.

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

Assessment Criteria

- (a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.
- (b) Responsibility for the maintenance of the manual is clearly established, and the manual is updated regularly.

Summary of Findings

There was a minor gap found in the above sub-criterion (a).

Main Strengths:

The Guidelines cover, in detail, the procurement cycle from identification of needs and pre-procurement planning, through selection and preparation of procurement documents (including form of contract and basic content of agreement), conducting the procurement process, implementation of the contract and handover of works. The Guidelines set out the respective roles and responsibilities including those assigned to the procurement officers, PPKs, working groups and selection committees.

The main procurement guidelines are set out in PerLemLKPP 12 of 2021: Guidelines for implementation of government procurement of goods/services through providers, in Appendices I, II and III. Appendices IV, V and VI contain the MPDs. 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.

LKPP is responsible for publishing and maintaining the guidelines and SBDs for goods, services and consultancy services and also (since 2021) guidelines for procurement of construction services and integrated design and build construction works. The most recent versions of the guidelines were published in 2021.

Discussion on identified material Gaps

Procurement Guidelines: The procurement guidelines are comprehensive but lengthy and lack a 'contents list/index' or overview/summary. This potentially hinders ease of use and understanding. Accordingly, it is recommended to 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.

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

This indicator assesses whether horizontal policy objectives, such as goals aiming at increased sustainability, support for certain groups in society, etc., and obligations deriving from international agreements, are consistently and coherently reflected in the legal framework, i.e. whether the legal framework is coherent with the higher policy objectives of the country.

Indicator 3 comprises two sub-indicators 3(a) and 3(b).

Indicator 3(a) Sustainable Public Procurement (SPP)

Assessment Criteria

- (a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives.
- (b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalize, facilitate and monitor the application of SPP.
- (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.
- (d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.

Summary of Findings

There were substantive gaps found in the above sub-criteria (a) and (b), whereas a minor gap was also found in the above sub-criterion (d).

Main Strengths:

The legal and regulatory framework allows for incorporation of sustainability at all stages of the procurement cycle and there are specific measures in place. The legal framework requires sustainability considerations to be incorporated in the planning and 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. There are various tools in place to operationalize, facilitate and monitor certain aspects of SPP, for example to encourage use of green products in the e-catalog and tagging sustainability issues in procurement planning application of SIRUP.

Indonesia has clear national policy objectives for sustainable development and is committed to achievement of the United Nations SDGs and mainstreaming of sustainable development principles. High-level information on SPP and a roadmap for implementation has been disseminated publicly⁸⁴.

Discussions on identified Substantive Gaps:

Procurement-specific policy/strategy: There are no formal published detailed procurement-specific policy/strategy and implementation plan to implement SPP in support of broader national policy objectives.

Implementation plan for SPP Policy/strategy: There is no formal detailed SPP implementation plan published.

Discussions on identified minor gaps

Sustainable requirements: Practical guidance and data on how to apply and evaluate sustainable requirements more generally are lacking. No formal detailed SPP implementation plan is published. Accordingly, it is recommended to consider preparing and publishing practical guidelines, 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.

Indicator 3(b) Obligations deriving from international agreements

Assessment Criteria

Public procurement related obligations deriving from binding international agreements are:

- (a) clearly established.
- (b) consistently adopted in laws and regulations and reflected in procurement practice.

⁸⁴ For example: Indonesia Circular Economy Forum <https://indonesiacef.id/en/presentation/kebijakan-circular-economy-di-indonesia-sustainable-public-procurement-spp/>

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths:

Indonesia is a WTO member, has observer status in respect of the WTO GPA is a party to ASEAN Free Trade Area, and a signatory to the ATIGA, ATISA and the EFTA. It has a Partnership and Cooperation Agreement with the EU aimed at concluding a free trade agreement.

There are currently no market access commitments in Indonesia's international treaties/trade agreements.⁸⁵ Provisions regarding the treaty ratification process are in Law UU no.24 of 2000 concerning International Treaties. All international treaties/agreements must comply with domestic law. In the process of negotiating treaties and agreements, negotiators must adhere to domestic law and regulations.

Indonesia has ratified 20 ILO Conventions, including all of the 8 Core Conventions. Indonesia is a signatory to/has ratified numerous UN conventions/covenants including those concerning the elimination of racial discrimination and discrimination against women, protection of migrant workers, rights of the child (and optional protocols) and rights of persons with disabilities. Indonesia is also a signatory to UNCAC (see indicator 14).

Table 7: Pillar I Indicator 3- Identified Substantive Gaps- Risk Rating and Recommendations

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-Indicator 3(a)</i></p> <p><i>Assessment Criteria: (a)</i> Policy/strategy to implement SPP - There is no formal published detailed procurement specific policy/strategy to implement sustainable public procurement in support of broader national policy objectives.</p>	M	No Red Flag.	Consider preparing and adopting a comprehensive policy/strategy to implement SPP in support of national policy objectives.
<p><i>Assessment Criteria: (b)</i> Implementation plan for SPP Policy/strategy - There is no formal detailed SPP implementation plan published.</p>	M	No Red Flag.	Consider undertaking an in-depth assessment to inform the SPP strategic planning process. Prepare and publish an SPP implementation plan, including clear objectives, indicators and

⁸⁵ Information provided by LKPP, 12 April 2022.

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
			<p>targets, in support of the comprehensive SPP policy/strategy. 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 SPP, in 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.</p>

Remarks:

- **(Red Flags) are element that could significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly as such factors lie outside the sphere of public procurement.*
- *Risk Rating (L: Low; M: Medium; H: High)*

3.2. Pillar II - Institutional Framework and Management Capacity

Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up overall governance in its public sector.

Pillar II evaluates how effective the procurement system is in discharging the obligations prescribed in the law, without gaps or overlaps. It assesses i) whether it is adequately linked with the country's public finance management system ii) whether institutions in place are in charge of necessary functions; and iii) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

Summary for Pillar II

Indonesia has already established a strong legal and regulatory framework that aligns with most international standards on PFM, but the effectiveness of the PFM systems in place and monitoring of performance can still be strengthened. Based on PEFA 2017, there are weaknesses related to the strategic allocation of resources, the accountability of budget implementation and the efficient delivery of public services.

Advance procurement 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.

The procurement activities are undertaken including solicitation of tenders/proposals based on procurement plan, however on contract execution, the 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. 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.

Public procurement system has a strong normative/ regulatory institution function led by LKPP. LKPP was established pursuant to Perpres No.106 of 2007. 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 Ministry for National Development Planning/Head of Bappenas.

The MPWH, on the other hand, has the task of carrying out development and formulation of policies for government procurement of construction works and construction consulting services. As mentioned earlier, the responsibility for preparation of guidelines, including MPDs/SBDs, for the implementation of procurement of construction works and services has become under LKPP since 2021. The responsibilities within LKPP are well- defined, to cover functions of providing advice to procuring entities, drafting procurement policies, monitoring, managing statistical databases, supporting professionalization, and managing e- Procurement system. As per Regulation No 1 of 2020 and based on LKPP confirmation during discussions with the Assessment Team, the organization structure and staffing of LKPP are sufficient and consistent with its responsibilities.

LKPP by its mandate is tasked with policy, guidance, monitoring and training and is not involved directly in procurement transactions and handling of complaint of bidders.

The country has not established a centralized procurement function. LKPP indirectly becomes a centralized procurement institution, with an electronic catalog (national, sectoral, regional) managed by LKPP and utilized by all procurement entities.

The legal framework clearly defines responsibilities and formal powers of procuring entities at all stages of the procurement process.

Indonesia has a well-established and operational SPSE, which supports e-tendering, e-purchasing and e-catalogues from planning through award of contracts.

All line ministries and local government have adopted LKPP SPSE system to support e-procurement for state-funded procurement activities and make use of LKPP e-purchasing and e-catalogue system. The use

of the same LPSE platform across all government entities facilitates the implementation of standard system processes enabling Vendors to participate in procurement on any LPSE SPSE system.

LKPP conducts continuous enhancements and maintenance of the systems to ensure they are in full compliance with current procurement policies and regulations and to improve the efficient, effectiveness and user experience of the systems continually.

Related to public procurement, there are substantive training programs. Regulation No 4 of 2020 on 'Training for Procurement' contains scope of institution regulation, accreditation, training programs. Procurement is recognized as a profession with the status of civil servants in accordance with Article 1 of Regulation No 7 of 2021, which also provides for the establishment of competency standards for public procurement functional positions.

As per Article 39 of Regulation 1 of 2021 there is a Monitoring-Evaluation and System Development function where Deputy for Monitoring-Evaluation and System Development Information has the task of carrying out monitoring assessing, evaluating and providing input on the implementation of Government Procurement of Goods/Services.

Indicator 4. The public procurement system is mainstreamed and well- integrated with public financial management system

This indicator focuses on how well integrated the procurement system is with the PFM system given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

Indicator (4) comprises two sub-indicators 4(a) and 4(b)

Sub-indicator 4(a) – Procurement planning and the budget cycle

Assessment Criteria

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

- (a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.
- (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).
- (c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.

Summary of Findings

There was minor gap found in the above sub-criterion (c).

Main strengths:

A strong legal and regulatory framework on PFM: Indonesia PEFA Assessment Report 2017 demonstrates that Indonesia has already established a strong legal and regulatory framework that aligns with most international standards on PFM.

PPL s.9, 11 and 18 provide for procurement planning, determination and announcement of the Annual Procurement Plan (RUP). Every year, the MOF issues a regulation establishing the guidelines for the line ministries' annual work plans and budgets (RKA-KL).

Perpres No.50 of 2019 permits the conduct of procurement before the fiscal year starts (advance procurement) after having the work plan and budget approved by parliament, including provisions for signature of agreements. This also permits the use of multi-year contracts.

Based on PEFA Assessment Report 2017⁸⁶, related to Public Investment Management (PIM)-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".

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 the DIPA is available.

Substantive or Material Gap

Based on PEFA 2017, the accountability of budget implementation and the efficient delivery of public services. There is need for (i) improving system capacity to deliver infrastructure outcomes by harmonizing the selection, implementation, and monitoring of capital expenditure with formal guidelines and oversight, efficient management of public assets, as well as consolidation and monitoring of public procurement operations; and (iii) the inclusion in the budget of performance information, linking resource planning in the most appropriate manner for better service delivery.

Discussions on identified minor gaps

Reporting mechanism on budget execution of major contracts: 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. The effectiveness of the PFM systems in place and monitoring of performance can still be strengthened. Overall, the average performance score is slightly below "B", which is above the basic level of performance broadly consistent with good international practices⁸⁷. Accordingly, it is recommended to consider strengthen the reporting mechanism particularly

⁸⁶ <https://www.pefa.org/sites/pefa/files/assessments/reports/ID-May18-PFMPR-Public-with-PEFA-Check.pdf>

⁸⁷ Indonesia PEFA Assessment Report 2017

by reporting on completion of major contracts as part of the national monitoring and evaluation analytics dashboard.

Sub-indicator 4(b) – Financial procedures and the procurement cycle

Assessment Criteria

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

- (a) No solicitation of tenders/proposals takes place without certification of the availability of funds.
- (b) The national regulations/procedures for processing of invoices and authorization of payments are followed, publicly available and clear to potential bidders.

(Quantitative indicator to substantiate assessment of sub-indicator 4(b) assessment criterion (b):

- invoices for procurement of goods, works and services paid on time (in % of total number of invoices))

Summary of Findings

There were minor gaps found in the above sub-criteria (b) and (c).

Main strengths:

The procurement activities are undertaken including solicitation of tenders/proposals based on procurement plan. PPL s.52 on contract execution, does not allow PPK to enter into an agreement or sign a contract with a provider if no budget or no sufficient budget is available.

PP No. 45/2013 on 'Budget Execution' provides the basis for 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 have gone into effect.

As per Law No 1 of 2004 on State Treasury Article 18 (1), the Budget User (PA) /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 APBN/ APBD. Article 19 (1) of this Law stipulates that 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.

Perpres No.50 of 2019 permits the conduct of advance 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, whereas it 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. Therefore, there is a need for the

Government to consider possibility of such exception as it currently only regulated for procurement at sub-national (LG), missing the procedures at central level (Line Ministry/Agency).

Based on PEFA Assessment Report 201788, 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”. It appears there is a need for national guidelines for project costing and identification of recurrent costs to factor total life-cycle cost of major investment projects. PIM document provides a guidance⁸⁹ to policy makers on integration of capital and recurrent budget where there are projections of the total life-cycle cost of major investment projects, including both capital and recurrent costs. A year-by-year breakdown of the costs for at least the next three years to be also included in the budget documents. 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.

Discussions on identified minor gaps

Interoperability between the SPSE and the SPAN: concerning sub-indicator 4 (b) (b), there is a lack of interoperability between the SPSE and the SPAN that can cover full end-to-end contract information from the start of procurement, signing the contract, physical progress implementation and disbursement payments up to the contract closing⁹⁰. The current PFM Systems (SPAN, SMART, OM SPAN) do not provide open-access information on % of timeline for payment of invoices. Accordingly, it is recommended to 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 procurement, signing the contract, physical progress implementation and disbursement payments up to the contract closing.

Moreover, the current PFM Systems (SPAN, SMART, OM SPAN) do not provide open-access information on timeline for payment of invoices and invoices for procurement of goods, works and services paid on time (in % of total number of invoices). Therefore, it is considered important to add 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).

⁸⁸ <https://www.pefa.org/sites/pefa/files/assessments/reports/ID-May18-PFMPR-Public-with-PEFA-Check.pdf>

⁸⁹ Public Investment Management (PIM) Guide 2020 (the World Bank)
<https://openknowledge.worldbank.org/handle/10986/33368>

⁹⁰ Indonesia: Revenue and Budget Management: Institutional Diagnostics of Low and Slow Central Government Capital Budget Execution (draft of June 27, 2020)

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

This indicator refers to the normative/regulatory function in the public sector and its proper discharge and co-ordination. The assessment of the indicator focuses on the existence, independence and effectiveness of these functions and the degree of co-ordination between responsible organizations. Depending on the institutional set-up chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, e.g., one institution might be responsible for policy, while another might be in charge of training or statistics. As a general rule, the normative/regulatory function should be clearly assigned, without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-coordinated joint effort.

Indicator (5) comprises four sub-indicators 5(a) to 5(d)

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

Assessment Criteria

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

- (a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate formal powers of authorities to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.

Summary of Findings

There was no gap found in the above sub-criterion.

Main Strengths:

Strong normative/ regulatory institution function by LKPP. 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 (information on LKPP establishment and responsibilities is elaborated under the “summary of pillar II” above and under sub-indicator 5(b) below). The MPWH, on the other hand, has the task of carrying out development and formulation of policies for government procurement of construction works and construction consulting services. The Responsibility for preparation of guidelines, including MPDs/SBDs, for the implementation of procurement of construction works and services has become under LKPP since 2021. It appears, there is a need to further provide a clarity on division of responsibilities on procurement related policies between LKPP and MPWH.

Indicator 5(b) Responsibilities of the normative/regulatory function

Assessment Criteria

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility: (a) providing advice to procuring entities (b) drafting procurement policies proposing changes/drafting amendments to the legal and regulatory framework (d) monitoring public procurement and regulatory framework (e) providing procurement information (f) managing statistical databases (g) preparing reports on procurement to other parts of government (h) developing and supporting implementation of initiatives for improvements of the public procurement system (i) providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement (j) supporting the professionalization of the procurement function (e.g., development of role descriptions, competency profiles and accreditation and certification schemes for the profession) (k) designing and managing centralised online platforms and other e-Procurement systems, as appropriate.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main strengths: A well-organized allocation of responsibilities on normative and regulatory functions:

The responsibilities within LKPP organization are well-organized to cover functions of providing advice to procuring entities, drafting procurement policies, monitoring, managing statistical databases, supporting professionalization and managing e- Procurement system.

In particular the responsibilities are allocated as under that inter alia include:

Advice to procuring entities: 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.

Drafting procurement policies and changes/drafting amendments to the legal and regulatory framework: 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 PPPs. 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.

Monitoring public procurement: 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. 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 (e-procurement).

Providing procurement information, managing statistical databases and preparing reports: 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. 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. LKPP Directorate for e-Procurement conducts the systems development, formulation and drafting of strategies, policies, guidelines, standards, manuals in the frame of electronic systems for conducting public procurement. This includes 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.

Support training and capacity development and professionalization: Directorate for Professionalization, Directorate for Competency-based training, and Directorate for Certification Development have the tasks of undertaking formulation and drafting of strategies, policies, and guidelines respectively in the fields of public procurement professionalization, competency-based training, and professional certification. Education and Training Center, on the other hand, prepares the formulation of competency training guidelines for public procurement and management of learning resources.

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

Assessment Criteria

(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 (b) Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing (c) The institution's internal organization, authority and staffing are sufficient and consistent with its responsibilities.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main strengths:

LKPP has a high-level and authoritative standing in the government: As explained in the summary of pillar II, LKPP was established pursuant to Perpres No.106 of 2007 as a Non-Ministry Government Institution, reports directly to the President of the Republic of Indonesia, and operates under the coordination of Head of Bappenas . Perpres No. 106 affirms that LKPP is the only institution that has authority in the field of Procurement of Government Goods / Services. LKPP is a separate institution not under any ministry; It has a high level and authoritative standing in the government.

Based on LKPP Strategic Plan for 2020-2024, related to the targets that has been determined, the source of funding needed to realize the plan fully comes from the APBN (Government funds). Though in the course of implementation, it does not rule out possible sources of funding that can come from non-APBN, as long as the management is in accordance with the provisions of the legislation. It is worth noting that

the funding required/received by LKPP in the Strategic Plan period 2020-2024 is budgeted at IDR 2.04 trillion. As per this Strategic Plan, LKPP's Budget Performance Level is measured based on the MOF Regulation Number 214/PMK.02/2017 concerning 'Measurement and budget for the implementation aspect is the evaluation of budget performance'.

As per Regulation No 1 of 2020 and based on LKPP confirmation during discussions with the Assessment Team, the organization structure and staffing of LKPP are sufficient and consistent with its responsibilities.

Sub-indicator 5(d) - Avoiding conflict of interest

Assessment Criteria

(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.

Summary of Findings

There was a minor gap found in the above sub-criterion (a).

Main strengths:

LKPP by its mandate stipulated under LKPP Regulation - Perpres No.106 of 2007 A.3 (as amended by Perpres No. 157 of 2014) is tasked with policy, guidance, monitoring and training. KLPP is not involved directly in procurement transactions and handling of complaint from bidders.

Report of the result of the survey regarding 5(d) indicate that 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 conflicts of interest.

Discussions on the identified minor gaps

Perception of potential Conflict of Interest:

Even though LKPP only organizes e-catalogues and is not involved in contracting, there is still a situation of potential Conflict of Interest. There is a need for restructuring the task to avoid any perception of actual or potential conflicts of interest. Accordingly, there is a need to find a solution to avoid potential conflict of interest situation in future where ministries/agencies and regional governments are expected to be more proactive to organize their own framework agreement. LKPP role be limited to focus on providing guidance on initiating the framework agreement for national product (via e-catalogue).

Indicator 6. Procuring entities and their mandates are clearly defined

This indicator assesses: i) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities ii) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and iii) whether a centralized procuring entity exists.

Indicator (6) comprises two sub-indicators 6(a) and 6(b)

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

Assessment Criteria

The legal framework provides for the following:

- (a) Procuring entities are clearly defined.
- (b) Responsibilities and competencies of procuring entities are clearly defined.
- (c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability (Quantitative indicator).
- (d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.
- (e) Accountability for decisions is precisely defined.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main Strengths:

Clear definition of responsibilities and formal powers of procuring entities: The legal framework clearly defines responsibilities at all stages of the procurement process.

Concerning Clear definition of Procuring Entities. PPL s.1 defines the procuring entities as follows: “*State Ministry*” 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.

Definition of responsibilities and competencies of Procuring Entities is clear. 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 are clearly defined in the PPL. For example, the responsibilities of PA and the PPK are respectively listed under PPL s.9 and PPL s.11

Designated and specialized procurement function is relatively well established. 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 Government.

Functions of Procurement Work Unit: 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 out Procurement Consolidation. PPL s.70(4) confirms that in order to develop and manage the E-marketplace for Procurement, LKPP may cooperate with UKPBJ and/or Economic Operator.

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.

Indicator 6(b) Centralised procurement body

Assessment Criteria

- (a) The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.
- (b) In case a centralised procurement body exists, the legal and regulatory framework provides for the following:
 - 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.

Summary of Findings:

There were minor gaps found in all of the above sub-criteria (a), (b) and (c).

No remarkable Strengths.

The country has not established a centralized procurement function as described by this indicator. LKPP indirectly becomes a centralized procurement institution, with an electronic catalog (national, sectoral, regional) managed by LKPP and utilized by all procurement entities. LKPP as the only procurement policy-making institution organizes e-catalogs in the absence of a centralized formal procurement agency. Procuring entities decide the selection of suppliers from e-catalog and further implementation of the contract. There is a proposal for restructuring that separates the task of organizing e-catalog. PPL s.75 requires that the Minister/Head of Institution/Head of Local Government must establish a 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.

Discussions on the identified minor gaps

Absence of a separate centralized procurement body: absence of a separate centralized procurement body in charge of consolidated procurement, framework agreements or specialized procurement. Accordingly, it is recommended to consider setting up a separate body in charge of consolidated procurement, framework agreements or specialized procurement which will operate in a flexible manner and incentivize participation in order to further leverage demand, increase efficiency and improve quality of delivery and provide a lead on enhancing sustainable public procurement.

Indicator 7. Public procurement is embedded in an effective information system

The objective of this indicator is to assess the extent to which the country or entity has systems to publish procurement information, to support efficiently the different stages of the public procurement process through application of digital technologies, and to manage data that allow for analysis of trends and performance of the entire public procurement system.

The indicator captures the availability, accessibility, integration and reliability of public procurement information systems. Digital technologies, such as online portals and more comprehensive e-Procurement systems, have the potential to increase the efficiency, effectiveness and transparency of public procurement significantly. They support the creation of a state-of-the-art public procurement system, strengthen the accountability framework, and establish the technical foundation for performance measurement. The indicator also assesses the extent to which the system works in practice, by determining the share of public procurement information published and by measuring the uptake of e-Procurement and the availability of statistical information.

Indicator (7) comprises three sub-indicators 7(a) to 7(c)

Sub-indicator 7(a) – Publication of public procurement information supported by information technology

Assessment criteria

The country has a system that meets the following requirements:

- (a) Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely, complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.
- (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.
- (c) The information system provides for the publication of:
 - 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*

- (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)
- (e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).
- (f) Responsibility for the management and operation of the system is clearly defined*.

**Quantitative Data: Share of procurement information and data published in open data formats (in %)*

Summary of Findings

There were minor gaps found in the above sub-criteria (b), (c), and (f).

Main Strengths:

Publication of public procurement information is supported by information technology. Indonesia has an-established, operational e-procurement environment supporting e-tendering, e-purchasing and e-catalogues from planning through award of contracts. E-procurement is supported through a distributed network of individual e-procurement systems supported and operated by local governments and line ministries (LPSE). This reflects the decentralized procurement system provided under the governing procurement rules and regulations established by LKPP. All LPSE systems apply LKPP SPSE application to manage and support electronic and non-electronic procurement activity by procuring entities within their local SPSE or line ministry SPSE system. All SPSE systems are connected through national INAPROC portal hosted by LKPP. The use of a common platform ensures the application of standard procurement processes and allows Vendors to participate in any SPSE system without learning a new e-procurement system application using the same credentials across all SPSE systems. The INAPROC systems and the local SPSE systems are open and available to the public and any Vendor interested in participating in public procurement at no cost.

INAPROC serves as the national procurement portal providing access to tender announcements from all active LPSE portals: In addition to tender announcements, INAPROC provides access to all laws and regulations, procedures, SIRUP, monitoring and reporting tools and access other LKPP systems including e-catalogues, e-purchasing, SIKap, e-learning, and whistle blower system (WBS). INAPROC does not conduct or manage procurement transactions within the national portal. INAPROC connects users to the SPSE system where the transaction is being managed by the local procurement authority. LKPP SPSE system is applied to all public procurement using state funds and where the system has been approved for Donor funded procurement.

The SPSE platform supports the full e-procurement process from the creation, approval, announcement of tenders, bid document distribution, secure electronic submission, bid opening, evaluation, and announcement of awards in compliance with the laws and regulations of the government. All state funded procurement conducted by procurement entities must be conducted through the SPSE system and are linked to a procurement plan in the SIRUP system. This is to ensure that transactions can be tracked from planning through completion and from one system to the next including Swakelola conducted outside of the system.



Figure 4: Public Procurement profile- 2020

LKPP system applications including SPSE and e-catalogue provide procuring entities with the electronic tools to conduct and manage their e-procurement, e-purchasing and Swakelola. Procurement and purchasing transaction conducted outside the system can be recorded in the system to comply with reporting requirements to ensure that all procurement information is recorded in the system. A centralized e-catalogue service provides access to national, regional, local and sector-based catalogues to facilitate timely and direct procurement when funds have been approved. LKPP is the administrator of the catalogues working with regional, local and sectoral stakeholders to establish and manage catalogue entries.

LKPP created a custom version of the SPSE system to support donor funded projects open to international competition. The custom SPSE International Competitive Bidding (ICB) system is installed at Public Works and supports a simplified registration process for international firms; it is an English user interface with open access to bidding documents.

The SPSE systems maintain a record of all activities in the system along with copies of all bidding documents, bid submissions and reports associated with procurement transactions to ensure procuring entities have a complete record of the procurement for any future review and audit. Procurement entities can also have extra copy of the procurement information for safekeeping with their own records.

In support of the concept of open contracting, 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 the legal and regulatory framework). LKPP follows an open contracting policy for free and open access to tender information. Tender details on the SPSE systems are open and accessible to any user, providing the status of each stage of the procurement process including the availability of tender documents, submission of bids, bid opening and evaluation results. Summary transaction records for procurement packages are consolidated in INAPROC and the national reporting systems to provide a national view of the procurement activities. These are also available through the AMEL dashboard on the local LPSE system.

Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format). LKPP systems incorporate Dashboard monitoring and reporting tools

that allow users to view standard reports highlighting procurement at different stages of planning, active implementation and completed to track spending against plans. LKPP added options to download transactions records from the system portal to allow users to generate their own reports. LKPP has initiated a number of open contracting pilot projects through **opentender.net** and INAPROC to facilitate procurement monitoring with agencies and civil society and allow interested parties to download open datasets on procurement activities.

Responsibility for the management and operation of the system is clearly defined. The local government and line ministries have full ownership and operational responsibility of their e-procurement operations through their own LPSE. Each is responsible for the administration of its system including the registration and training of local procuring entities and vendors. Each is also responsible to promote use and growth of the system to their local community. There are local LPSE centers that provide training facilities, rooms for committee meetings and bid opening, public access terminals and internet access to support vendors participating in the procurement process.

Local procurement committees at the LPSE centers are responsible for creating SIRUP and tender packages as well as conducting procurement in accordance with the governing regulations. LKPP SPSE system manages the process in accordance with the processes selected for each package and ensures that the tender announcement and details are published in the local SPSE system and the national INAPROC service. The SPSE system provides access to all tender detailed information including the evaluation steps from opening to award.

LKPP is responsible for the development and maintenance of LKPP SPSE system installed at each SPSE site, INAPROC and the supporting national systems. LKPP assumes responsibility for the maintenance and monitoring of the LPSE installations, training and certification of officers participating in the procurement system and support of all other systems sustaining the procurement process. LKPP is responsible for establishing and updating the regulations governing the procurement process and the systems supporting it. LKPP establishes system operation, network and security standards for the SPSE installation to ensure sufficient resources are allocated to the operation, security and support of the system.

Discussions on identified minor gaps

Easy access to information on procurement: The INAPROC national procurement system is a network of local procurement systems potentially limiting access to national vendors. INAPROC and related national reporting systems provide a national view of procurement activity. 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. All systems should be improved to support auto-translate options to other foreign languages (in particular English). There is also a need to improve the system by providing additional monitoring 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.

Integrated information system: 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. The INAPROC national procurement system is a network of local procurement systems potentially limiting access to international vendors. Accordingly, it is recommended that 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. 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.

Other relevant findings on the system implementation are summarized below:

- (i) 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.
- (ii) As in the case of invalid or missing data links, there is a need to validate all links in INAPROC or any LKPP system accessed through the main INAPROC portal to ensure no errors are presented to users.
- (iii) INAPROC still contains inactive links to systems or links to LPSE tender details. Some SPSE systems and LKPP systems like MONEV NG are offline. No INAPROC page should have inactive or invalid links.
- (iv) Moreover, there was invalid or questionable data associated with dates. Inconsistent dates (e.g., year 2038) were observed in packages. SPSE should apply some additional data validation to ensure recorded information is correct.
- (v) LKPP should adopt a commodity classification system such as UNSPSC or CPV to classify tenders and purchasing transactions. Detailed classifications would expand options for monitoring procurement activity.

Managing procurement transactions: INAPROC is an information service providing access to tender information collected from SPSE systems. INAPROC does not facilitate or manage procurement transactions. INAPROC connects users to the SPSE system where the transaction is being managed by the local procurement authority.

System capacity: INAPROC is presented as a national procurement service, however, procurement is conducted and managed locally or regionally through the designated SPSE system. Not every LPSE site has the same level of system capacity or resources supporting its system operations. With a distributed network of systems, the number of sites can increase the potential points of failure in the procurement process due to system failures or even attacks if the systems are not supported or maintained properly. Local failures can reflect poorly on the national program.

Access to bidding documents: is limited to registered Vendors participating in the package versus allowing a Vendor to view the bidding document before deciding to participate. Requiring vendors to register with a package to view the bidding document can create a false sense of high participation for a package.

Online open procurement: Almost 30% percent of transactions are conducted as self-managed offline procurement versus online open procurement. As a decentralized procurement system, the local entities decide how procurement will be conducted – online or self-managed. The SPSE e-GP system will support and manage the approach selected by the procuring entity. LKPP should have reporting tools to ensure procuring entities comply with prescribed guidelines.

Access to foreign participation: LKPP systems are designed and built primarily for national procurement and systems are primarily in Bahasa limiting access to foreign participation. INAPROC and some national applications support an English user interface option, however LPSE sites operate in Bahasa only. LKPP created an SPSE ICB for public works with an English interface and a simplified registration process for foreign participation. However, SPSE ICB registered users can not register for single sign-on to other LPSE systems. Foreign vendors must register in each portal separately if a donor funded package is being processed on the portal. A common multi-lingual interface and registration process should be applied consistently across system applications to support foreign interest in public procurement open to international competition.

Sub-indicator 7(b) – Use of e-Procurement.

Assessment criteria

- (a) e-Procurement is widely used or progressively implemented in the country at all levels of government.
- (b) Government officials have the capacity to plan, develop and manage e-Procurement systems.
- (c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.
- (d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.
- (e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.

Summary of Findings

There was a minor gap found in the above sub-criterion (d).

Main Strengths: All line ministries and local government have adopted LKPP SPSE system to support e-procurement for state-funded procurement activities and make use of LKPP e-purchasing and e-catalogue system for direct purchasing. The use of the same LPSE platform across all government entities facilitates the implementation of standard system processes enabling Vendors to participate in procurement on any LPSE SPSE system.

E-Procurement is widely used or progressively implemented in the country at all levels of government. The use of LKPP SPSE is mandated by governing regulation (pepres). Since the initial launch of e-procurement in 2008 with 5 pilot LPSE sites, LKPP now supports 669 active LPSE installations all using the same LKPP SPSE e-procurement platform. Figure 5 below shows the location of a number of LSPE sites.



Figure 5: LPSE Locations in Indonesia

In 2020 the SPSE systems processed over 1.798M electronic transactions. Table 16 below shows that the bulk of the transactions (~90%) were under 200M Rp and 389 transactions were over 100B Rp.

Table 8: Source LKPP Money- Fiscal Year 2020

Types of Procurement of Goods/Services	Provider									
	<= Rp. 200 Million		> Rp. 200 Million <= Rp. 2.5 Billion		> Rp. 2.5 Billion <= Rp. 50 Billion		> Rp. 50 Billion <= Rp. 100 Billion		> Rp. 100 Billion	
	Package	ceiling	Package	ceiling	Package	ceiling	Package	ceiling	Package	ceiling
GOODS	933,345	26,366,361	58,575	39,992,598	7,913	62,258,507	233	18,246,330	141	38,377,738
CONSTRUCTION	198,420	26,283,358	43,491	34,757,880	11,706	100,461,176	341	24,220,328	218	49,736,996
CONSULTATION	147,760	5,923,663	9,916	6,007,586	610	4,219,668	18	1,183,021	9	1,452,069
OTHER SERVICES	361,491	10,631,605	21,440	13,951,343	2,769	20,307,053	49	3,302,790	21	4,146,290
Amount	1.641.016	69,204,989	133,422	94,709,409	22,998	187,246,406	641	46,952,471	389	93,713,095

Government officials have the capacity to plan, develop and manage e-Procurement systems. The distributed network of LPSE systems established ownership by local governments or national procuring entities, giving an incentive to ensure the success and use of their system.

LKPP has ownership and control over the SPSE system and other LKPP systems. LKPP is responsible for the planning, design and development of all systems to be applied to the procurement and management processes and for the maintenance and monitoring of systems installed at the LPSE sites.

Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems. Procurement regulation (PPL 88) establishes the competency requirements for procurement practitioners, both on law and procurement regulations, and on the use of the SPSE. LKPP offers structure learning and e-learning programs with certification for the assigned practitioners at all LPSE sites. All officers participating in the procurement system must have completed the certification process. Programs are offered to vendors participating in the procurement process to ensure they are aware of the governing procurement rules and regulations and use of the system.

Suppliers (including MSMEs) participate in a public procurement market increasingly dominated by digital technology. The LPSE system is open to all businesses including SMEs. Any interested vendor can register in the system through the local LPSE portal then register in the SiKAP to participate in tenders on any LPSE system through the single sign-on facility. SiKAP enables registered vendors to apply their vendor information (qualifications, experiences, business licenses and other information) in their bid response and facilitates qualification of bidders. Figure 6 below shows the business actors data SiKAP for the year 2022.



Figure 6: Business Actors Data SiKaP

Source of Data: LKPP's website: <https://sikap.lkpp.go.id/statistik>

Level of resources to support the minimum standards: while LKPP defines minimum standards for facilities, hardware and bandwidth at the LPSE, not all agencies will have the same level of resources to support the minimum standards. LPSE are the owner and administrator of the local system and must maintain long-term resource commitments to ensure a stable system operation during peak periods. With the growth and advent of cloud services, LKPP should examine possibilities for a cloud option for LPSE to help reduce cost and improve overall service levels across all LPSE including security and disaster recovery plans.

Tender notification services for open tenders: LKPP SPSE system or INAPROC does not offer tender notification services for open tenders. Vendors are only notified if invited to bid. A national tender notification service through INAPROC and SiKap would help promote a national procurement system provide Vendors with awareness to tenders outside their local jurisdiction. Vendors registered in SiKAP should be able to define a tender profile and be automatically notified when a new tender matching their profile is published. INAPROC should serve as the national central e-procurement portal for suppliers. Suppliers should be able to register with and bid on any tender published by an LPSE tender committee. Centralizing INAPROC as a Vendor service to respond to all tenders, would enable LKPP to enhance and monitor security through a single service versus 658 LPSE sites.

Use of technology: this will require a continuous investment to ensure systems and applications continue to meet LKPP, LPSE and Vendors business needs. As LKPP systems mature so will policies guiding the application of the systems in the procurement and contract management processes. LKPP will need to continuously examine options to develop and deliver their service offerings and how any technical changes may affect their LPSE partners. Some LPSE installations will need to upgrade some of the infrastructure needed to support the SPSE system as the system continues to grow. Not all LPSE installations will have the same level of resources to invest in their LSPE operations and infrastructure.

LKPP has also experienced a strain on their resources to maintain and operate their applications as the MONEV NG system has been disabled until resources are available.

LKPP has experienced a strain on their resources to maintain and operate their applications. The MONEV NG system has been disabled until resources are available. A digital transformation initiative would enable a technical refresh of the LKPP applications, bringing underlying system up to date with new business approaches and technologies. A new environment could facilitate an end to end procure to pay service offering; expand system features and functions; support the government's One Data digital initiative to exchange data between systems. Building the new environment on a centralized database would enable LKPP to realize full value from the data collected over the past 14 years; improve system and procurement planning; achieve new system efficiencies and better value for money.

A new central system approach would enable a more secure and stable system environment and reducing the overall investment and operating cost currently absorbed by each LPSE.

Sustainable business model: It will be critical for LKPP to have a sustainable business model to ensure LKPP and the LPSE site have the resources needed to maintain and operate the various e-procurement systems. Resources are at capacity maintaining existing systems and some applications like MONEV have been discontinued due to resource availability. The system must have sufficient support to recruit the resources to effectively manage and grow the systems. If financial resources are not available, LKPP should consider application of fees to support a sustainable environment. Offering an alternate service for delivery to LPSE with the adoption of service fees could provide an alternative to support a sustainable system environment.

Discussions on the identified minor gaps.

Increase use of digital technology in suppliers' participations (including micro, small and medium-sized enterprises): The vendor profile data is limited to small and non-small vendors. Accordingly, it is recommended that LKPP (i) should consider defining additional vendor profile information to identify other socio-economic indicators such as women owned businesses, green businesses or foreign businesses; (ii) expanded vendor profiles would enable LKPP to measure different procurement outcomes to see how government is achieving different procurement goals; (iii) expand reporting tools to further expand analytics to observe if programs targets are achieved, and (iv) offer notification services to ensure SME are informed of opportunities.

Sub-indicator 7(c) – Strategies to manage procurement data.

Assessment criteria

- (a) A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology.
- (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.
- (c) The reliability of the information is high (verified by audits) (d) Analysis of information is routinely carried out, published and fed back into the system.

Summary of Findings

There was a minor gap identified in the above sub-criterion (c).

Main Strengths:

LKPP has applied an open data policy to ensure LKPP INAPROC and LPSE SPSE systems are open and accessible to **the public and interested vendors at no cost**. In addition to summary reports highlighting procurement activity, LKPP has started to make open data sets available so interested parties can conduct their own analysis and generate their own reports.

A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology. LKPP SPSE system records all procurement transaction information for each stage of the procurement process. All information is publicly available on the LPSE SPSE portal and the LPSE AMEL procurement Dashboard. Summary information of the tender details is shared with the national INAPROC system and reporting systems. Data are also captured for e-purchasing and e-catalogue transactions and incorporated in the system reporting tools.

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. LKPP SPSE system manages the procurement transaction from planning through award, recording each stage of the procurement process including bid opening, evaluation and award. Detailed information for each procurement is available on the SPSE system. Summary information for each transaction is shared through the national INAPROC systems and the LPSE AMEL procurement dashboard. LKPP has also added an open data option to INAPROC to download procurement transaction summary records per fiscal year and initiated an open data project with civil society organizations.

The reliability of the information is high (verified by audits). All data collected in the system are strictly controlled by LKPP applications and linked through controlled datasets that map data between local LPSE systems, the national portal and the reporting system. Discrepancies can be identified when LKPP synchronizes data between systems, however, data errors made by procuring entities will not be identified.

Analysis of information is routinely carried out, published and fed back into the system. The AMEL dashboard and MONEV NG system provides enhanced reporting tool to the SPSE and INAPROC platforms offering bidders and the public a dynamic reporting tool to monitor a procurement activity through all stages of the procurement process within the LPSE. Users can use the dashboard to view summary reports highlighting activities at different stages of the procurement process or download raw data to perform independent analytics.

Reference to activity conducted in other LPSE systems: LKPP SPSE systems operate independently with no reference to activity conducted in other LPSE systems. Only summary transaction information from LPSE is shared with INAPROC for national reporting. Reporting is focused on transaction volumes and spend against procurement plans. Limited analytics for price trends or comparisons between LPSE. LKPP should examine options to leverage data from all LPSE sites to create options for procuring entities to

view similar procurement activities across all systems to assist with planning and managing new procurement activities and pricing trends. Researching and viewing similar activities could help planning budget estimation, project scheduling and potential level of participation. By examining transactions at the national level, LKPP could review trends and look to leverage government volume purchasing power nationally or regionally to achieve better value for money.

A digital transformation initiative would allow LKPP to re-examine how the e-procurement service is delivered from a collection of independent systems to a unified system environment supporting all system functions through a centralized service environment, adapting new technologies to enhance the user experience, big data analytics, procurement monitoring and system integration with other government systems.

Information Validation: Information is not thoroughly validated in the LPSE SPSE and national systems, making it challenging to know if all data are incorporated in the national reporting system without any errors. System should validate dates applied to packages and awards to ensure no date errors are created accidentally. Questionable dates (2038) have been observed in tender detail information. The SPSE and other systems should apply edit controls on selected data fields to limit errors that may be introduced to the data. The SPSE should integrate with other government systems to validate vendor information such as tax compliance and business permits to alleviate the task from procurement committees.

Examination of patterns applied in bids evaluation: LKPP could apply the SPSE information to expand monitoring tools to examine patterns applied in evaluation and awards as well as vendor participation in bids. With additional data recorded in the SPSE system during the evaluation process, LKPP should consider analytics to observe behavior patterns with how officers evaluate bids against different bidders, how bidders participate and how officers apply e-catalogues, e-purchasing and self-management in order to identify any patterns that may result in audits or how to improve the system. Open Contracting Data Standard (OCDS) would help LKPP identify missing data from existing system that may have additional functionality.

Functional dashboard: AMEL provides a functional dashboard; however, it is limited to local SPSE installations. A similar dashboard at the national level MONEV NG was implemented but is no longer available.

Discussions of the identified minor gaps.

Reliability of information is high (verified by audits): 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. 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. Accordingly, it is recommended that LKPP (i) should ensure all links created in the national system to the local LPSE tender details are valid; (ii) 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; (iii) manage transitioning to a unified system to enable LKPP to leverage resources and streamline some of the procurement applications offering a better service to agencies and suppliers, and (iv) 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.

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

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. Three aspects should be considered: i) whether strategies and programs are in place to develop the capacity of procurement staff and other key actors involved in public procurement; ii) whether procurement is recognized as a profession in the country's public service; iii) whether systems have been established and are used to evaluate the outcomes of procurement operations and develop strategic plans to continuously improve the public procurement system.

Indicator (8) comprises three sub-indicators 8(a) to 8(c)

Sub-indicator 8(a) – Training, advice and assistance

Assessment criteria

There are systems in place that provide for:

- (a) substantive permanent training programs of suitable quality and content for the needs of the system.
- (b) routine evaluation and periodic adjustment of training programs based on feedback and need.
- (c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.
- (d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.

Summary of Findings

There was no gap found in any of the above sub-criteria.

Main strengths: Existence of substantive training programs: Regulation No 4 of 2020 on Training for Procurement contains scope of institution regulation, accreditation, training programs. 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 PPSDM portal. There is a training calendar of 2022 and well-designed Frequently Asked Question (FAQ) on PPSDM portal.

The assessment team obtained feedback from IAPI (Ikatan Ahli Pengadaan Indonesia), which is Indonesian Procurement Experts Association, a member of IFPSM (International Federation of Purchasing and Supply Management). The IAPI indicated that "LKPP has developed a structured training program based on competency standard for government procurement officers".

Based on information from LKPP there is (i) training analysis to obtain feedback from facilitators from modules, evaluated on a quarterly basis; (ii) strategic plan such as the one that concerns the achievement of a number of functional procurement positions (ideally 60% in each K / L / PD). Work with other directorates to achieve these targets; and (iii) a roadmap in an SI that can be accessed by UKPBJ.

Sub-indicator 8(b) – Recognition of procurement as a profession

Assessment criteria

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

- (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.
- (b) Appointments and promotion are competitive and based on qualifications and professional certification.
- (c) Staff performance is evaluated on a regular and consistent basis; staff development and adequate training are provided.

Further analysis: MAPS Module on Professionalization (Not covered in this assessment)

Summary of Findings

There was minor gap found in the above sub-criterion (b).

Main strengths: Procurement is recognized as a profession with the status of civil servants: In accordance with Article 1 of Regulation No 7 of 2021, the relevant provisions are as under: 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. Point 2. Civil Servants, 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. 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.

Established competency standards for functional positions. *The Current* Regulation 7 of 2021 provides for the establishment of competency standards for public procurement functional positions.

Membership of professional organization: Further, in accordance with Paragraph 7 Professional Organization Article 10 of Regulation No 7 of 2021, the stipulations *inter alia* require PBJ managers required to become members of PPBJ's professional organization which is the Indonesian Procurement Functional Association (IFPI).

Requirement of Procurement Unit (UKPBJ) to be Procurement Center of Excellence: *As per feedback from IAPI:* "The UKPBJ is designed to be a procurement center of excellence 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 [Indeks Tata Kelola Pengadaan (ITKP)]. 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"

Based on feedback from LKPP, the functional procurement association consists of 1200 people with internal activities: routine training, procurement-related discussions in virtual groups. There are member dues every year as subscription. For members for training, the cost is quite far below that of the general public.

Appointments and promotion based on qualification and professional certification: These requirements are reflected in Article 7 of Regulation No.7 of 2021,

As per feedback from IAPI: 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 it more attractive.

Evaluation of staff performance as per feedback from IAPI: “There is clear pattern for staff performance evaluation that link to the staff development system. However, it needs improvement in implementation effectiveness”.

Based on feedback from LKPP JF PBJ assessment related to credit figures is regulated in the National Civil Service Agency (BKN) Regulation No. 21 of 2020, pan RB No. 29 of 2020. Assessment is assisted by an information system to speed up the process.

Discussions on the identified minor gaps

Lack of incentive to join procurement profession: It is reported that many people stay away from this profession because of the fear of being accused of corruption. Since 2020 there has been a government policy to reduce structural positions from 4-5 levels to 2 levels.

According to information available on KPK website: (i) functional procurement staff (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 who rejected the offer for being the goods/service procurement officials and some candidates tried to intentionally fail the certification process just to avoid the position, on the other hand this position is vital and important; and (iii) conditions in the field pose a great risk related to legal issues.

<http://news.unair.ac.id/en/2017/03/26/oppressed-procurement-officials-courage-report-kpk/>

Therefore, procurement is considered a risky and unattractive career compared to incentives for joining this profession.

Based on the above gap analysis, it is recommended that 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.

Sub-indicator 8(c) – Monitoring performance to improve the system

Assessment criteria

- (a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.

- (b) The information is used to support strategic policy making on procurement.
- (c) Strategic plans, including results frameworks, are in place and used to improve the system.
- (d) Responsibilities are clearly defined.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a), (b), (c) and (d).

Main strengths: Availability of a Monitoring-Evaluation and System Development function: 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 the implementation of Government Procurement of Goods/Services for the preparation of planning and budgeting. This is in addition to the task of coaching and development of information systems for Government e-procurement of goods/services. 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 Government Procurement of goods/services, coordination and synchronization of monitoring and evaluation of government procurement implementation.

As per feedback from IAPI: (i) 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 (ii) Some of the information has been used to support strategic policy making on procurement (iii) Planning and monitoring & evaluation (Monev) functions have 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.

Room for improvement for enriching the spectrum of data analytic to enhance more the future of government procurement policy.

LKPP has conducted performance evaluations and measurements related to procurement, ITKP. There are three indicators to be assessed in each K / L / PD which include: i) utilization of the procurement system of goods/services (SPSE and its supporting systems); ii) the ability to provide procurement human resources; and iii) the maturity level of UKPBJ. ITKP has been adopted as an assessment of bureaucratic reform. In addition, LKPP also monitors and evaluates implementation of procurement plans, such as the ability to absorb domestic product (PDN), SME products, sustainable procurement, etc.”

Discussions on the identified minor gaps

Need to harmonize, monitor and evaluate performance of the procurement system: KPI (as per the FGD): only 3 indicators. Based on MAPS recommendations there is a need to harmonize, monitor and evaluate the performance of the procurement system as a whole. It is recommended that 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.

Lack of data analytics to support policy initiative: Based on information in different e-procurement platforms, with no integration of different systems the data is available at an aggregate level as post- facto

record and not useful for data analytics to support policy initiative. Collaboration required among different stakeholders needed. Accordingly, it is recommended that data analytics to be used for policy changes to obtain better Value-for -Money To integrate and use data from different e-Procurement Platforms.

Need to improve quality of planning and monitoring by removing silos among programs: The quality of integrated planning and integrated monitoring should become the next agenda to avoid silos thinking among programs. Accordingly, it is recommended to consider improving quality of integrated planning and integrated monitoring should become the next agenda to avoid silos thinking among programs.

Need for effective collaboration among key stakeholders: collaboration among key stakeholders lacking which is required to manage an effective integrated performance measurement system. Accordingly, it is recommended to improve collaboration among key stakeholders to manage an effective integrated performance measurement system.

3.3. Pillar III - Public Procurement Operations and Market Practices

This Pillar looks at the operational efficiency, transparency and effectiveness of the procurement system at the level of the implementing entity responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system in putting procurement procedures into practice. This Pillar focuses on how the procurement system in the country operates and performs in practice.

Summary for Pillar III

There is a draft PerLem for International Tender/General Selection that introduces the use of procurement strategy and approach with main consideration on streamlining of the agreed method and procedures of the development partners.

There is an initiation of practice to use the sustainability criteria regarding green procurement particularly for use green products.

Analysis of sample contracts has confirmed the use of multi-stage procedures in practice for complex procurement as defined by the PPL. The assessment has seen evidence of the practice of choosing procurement method, documentation and the justification of those to comply with the PPL.

The assessed practice revealed that all competitive procurement is conducted through the SPSE with fair level of confidentiality during bid evaluation and award process.

Regarding techniques to determine best VfM, PPL s.39 provides three options for evaluation of bids/proposals: (i) scoring system, (ii) economy life-cycle cost, and (iii) lowest price. 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 selection and award process is carried out mostly on the basis of compliance with the “legal framework”. The assessed practice concluded that contract award is announced as prescribed.

For the assessed sample, the analysis has shown that the totality of contracts (100 %) has complied with the regulatory and contractual provisions for inspection, quality control, and supervision procedures. Payments of invoices were in line with the applicable payment processing procedures as supported with a good treasury database and system.

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 Perlem LKPP. Moreover, result of the annual public satisfaction survey is published on LKPP website regularly. Based on the private sector survey, 57% of respondents mentioned that there is substantial and inclusive consultation by the government with business associations on changes in government procurement policy /regulations. However, the survey revealed that there is need for improvement of the consultative approaches.

The survey concluded that about 65% of respondents have competent resources to follow changes in the government procurement policies/regulations, 57% receive assistance from the government in following the reform with multiple information sources. Regarding perception of openness and effectiveness in engaging with the private sector (in % of responses, 57% stated as “always” and “often”.

LKPP has programmes that are specifically designed for building the procurement capacity of private companies and MSMEs. The training programmes, together with information for registration, are provided in LKPP website.

LKPP has developed a number of partnership agreements with other public procurement stakeholders such as the IAPI, for delivering public procurement training as well as knowledge sharing.

Indicator 9. Public procurement practices achieve stated objectives.

The objective of this indicator is to collect empirical evidence on how procurement principles, rules and procedures formulated in the legal and policy framework are being implemented in practice. It focuses on procurement-related results that in turn influence development outcomes, such as VfM, improved service delivery, trust in government and achievement of horizontal policy objectives.

Indicator (9) comprises three sub-indicators 9(a) to 9(c)

Sub-indicator 9(a) – Planning

Assessment Criteria

- (a) Needs analysis and market research guide a proactive identification of optimal procurement strategies.
- (b) The requirements and desired outcomes of contracts are clearly defined. (c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure VfM.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a), (b) and (c).

Main strengths:

Procurement strategy: A draft PerLem for International Tender/ General Selection 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).

Needs analysis and market research: The PPL does not include any specific provisions on the need to carry out analysis and market research other than the preparation of price estimates, draft contracts, technical specifications/TOR and securities/guarantees as prescribed under PPL 16/2018 s.25. The assessment has noted practice by certain PPKs, which consist of seeking for quotation information from the market in order to inform the development of budgeting and cost estimation. The current MPDs, on the other hand, define clearly the requirements and desired outcomes, particularly in the forms of contract.

Sustainability criteria: PPL s.5 includes in the list of Procurement policies at (i) “carrying out the Sustainable Procurement”. Based on the relevant provisions in the PPL (as assessed in sub-indicator 3(b)), there is an initiation of practice to use the sustainability criteria regarding green procurement particularly for use of 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.

Discussions on the identified minor gaps

Need for guidance note on procurement strategy: a need for specific guidance notes on procurement strategy and approach, including for establishment of price estimates as part of the procurement preparation. Accordingly, it is recommended to develop a specific guidance and template for procurement strategy and approach for pre-bid cost estimate.

Need for accurate and updated key estimate: It 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 price estimates. Accordingly, it is recommended to develop a specific guidance and template for development of technical specification/TOR to fulfill desired outcomes.

Need for clearly specifying contracts requirements and desired outcomes: The technical documents (specifications and TOR) do not often reflect the contracts actual requirements and desired outcomes; the evaluation criteria and requirements in the bidding documents generally focus more on the qualification rather than the technical requirements. Accordingly, it is recommended to consider the extension of the practice of using sustainability criteria to more procurement categories and methods and prepare a detailed technical guidance on implementation of sustainable procurement in public procurement.

Need for detailed guidance note on sustainable procurement: Initial practice on sustainability criteria is limited to small value green products. There is no detailed technical guidance yet related to the application and implementation of sustainable procurement in public procurement.

Sub-indicator 9(b) – Selection and contracting

Assessment Criteria

(a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process (b) Clear and integrated procurement documents, standardized where possible and proportionate to the need, are used to encourage broad participation from potential competitors (c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework (d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed (e) Throughout the bid evaluation and award process, confidentiality is ensured (f) Appropriate techniques are applied, to determine best VfM based on the criteria stated in the procurement documents and to award the contract (g) Contract awards are announced as prescribed (h) Contract clauses include sustainability considerations, where appropriate (i) Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance (j) The selection and award process is carried out effectively, efficiently and in a transparent way.

Summary of Findings

Minor gaps were found in majority of the above sub-criteria (b), (d), (f), (h), (i), and(j).

Main strengths: The use of e-procurement systems (SPSE and e-catalogue) as a single platform to justify the level of transparency in the procurement process. Use of multi-stage procedures, MPDs/SDPs, Options for Single Stage/ Multi-stage procedures, choosing procurement method, documentation, and the justification of those to comply with the PPL. Competitive procurement is conducted through the SPSE with fair level of confidentiality, techniques to determine best VfM and announcement of contract awards.

Use of multi-stage procedures: The record in the SPSE and the analysis of sample contracts have confirmed the use of multi-stage procedures in practice for complex procurement as defined by the PPL.

Standard procurement documents: 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 MPDs by LKPP through Perlem LKPP 12/2021, and SBDs for Works, formerly issued by MPWH.

Options for Single Stage/ Multi-stage procedures: The PPL includes options for single and multi-stages procurement, with single and two envelopes. PPL 16/2018 s.44(10) further defines 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. 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. The assessment of sub-indicator 9(b) has concluded that multi-stage procedure is used as indicated above.

Procurement methods: There is evidence of the practice of choosing procurement method, documentation and the justification of those to comply with the PPL. 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. In addition, the PPL has recently mandated development of procurement strategy and approach at the preparation stage for International Tender/General Selection, which will allow promoting the practice of using fit for purpose and VfM considerations.

Confidentiality of bid evaluation and award process: The assessed practice revealed that all competitive procurement is conducted through the SPSE and hence with fair level of confidentiality. Since the Tender/General Selection process is restricted to registered and authorized users there is high-level of confidentiality maintained in the process.

Techniques to determine best VfM: PPL s.39 provides three options for evaluation of bids/proposals: (i) scoring system (ii) economy life-cycle cost and (iii) lowest price. Based on the assessed practice and also based on the assessed sample contracts, it appears that the lowest price and scoring system are the mostly used techniques for bids/proposals evaluation.

Announcement of contract awards: 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. The assessed practice concluded that contract award is announced as prescribed. While notifications are 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 greater transparency.

Selection and award process: The selection and award process in the assessed samples were carried out mostly on the basis of compliance with the “legal framework”. The short timeline and percentage of bid price against the total price estimate have been used mainly to justify the effectiveness and efficiency in the system. The utilization of e-procurement systems (SPSE and e-catalogue) as a single platform has been also used to justify the level of transparency in the procurement process. For example, the analyses of the selected samples show that (i) average time to procure goods, works and services is 52 days (ii) percentage of contracts awarded within defined time frames) is 77.5%; and (iii) share of processes that have been conducted in full compliance with publication requirements (in %) is 100%.

Discussions on the identified minor gaps

Procurement documents for International Competitive Procurement (Tender) not used and lack of MPDs for Design Build for Works/Plants, and EPC/Turnkey: While the PPL provides the option to approach international market, the procurement documents for International Competitive Procurement (Tender)/ General Selection is not used. In addition, the MPDs for Design Build for Works/Plant and EPC/Turnkey are not available. Accordingly, there is a need to 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.

No specific link and announcement on public bid opening to facilitate monitoring by civil society: As per the procedures of the PPL, the participation in the public opening is limited to registered users

(bidders), and hence in 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. Accordingly, there is a need to consider further revision to the PPL to extend the participation in monitoring bid opening to large public including civil society and the system needs to be adjusted for this purpose.

Lack of evidence on the use of life cycle cost as economic evaluation criteria: The assessment did not come across evidence on the use of economy life-cycle cost. There is a need to promote the practice of using life-cycle-cost when it is justified to achieve best VfM. Accordingly, there is a need to consider promoting the use of economy life-cycle cost approach by particularly issuing technical guidance its application.

Lack of incentive for exceeding defined performance: There is no contractual provisions that grant incentives for exceeding defined performance levels. Accordingly, there is a need to consider to include in the contractual clauses provisions that grant incentives for exceeding defined performance levels.

Lack of competition: In a tender process in the assessed sample the average number of responsive bids is 2 which shows lack of competition. Accordingly, there is a need to find reasons for lack of effective competition through data analytics, reaching out to private sector and take remedial measures to improve the competition.

Sub-indicator 9 (c) Contract management in practice

Assessment Criteria

(a) Contracts are implemented in a timely manner (b) Inspection, quality control, supervision of work and final acceptance of products is carried out (c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract (d) Contract amendments are reviewed, issued and published in a timely manner (e) Procurement statistics are available and a system is in place to measure and improve procurement practices (f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilized (g) The records are complete and accurate, and easily accessible in a single file.

Summary of Findings

There were substantive gaps identified in the above sub-criteria (d), (f) and (g), whereas majority of all others sub-criteria have minor gaps (a), (c), and (e).

Main Strengths

Full compliance on inspection, quality control, supervision of work: For the assessed sample, the analysis has shown that the totality of contracts (100 %) has complied with the regulatory and contractual provisions for inspection, quality control and supervision procedures.

Inspection, quality control and supervision of work: The provision of inspection, quality control, supervision of works and acceptance (provisional Hand Over and Final Hand Over) are included in the contract. A supporting team or firm, appointed by authorized government official, supervises the works. The role and responsibility of the supervisor of works is specified under clause 15 of GCC of civil work

contract. The quality plan for construction works is normally submitted by the contractor, to be discussed and agreed by the employer (GCC 21). Monitoring and assessment are also done jointly by the contractor and the employer (GCC 25) and are recorded in the minutes. The quality control in term of time including delays in contract implementation is also done as per GCC 27-32. The provision on progress report is provided for and done in accordance of GCC 57.

Payment of invoices: the PPL and related Perlem LKPP implementation guidelines regulate the payment under contracts depending on the procurement category and method. For works contracts payments are 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. The analysis of sample contracts shows that the average payment processing duration for civil works contracts 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.

Discussions on identified minor gaps

Delays in contract implementation: 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. This is particularly consistent with what was observed by Riza Susanti, 2020, under a study⁹¹ on Cost overrun and time delay for civil works contracts in construction projects in Indonesia. The study reported the example⁹² of time delays for the case of Aceh as of end 2017 as 460 infrastructure single year projects having only progressed at 75%. Several reasons are invoked regarding time and cost overruns, however the study states that the main factor that caused time delays for owners was “inaccurate budgeting and resource planning” while according to contractor’s delays were rather due to land acquisition.

The average time overrun in days for the assessed sample of 120 contracts was around 14 days. Out of these 120 contracts, 28 had experienced delays. The average time overrun for these 28 contracts is 62 days, where certain civil works contracts had time overrun between 7 months to one year.

The quantitative assessment of the implementation of the PPL and the related contract management practices reveal that PPL principles of efficiency and VfM are not fully attained.

Accordingly, it is recommended to strengthening further the performance of the Country’s public procurement system would require an enhanced data analytics dashboard for real-time monitoring and measurement of Public Procurement performance.

Lack of system for tracking payment of invoices: Information on invoices and payments are not available in the SPSE. The data do not show when invoice was submitted by the contractor, rather the time is based on the date when paying authority processes invoice in the system. Accordingly, it is recommended to consider adding information on invoices and payments in the e-procurement system/SPSE (under e-

⁹¹ 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

⁹² <https://aceh.tribunnews.com/2017/12/19/keterlambatan-proyek-penyakit-tiap-tahun>

contract) which shall be further enhanced to include interfacing/interoperability with the other related systems (e.g., SPAN, MONEV-NG).

Contract amendments are not published: Contract amendments are not published, and related information are not available to the public. 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 VfM 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. Accordingly, there is a need for enhanced contract performance monitoring mechanism and control system to track contract amendment.

Fixed ceiling not practical for large infrastructure contracts: Fixed ceiling to be amended to consider exceptional situations in large infrastructure contracts [Dams/ Hydro Power Plants (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). In large infrastructure/FIDIC based contracts prepared on item rate/BOQ (Dams/ HPP), variations beyond 10 % are common due to the nature of the contracts. Accordingly, it is recommended to 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.

Discussions on identified substantive gaps

No evidence of direct involvement of civil society: 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.

Records are not complete and accurate, and not easily accessible in a single file: In the sampled contracts there was not a single case where records are complete and accurate, and easily accessible in a single file. This gap emanates from the way the procurement function (which starts from need assessment/procurement planning till Contract completion) is divided among different agencies and records are kept separately.

Table 9: Pillar III-Indicator 9- Identified Substantive Gaps- Risk Rating, and Recommendations

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-Indicator 9(c)</i></p> <p><i>Assessment Criteria: (d)</i> Contract amendments are not published and related information are not available to the public.</p> <p>In addition, the legal framework sets out a fixed ceiling of 10% increased value for amendment of contract is not practical for large infrastructure contracts.</p>	M	No Red Flag.	<p>To create a system to track contract amendments.</p> <p>Consider revising PPL to provide for possibility to exceed the 10 % ceiling limit for contract amendments to take into consideration exceptional situations in large infrastructure contracts and to ensure efficiency of contract implementation.</p>
<p><i>Assessment Criteria: (f)</i> 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>	M	No Red Flag.	<p>Consider to add specific mechanism and/or procedures for involving civil society organizations in procurement and contract implementation process. This can be embedded into the SPSE (for example providing option/link for subscription, putting information on the procurement process (opening and award) in SPSE with option to attend online/in-person.</p>
<p><i>Assessment Criteria: (g)</i> Based on the assessed sample contracts, records are not complete and accurate, and easily accessible in a single file.</p>	M	No Red Flag.	<p>E- Procurement system to facilitate access and retention of records in a single place.</p>

Remarks:

- **(Red Flags) are element that could significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly as such factors lie outside the sphere of public procurement.*
- *Risk Rating (L: Low; M: Medium; H: High)*

Indicator 10. The public procurement market is fully functional

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors, such as the general economic climate, policies to support the private sector and a good business environment, strong financial institutions, the attractiveness of the public system as a good, reliable client, the kind of goods or services being demanded, etc.

Indicator 10 comprises two sub-indicators 10(a) and 10(b)

Sub-indicator 10(a) – Dialogue and partnerships between public and private sector

Assessment criteria

- (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.
- (b) The government has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a), and (b).

Main strengths: LKPP has capacity building programmes targeting private companies and MSMEs. 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. LKPP initiates public consultation whenever there is a proposal for new or amendment to existing regulations, and implementation guidance. LKPP has a number of partnership agreements with other public procurement stakeholders.

Based on the private sector survey, in response to the question: “does the government communicate/socialize the change in government procurement policy /regulation to business association?”, out of 596 responses, 342 (57%) responded “always” and “often”, and therefore there is substantial consultation, although there is need for improvement.

LKPP has programmes that are specifically designed for building the procurement capacity of private companies and MSMEs. The training programmes, together with information for registration are provided in LKPP website (<https://ppsdm.lkpp.go.id/enrollment/jadwal#PelatihanPBJ>).

The survey concluded that about 65% of respondents have competent resources to follow changes in the government procurement policies/regulations, 57% receive assistance from the government in following the reform with multiple information sources. Regarding perception of openness and effectiveness in engaging with the private sector (in % of responses, 57% stated as “always” and “often”)

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, result of the annual public satisfaction survey is published on LKPP website regularly.

LKPP has a number of partnership agreements with the other public procurement stakeholders such as the IAPI (<https://www.iapi-indonesia.org/>) for delivering public procurement training as well as knowledge sharing. The IAPI also delivers its own public procurement capacity building training for private sector and MSMEs (<https://www.iapi-indonesia.org/events?page=1>). In addition, LKPP authorizes other public and private institutions to deliver public procurement training to both public procurement workforce and private sector and establishes their accreditation.

Therefore, based on the above responses, though there are strengths, based on LKPP sources, the result of survey indicates room for improvements.

Discussions on the identified minor gaps

Greater transparency in consultative process: Though there is substantial consultation, there is a need to promote transparency in the consultative process. 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. Steps to be taken for more inclusive and frequent consultations.

More Efforts are required to build capacity for business and MSMEs: The figure of 67% as “No” on the survey questions concerning building capacity, is a pointer for the huge efforts needed 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).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. There is a need to further introduce and expand the information on training program opportunities using the email subscription or mobile apps/text messages notification. 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.

Sub-indicator 10(b) – Private sector’s organization and access to the public procurement market

Assessment criteria

- (a) The private sector is competitive, well-organized, willing and able to participate in the competition for public procurement contracts.
- (b) There are no major systemic constraints inhibiting private sector access to the public procurement market.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a) and (b).

Main Strengths: No significant strengths

Based on the findings of Country Private Sector Diagnostics (CPSD)⁹³, the economy in Indonesia is marked by a combination of MSMEs and large SOEs. They both suffer from low productivity and exhibit limited integration into regional and global value chains.

The SOEs sector plays a major role in the economy, and their interests greatly influence the economic policy. The 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. The limited integration of the private sector into global value chains inhibits technology transfer and slows productivity growth.

Unlocking the dynamism of the private sector in Indonesia 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. They constrain access to factor and product markets, undermining the competitiveness of private firms. The competition gap reflects trade and investment restrictions compounded by a weak competition framework and an unpredictable regulatory environment.

Based on Sample cases (Indicator-9), in a tender process the average number of responsive bids is 2 which shows lack of competition.

No information is available on breakdown of total number and value of contracts between domestic and foreign firms.

Discussions on the identified minor gaps

Private sector is not competitive due to several constrains. 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.

Lack of competition due to several constraints: Constraint on proportional procurement method and simple/flexible rules as main conditions that would help private sector organizations 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. It is recommended to engage with private sector to remove constraints as per feedback from private sector survey. Moreover, there is a need to remove constraints four related gaps that inhibit productivity growth and

⁹³ 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

weaken firm-level incentives to innovate. These gaps involve competition, infrastructure, human capital, and finance.

Sub-indicator 10(c) – Key sectors and sector strategies

Assessment criteria

- (a) Key sectors associated with the public procurement market are identified by the government.
- (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.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a) and (b).

No Remarkable strengths

Related to this sub-criterion some evidence for overall sector (not public procurement market) is available from CPSD. The objective of the CPSD⁹⁴ 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.

Related to procurement market, there are risks associated with the need for mandatory association (as required by the procurement laws and regulations) by a foreign firm with a local firm as Joint Venture. This could lead to foreign firms just lending their qualifications to secure contracts without their effective participation during contract execution. Local firms, who are generally less experienced than foreign firms, would then be left to undertake tasks beyond their capacity and capability. This defeats the entire purpose of associations which are meant to complement resources, capacity, capability and expertise. This could lead to contract delays, loss of quality of work and potential for contract failure. This is just one example of risk.

GoI strongly emphasizes the participation of UMKM (small business enterprises) in public procurement. There is also a recent agenda on gender inclusion in public procurement, especially women owning businesses. Moreover, a Presidential Instruction was issued in March 2022 (“Inpres”) on “Acceleration of the increase of domestic product usage and products of micro enterprises, small businesses, and cooperatives in the framework of successful the proud national movement made in Indonesia in implementation of government procurement of goods/services”

Discussions on the identified minor gaps

⁹⁴ 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

No targeted assessment of key sector markets with collaboration of market participants: No pre-engagement with market as part of strategic procurement planning. Based on the sample cases (indicator-9) in a tender process the average number of responsive bids is 2 which shows lack of competition. Accordingly, there is a need to identify cross-cutting and sector-specific policy constraints that hinder the expansion of market opportunities in public procurement to improve competition, strengthen integrity, sustainability and/or innovation in collaboration with market participants.

Need for comprehensive study and data analytics to quantify loss of competition and non-performance due to need for mandatory association by a foreign firm with a local firm as Joint Venture.

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

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity. A system which (i) has appropriate controls that support its implementation in accordance with the legal and regulatory framework. (ii) has appropriate measures that address the potential for corruption (iii) covers important aspects of the procurement system, which involve stakeholders including civil society, as part of the control system. This Pillar takes aspects of the procurement system and governance environment to ensure they are defined and structured to contribute to integrity and transparency.

Summary for Pillar IV

Limited enabling environment for public consultation and monitoring with CSOs. The CSOs survey indicated that LKPP as the authorized body to formulate policies on the Public Procurement System are quite open and informative in the procurement policy preparation process. Local governments are relatively open and willing to cooperate in their procurement process.

Indonesia has a transparent and accountable financial management of budget implementation system. 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. Commitment controls are in place at the Spending Unit level and effectively limit commitments to actual cash availability and approved budget (DIPA) ceilings.

As for external audit, Law No 15/2006 on audit of public finance administrations regulates BPK as Indonesian Supreme Audit Institution that is independent to the executive. BPK, as Indonesia's SAI has a mandate to conduct audits of all central government entities, as well as local government agencies.

There is written procedure for internal control. The government issued PP No. 60/2008 on Government Internal Control System that adopt COSO framework and define the internal control standard of all government agencies.

There are clear and reliable reporting lines to relevant oversight bodies. 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.

There are written standards for procurement audit. BPKP as the internal audit agency have issued BPKP regulation No 3/2019 that provide guidelines on procurement audit.

There is a system in place to follow up on the implementation/enforcement of the audit recommendations including a monitoring information system on the follow-up actions- *Sistem Informasi Pemantauan Tindak Lanjut* (SIPTL) developed by BPK.

There are programs to conduct procurement audits which are included in the regular training programs of BPK and BPKP under the training centers of both institutions.

The legal framework includes a mechanism for challenge to the procuring entity, including timescales for submission of a challenge which do not unduly delay the procurement process or make submission of a challenge unrealistic. Submission of a procurement challenge is made through the SPSE. However, there is no specialist independent administrative appeal/review entity.

There are no detailed rules setting out documents/information to be submitted by applicant in support of an objection, documents/information to be considered by procuring entity or the evidential basis for objection decisions by the procuring entity.

There are strong provisions on prohibited practices as per Section 7 of PPL on Procurement Ethics. The PPL provides for incorporation of mandatory requirement in procurement documents. Section 7 (1) *Perpres No.12 of 2021* on Procurement Ethics lists conditions and that all parties involved in procurement shall be subject to these provisions.

The legal framework provides for requirement for reporting cases of fraud and corruption. As per Section 77 of PPL, Public Complaints, the public may submit complaints to APIP accompanied by factual, credible, and authentic items of evidence. Moreover, there are strong provisions in the PPL on reporting KKN and a secure mechanism to report. There are provisions of public grievance related to indications of KKN harming public finance (section 77 of *Perpres 12 of 2021*). Further there is secure mechanism to report prohibited practices, unethical behavior WBP.

Existence of anti-corruption framework to prevent, detect and penalize corruption in government. PP No. 54 2018 sets out national strategy for preventing corruption.

Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement

Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can help to make public procurement more competitive and fairer, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: i) disclosure of information and ii) direct engagement of civil society through participation, monitoring and oversight.

Indicator 11 comprises two sub-indicators (11(a) and 11(b))

Sub-indicator 11(a) – An enabling environment for public consultation and monitoring

Assessment criteria

- (a) A transparent and consultative process is followed when formulating changes to the public procurement system.
- (b) Programs are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement
- (c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a), (b) and (c).

No Remarkable Strengths

LKPP in 2019 together with a particular CSO organization conducted a series of capacity building activities and monitoring of the PBJP for journalists and CSOs in 4 different regions as well as 1 activity at national level. However, this activity was only a one-year program supported by donors and has not become a routine activity. Feedback received from 10 CSOs on specific procurement capacity building for CSOs is summarized in table 21 below.

Table 10: Summary of Key Response on Capacity Building

<ul style="list-style-type: none">• LKPP together with a number of CSOs have conducted several monitoring trainings for civil society in different areas. With the development of updated procurement regulations, it is important to update and expand the training to other participants in the regions; Training and capacity building to CSOs on public procurement mechanism and monitoring. Similar initiatives need to be carried out periodically by LKPP;• LKPP capacity building program for CSOs is very limited, it needs to be improved;• LKPP has carried out capacity building for our organization regarding the Government Procurement system and its supervision;• 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 on the relevance of these information 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• Support the capacity of CSOs to participate in public procurement. The capacity building of CSOs can also be increased apart from these programs, for example by invitations 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.

It is seen from the above that the feedback on effectiveness of capacity building program is a mixed response, but the key conclusion is that there need for improvements.

There is a limited enabling environment for public consultation and monitoring with CSOs. The summary of CSOs survey on the subject is presented in table 11 below.

Table 11: Summary of Responses on LKPP Consultative Process with CSOs

- 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.
- 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.
- 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.
- The issuance of a specific Perpres 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.
- We have never received information and/or invitations from government agencies related to the formulation of Public Procurement policies.
- Community organizations are involved in formulated to the public procurement system.
- 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 followed up.
- 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.
- Not yet fully transparent and not yet fully consultative in the formulation of Public Procurement system policy; and
- At the time of the pandemic, the level of transparency decreased. The Public Procurement process has also not been consultative.

Based on the above response quite a majority of respondents believe that there is no consultative process.

Discussion on the identified minor gaps

CSO involvement in general is not consultative: Based on the responses, the involvement of CSOs 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. Therefore, the Government needs to consider enhancing consultative process while formulating changes to the public procurement system.

Lack of adequate programs to support capacity of CSOs: 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”. Therefore, the Government needs to consider build the capacity of relevant stakeholders to understand, monitor and improve public procurement.

Limited evidence that the government takes into account the input, comments and feedback received from civil society: Therefore, the Government needs to consider taking the input, comments and feedback received from civil society.

Sub-indicator 11(b) – Adequate and timely access to information by the public

Assessment criteria

(a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.

Summary of Findings

Minor gap was found in the above sub-criterion (a).

Main strengths: The laws, regulations, and policies governing public procurement are published and easily accessible to the public at no extra cost.

Part of the response from one of the organizations relates to adequate and timely access to information by the public, which are on the following lines: of the things that could be encouraged to create a community participation (or public/citizen participation) space in the process procurement of goods and services are:

- enhance the disclosure of information on the PBJP in e-procurement platforms;
- strengthen capacity building activities for CSOs in monitoring the procurement process;
- 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 as misappropriation;
- 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.

This indicator -11 (b) 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.

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.

This indicator -11 (b) is linked to Sub-indicator 7 (a)- Free access to the information is preferably provided through a centralized online portal and open data standards.

Discussion on the identified minor gaps

Lack of adequate and timely access to information: The given feed-back shows instances of lack of adequate and timely access to information and need for disclosure on e-Procurement platform. **Cross refers link** sub-indicator 1 (a) and 7(a). Accordingly, there is a need to enhance the disclosure of information in e-procurement platforms.

Sub-indicator 11(c) – Direct engagement of civil society

Assessment criteria

- (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).
- (b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a) and (b).

Main strengths: Local governments are relatively open and willing to cooperate in their procurement process.

Table 12: Summary of Feedback from CSOs on their Direct Engagement in Public procurement

- If referring to the rules concerning the procurement of goods/service by the Government (PBJP), the role of CSOs in the process of planning, preparation, election, and implementation of the PBJP is not explicitly mentioned. 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.
- 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 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;
- 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;
- 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 monitors the Government Procurement through the SPSE developed by LKPP but the available information is very limited and not all government agencies update the budget and procurement plans every year;
- the bidding is done openly, but in the process, it seems that there is no CSO involved;
- 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;
- 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;
- 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.

The above feedback indicates that due to lack of enabling provisions in the legislation, there are very few instances of the involvement of CSOs in planning, opening of bids, contract management.

Discussions on the identified minor gaps

There is no enabling provision in legal /regulatory and policy framework for citizens to participate in the following phases of a procurement process, as appropriate:

- 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)

Accordingly, there is a need to create enabling provision for citizens to participate in the: (i) planning phase (consultation); (ii) bid/proposal opening (observation- as permitted by law), and (iii) evaluation and contract award (observation).

Indicator 12. The country has effective control and audit systems

The objective of this indicator is to determine the quality, reliability, and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For the purpose of this indicator, “effectiveness” means the expediency and thoroughness of the implementation of auditors’ recommendations. The assessors should rely, in addition to their own findings, on the most recent PEFA and other analyses that may be available.

Indicator 12 comprises four sub-indicators 12(a) to 12(d)

Sub-indicator 12(a) – Legal framework, organization and procedures of the control system

Assessment criteria

The system in the country provides for: (a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies (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 (c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation (d) independent external audits provided by the country’s SAI that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management (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) (f) clear mechanisms to ensure that there is follow-up on the respective findings.

Summary of Findings

There was no gap identified in the above sub-criteria.

Main strengths

Transparent and accountable financial management of budget implementation: 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.

BPK as Indonesian Supreme Audit Institution that is independent to the executive: As for external audit, 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 Board within one month of their inauguration by the President.

BPK, as Indonesia's 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 (*Standard Pemeriksaan Keuangan Negara*, 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 ISSAIs, under the risk-based audit approach, auditors are required to undertake/obtain an understanding of its audited entity, its processes and systems, which include 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 cover procurement activity, i) Financial Audits, ii) Performance Audit iii) Special Purpose Audit. In the financial audit, BPK issues reports that includes information on (i) internal control system; (ii) compliance with laws and regulations; and (iii) status of follow-up audit findings and recommendations.

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 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 PP No. 60/2008 on Government Internal Control System that adopts COSO framework. PP No. 60/2008 and Presidential Decree No. Perpres 192/2014 appoint BPKP as the internal audit agency of the government reported directly to the president.

Internal control mechanism: 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 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.

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.

Review of audit reports: 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 on line 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.

Follow-up of 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 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.

Sub-indicator 12(b) – Co-ordination of controls and audits of public procurement

Assessment criteria

- (a) There are written procedures that state requirements for internal controls, ideally in an internal control manual.
- (b) There are written standards and procedures (e.g., a manual) for conducting procurement audits (both on compliance and performance) to facilitate coordinated and mutually reinforcing auditing.
- (c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.
- (d) Clear and reliable reporting lines to relevant oversight bodies exist.

Summary of Findings

There were minor gaps found in the above sub-criteria (b) and (c).

Main strengths

Written procedure for internal control: The government issued PP No. 60/2008 on Government Internal Control System that adopts 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.

Clear and reliable reporting lines to relevant oversight bodies: 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.

Written standards for procurement audit: BPKP, as the internal audit agency, has issued BPKP regulation no 3/2019 that provides 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 standard that is generally aligned with ISSAIs. BPK has also issued through BPK decree 9/2009 the technical guidelines on conducting procurement audit.

Evidence of internal or external audits carried out at least annually: 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) internal control system; (ii) compliance with laws and regulations; and (iii) 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 (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.

Discussions on the identified minor gaps

Lack of focus on procurement performance audit: The procurement audit guidelines focus more on compliance review. Guidelines on procurement performance audit is not available. While the internal audit guidelines on procurement audit are issued by BPKP, they are not formally adopted yet by all IGs of line ministries. Accordingly, there is a need to issue written standard and procedures for procurement performance audit. To widely disseminate the procurement audit guidelines to all IGs.

Lack of data on specialized procurement audit: No data are available as number of specialized procurement audits. While the procurement review is part of the regular audit assignment of the auditors, the number of specialized procurement audits, particularly the performance audits, can be improved. Accordingly, there is a need to include certain target of specialized procurement audit in the audit plans of BPK and BPKP.

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

Assessment criteria

- (a) Recommendations are responded to and implemented within the time frames established in the law.
- (b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.

Summary of Findings

Minor gaps were found in all of the above sub-criteria (a) and (b).

Main strengths

Systems to follow up on the implementation/enforcement of the audit recommendations: BPK has developed a monitoring system on the follow-up actions (SIPTL).

Implementation of recommendations within the timeframe: 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 the 2nd semester of 2020, that provide summary of follow 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 not possible 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 not possible to be followed up.

SIPTL provides additional information on the audit follow-up actions. BPK also monitors the status of the follow-up findings and recommendations. The IG of the line ministries are BPK's partners in the monitoring and coordination of the follow-up status. BPK launched the SIPTL system on 2017 and issued BPK Regulation No. 2/2017 on the Monitoring of Audit Follow-up Actions. 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 each of the BPKP regional offices and there is no consolidated report readily available to track the overall status of follow up nationally.

Discussions on the identified minor gaps

Timeframes are not followed fully in accordance with the audit recommendations: 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. Accordingly, there is a need to strengthen coordination among the external and internal audits on timelines of follow up of audit findings.

No system is available to allow consolidation of follow-up status nationally: While BPK has system in place to track and consolidate the audit follow up nationally, BPKP's system does not allow consolidation of follow up status nationally. Accordingly, there is a need to further improve the tracking system of BPKP audit findings' follow up status.

Sub-indicator 12 (d) – Qualification and training to conduct procurement audits

Assessment criteria

- (a) There is an established program to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.
- (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.
- (c) Auditors are selected in a fair and transparent way and are fully independent.

Summary of Findings

There were minor gaps found in the above sub-criteria (a) and (b).

Main strengths

Trainings on procurement regulations are conducted: There are programs to conduct procurement audits which 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 was also initiated.

Fair and transparent selection of auditors: BPK operates independently from the executive responsible 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 regulate in the general standards code of ethic and independence of the auditors.

Training courses: During 2018-2020 47 training classes on procurement certification and procurement audit were 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.

Knowledge for carrying out procurement audits: When the audit assignments include review of procurement activity, BPK requires that at least one auditor in the team has a procurement training

certification. As for BPKP there is no standard of certification or experience on procurement audit being formalized as requirements of audit team composition.

Discussions of the identified minor gaps

Low number of auditors trained on procurement audit: Number of auditors trained on procurement and procurement audit is considerably low. Accordingly, there is a need to develop a more comprehensive training plan of procurement and procurement audit to increase the number of trained auditors to conduct procurement audit.

Need to include standard competence/certification of procurement audit: In addition to the need of formal requirement of procurement training and experience to the audit team there are also needs to include standard competence/certification of procurement audit for the audit team members. Accordingly, there is a need to formalize the standards of competence on procurement compliance and performance audits for the procurement audit team to develop certification of procurement audit for the auditors.

Indicator 13. Procurement appeals mechanisms are effective and efficient

Indicator 13 comprises 3 sub-indicators 13(a) to 13(c)

Pillar I covers aspects of the appeals mechanism as it pertains to the legal framework, including creation and coverage. This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system. The procurement legal framework provides for initial challenge, as described in indicator 1(h). As previously noted, 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. There is, however, the possibility of making an application in respect of a decision on objection to the Administrative Court which has the powers of suspension and may grant remedies. There are no meaningful data or information available on the actual use, operation of and decisions by the Administrative Court as a route of review. In most cases, therefore, the analysis and assessment in Indicator 13 has concluded that the criterion is not met. The overarching Recommendation in Indicator 1(h) applies.

Indicator 13(a) Process for challenges and appeal

Assessment Criteria

- (a) Decisions are rendered on the basis of available evidence submitted by the parties.
- (b) The first review of the evidence is carried out by the entity specified in the law.
- (c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions (Quantitative indicator).
- (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.

Summary of Findings

There was a substantive gap found in the above-sub criterion (c) and a minor gap was also found in the above sub-criterion (d).

Main Strength

Submission of a challenge is made through the SPSE. Evidence submitted by the bidder through the SPSE is the basis for decision on objection, which is considered by the Selection Working Group. The time frames specified for submission of an objection (5 calendar days) and decision in response to objection by the procuring entity (3 calendar days) do not unduly delay the procurement process.

Provision of an administrative court to review appeals. There is possibility of making an application in respect of a decision on objection, within 90 days of that decision, to the Administrative Court which has power to suspend the procurement process, grant remedies and issue binding decisions. There are no meaningful data or information available on the actual use, conduct and outcome of appeals to the Administrative Court and procurement related decisions are not published by the local/provincial Administrative Court.

Discussions on the identified minor and substantial gaps

No data are available in respect of relevant decisions of Administrative Court.

The 90-day time frame specified for submission of appeals to the Administrative Court has the potential to delay the procurement process. If an application of suspension is also made, it can make an appeal timeframe unrealistic. Currently it is not possible to assess the duration of the appeal process to the Administrative Court.

Relevant to Indicator 1(h), there is a need to 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. 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.

Indicator 13(b) Independence and capacity of the appeals body

Assessment Criteria

The appeals body:

- (a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.
- (b) does not charge fees that inhibit access by concerned parties.
- (c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available (Quantitative indicator).
- (d) exercises its legal authority to suspend procurement proceedings and impose remedies.

- (e) issues decisions within the time frame specified in the law/regulations.
- (f) issues decisions that are binding on all parties.
- (g) is adequately resourced and staffed to fulfil its functions.

Summary of Findings

Majority of the above sub-criteria have substantive gaps, only one sub-criterion (a) has no gap.

Main Strength

The Administrative Court is not involved in procurement transactions or in process leading to contract award decisions. The Law on Administrative Courts applies to fees payable, procedures for submission and resolution of complaints. It provides that the government administration is required to implement the decision of the Administrative Court.

Substantive or material Gap:

Information/data are not available on actual fees charged for procurement related cases.
Information/data on the conduct and outcome of appeals to the Administrative Court are not available.
Information/data on the resourcing and staffing of the Administrative Court are not available.

Relevant to Indicator 1(h) and the sub-indicators above, there is a need to 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. 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.

Indicator 13(c) Decisions of the appeals body

Assessment Criteria

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

- (a) based on information relevant to the case.
- (b) balanced and unbiased in consideration of the relevant information.
- (c) result in remedies, if required, that are necessary to correcting the implementation of the process or procedures.
- (d) decisions are published on the centralised government online portal within stipulated timelines and as stipulated in the law.

Summary of Findings

All of the above sub-criteria have substantive gaps (a), (b), (c) and (d).

Main Strength: No remarkable strengths**Substantive or material Gaps**

Decisions of local/provincial Administrative Court are not available.

Decisions of local/provincial Administrative Court are not published an online centralized government procurement portal.

Relevant to Indicator 1(h) and the sub-indicators above, there is a need to 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. 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.

Table 13: Pillar IV Indicator 13- Substantive or Material Gaps - Risk Rating and Recommendations

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-indicator 13(a)</i> <i>Assessment Criteria: (c)</i></p> <p>There is no data available in respect of relevant decisions of Administrative Courts.</p>	H	<p>A red flag should be raised, because the procurement legal framework does not clearly designate a route of challenge to an independent body that has the authority to suspend the award decision and grant remedies, which do not satisfy all of the requirements of the MAPS methodology for independency and capacity of the appeals body.</p> <p>Furthermore, missing the required information/data, gap analysis of this sub-indicator could not be properly substantiated.</p>	See Indicator 1(h)(b)

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-indicator 13(b)</i></p> <p><i>Assessment Criteria: (b)</i> Information/data not available on actual fees charged for procurement related cases.</p> <p><i>Assessment Criteria: (c), (d), (e), and (f)</i> Information/data on conduct and outcome of appeals to the Administrative Court not available.</p> <p><i>Sub-indicator 13(b)</i></p> <p><i>Assessment Criteria: (g)</i> Information/data on the resources and staffing of Administrative Court not available.</p>	<p>H</p> <p>H</p> <p>H</p>	<p>A red flag should be raised, because there is no specialist independent administrative procurement review body. While there is, however, the possibility of making an application in respect of a decision on objection to the Administrative Court, the procedure for the application and proceeding in the Administrative Court is governed by the Law on Administrative Court.</p> <p>Furthermore, missing the required information/data, gap analysis of this sub-indicator could not be properly substantiated.</p>	
<p><i>Sub-indicator 13(c)</i></p> <p><i>Assessment Criteria: (b) and (c)</i> Decisions of local/provincial Administrative Court on procurement related appeals are not available.</p> <p><i>Sub-indicator 13(c)</i></p> <p><i>Assessment Criteria: (d)</i> Decisions of local/provincial Administrative Court are not published online a centralized government procurement portal.</p>	<p>H</p> <p>H</p>	<p>A red flag should be raised, because the procurement legal framework does not clearly designate a route of challenge to an independent body as there is no specialist independent administrative procurement review body.</p> <p>While there is, however, the possibility of making an application in respect of a decision on objection to the Administrative Court, the procedure for the application and proceeding in the Administrative Court is governed by the Law on Administrative Court and</p>	<p>See Indicator 1(h)(b)</p>

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
		<p>these do not satisfy all of the requirements of the MAPS methodology for decision making process of the appeals body.</p> <p>Furthermore, missing the required information/data, gap analysis of this sub-indicator could not be properly substantiated in the near future.</p>	

Remarks:

- **(Red Flags) are element that could significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly as such factors lie outside the sphere of public procurement.*
- *Risk Rating (L: Low; M: Medium; H: High)*

Indicator 14. The country has ethics and anti-corruption measures in place

This indicator assesses the nature and scope of anti-corruption provisions in the procurement system; how they are implemented and managed in practice, and whether the system supports the stakeholders' interests. It explores whether the private sector and civil society support the creation of a public procurement market known for its integrity.

Indicator 14 comprises 7 sub-indicators 14(a) to 14(g)

Sub-indicator 14(a) – Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities and penalties

Assessment criteria

The legal/regulatory framework provides for the following:

- (a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.
- (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.
- (c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.

Summary of Findings

There was substantive gap found on sub-criteria (a), whereas all others sub-criteria were found as either have minor gap and no gap.

Main Strengths:

The PPL includes specific provisions on Procurement Ethics. Section 7 obliges, inter alia, preventing actions that encourage and/or result in unfair business competition and failed tenders (corruption, fraud, bribery, collusion, conflict of interest etc.). It provides for avoiding and preventing lavishness and leakage of state finance, and abuse of power.

A.77 PPL on 'Public Complaints' requires investigating complaints that the public may submit, and referring those with indication of KKN, that could cause damages to the state finances, to the authorized institution.

A.78 PPL concerning 'administrative debarment and blacklist sanctions' provides for sanctions applied to participants in procurement, including in the case of indicators of KKN. This is to be considered together with the relevant information under sub-indicators 1(d)&(c) above.

Definitions relating to fraud and corruption set out anti-corruption legislation of general application.

Indonesia signed the 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. 7/2006⁹⁵. 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. 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 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.

Substantive or material gaps

Definition of corruption and bribery offenses: According to the KPK,⁹⁶ there are discrepancies in the current legal framework. There is no general definition of abuse of functions offense and there is a lack

95 "Indonesia's Global Commitments on United Nations Convention Against Corruption (UNCAC) and G20 Anti-corruption Working Group (ACWG) 2012-2020".

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

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

of full alignment with UNCAC definition of corruption. Article 3 of Law no 31 of 1999 contains a reference, in the context of the definition of criminal offence of corruption, *“to the detrimental effect of the perpetrator’s behaviour to the finances of the State”*. The KPK has noted the law requirement on that the abuse is made with a view to enrichment, which implies receiving a material advantage, while UNCAC definition is broader and covers any advantages including those of a non-material nature. And *“This preoccupation with the need to show loss to the State (as in Indonesian legislation) might limit the fight against corruption.”* In addition, *“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 offences. Consideration has been given towards their criminalization in the draft law on corruption eradication and the draft law on asset forfeiture”*. Accordingly, there is a need to 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.

Sub-indicator 14(b) – Provisions on prohibited practices in procurement documents

Assessment criteria

- (a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.
- (b) Procurement and contract documents include provisions on fraud, corruption, and other prohibited practices, as specified in the legal/regulatory framework.

Summary of Findings

There was minor gap found in the above sub-criterion (b).

Main strengths:

Incorporation of the mandatory requirements of Section 7 (1) Perpres No.12 of 2021 on Procurement Ethics in the MPDs/SBDs including in the GCC and Special conditions of the sample contracts as appropriate.

Example of incorporation of provisions in MPD on KKN- Integrated Construction Work – Design and Build – Two Files- Value System (2021). These provisions, inter alia, include (i) Clauses No 5, 21, 36, 37,38 of the Instructions to Participants respectively on ‘Conflict of Interest’, ‘Integrity Pact’⁹⁷, ‘Failed Tender’ follow-up of Failed Tender, and on Termination of Contract by Contract Signing Officer.

Discussions on the identified minor gaps

⁹⁷ <https://inaproc.id/pakta-integritas>

Lack of application of prohibited practices in procurement and contract documents due to conflicting provision in definition of KKN in Eradication of Criminal Act of Corruption: Based on clarification provided by LKPP on April 12, 2022, section 77 of the PPL is not applicable unless procurement process is completed- that is until the contract has been signed. As per LKPP they do not enter the realm of KKN as there is no loss to the state and there is nothing to report. The definition given in procurement document on 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 KKN harming public finance. 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 2021. Accordingly, it is recommended 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 Gol.

Sub-indicator 14(c) – Effective sanctions and enforcement systems

Assessment criteria

- (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.
- (b) There is evidence that this system is systematically applied, and reports are consistently followed up by law enforcement authorities.
- (c) There is a system for suspension/debarment that ensures due process and is consistently applied.
- (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.

Summary of Findings

All of the above sub-criteria were found to have minor gaps (a), (b), (c) and (d).

Main strengths:

The PPL sets out requirements on reporting cases of fraud and corruption. Section 77 of the PPL concerning ‘Public Complaints’ stipulates that the public may submit complaints to APIP through the Law Enforcement Officer accompanied by factual, credible, and authentic items of evidence. The APIP investigates the complaints in accordance with its authority and submits a report to the minister/head of institution/head of local government, who in turn reports it to the authorized institution, particularly in the event of an indication of KKN that causes damage to the state finance.

The assessment team learned in discussions with LKPP that reporting cases of ‘indication of KKN’ which causes damage to the state finance” has to be (proven) harming of public finance and therefore there are very few cases reported on allegations of fraud, corruption and other prohibited practices to law enforcement authorities on procurement related corruption.

As provided for in Section 77 of PPL, LKPP has developed a complaint system for Procurement. The system namely *e-pengaduan*, 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.

There is also another 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 the whistle blowing system namely <https://wbs.lkpp.go.id/> which applies to the reporting of the misconduct by LKPP's officials and staff.

PPL ss.78-83 provides for establishing an administrative debarment/blacklisting including situations that involve such debarment.

LKPP monitors and evaluates the administrative completeness of the delivery of business actors / providers who are blacklisted. It is not clear if views of Providers are considered before blacklisting as part of due process.

Based on the website on Blacklist⁹⁸ there are 340 Active blacklisted providers as on January 25, 2022. The blacklist includes information on the reason/s and period of blacklisting for each.

Based on LKPP Procurement Profile of 2020, 294 providers (firms/individuals) had been blacklisted, the majority of which (68%) is under Construction Works and 44% for contracts above IDR 100 billion. The sanctions were given mostly during contract implementation. There is lack of data on providers or officials found guilty of fraud and corruption.

Discussion on the identified minor gaps

Lack of understanding and reporting procurement related to fraud and corruption: The definition of "indication of KKN", as well as the relevant provisions in the MDPs/SBDs, is not consistent with UNCAC, thus resulting in few cases of procuring entities reporting allegations of fraud, corruption and other prohibited practices to law enforcement authorities. It is recommended that a procurement related fraud and corruption to cover both actual and potential loss of public finance and section 77 of PPL to be amended.

No evidence/data related to follow-up of procurement related fraud and corruption: A system is in place for complaint on Fraud and corruption, but there is no evidence/data related to follow-up of such complaints, including cases related to administrative debarment/blacklisting. It is recommended that a system should be in place to monitor evidence/data related to follow-up of procurement related (starting from bidding process) fraud and corruption.

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. It is recommended that 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.

⁹⁸ <https://inaproc.id/daftar-hitam>

Sub-indicator 14(d) – Anti-corruption framework and integrity training

Assessment criteria

- (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.
- (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.
- (c) As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.
- (d) Special measures are in place for the detection and prevention of corruption associated with procurement.
- (e) Special integrity training programs are offered, and the procurement workforce regularly participates in this training.

Summary of Findings

Majority of the above sub-criteria were found to have minor gaps (b), (c), (d) and (e) except sub-criterion (a).

Main strengths:

Existence of anti-corruption framework to prevent, detect and penalize corruption in government.

Government Regulations No. 54 2018 set out national strategy for preventing corruption, outline focus and target for preventing corruption as the basis for each of the line ministries, agencies, local government and other stakeholders through the Corruption Prevention Action (APK) in the form of program and activities. (<https://www.stranaspk.id/about.html>).

National Integrity Index: Based on the survey⁹⁹ carried out by KPK, the SPI National Integrity Index was obtained with a score of 72.43 from the 2021 target, a score of 70 as stated in the 2020-2024 RPJMN, with the lowest index ranging between 42.01 and 91.72.¹⁰⁰ This means that the risk of corruption is still widespread in almost all agencies.

A system of identifying corruption risks, referred to in KPK, is available in Nov 2021 reference <https://www.stranaspk.id/about.html>

Based on details provided by KPK, the number of handlings of corruption cases that have obtained a final and binding decision shows a huge decline in 2020 (no separate data on procurement related fraud and corruption).

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

100 Seven elements were assessed including Management of Procurement of Goods and Services, Integrity in the Implementation of Duties, Budget Management, Transparency, Trading Influence (Trading Influence), Human Resource Management, and Anti-Corruption Socialization.

Satranas PK website <https://www.stranaspk.id/fokus-aksi-detail.html?id=11> provides specific action focus on acceleration of public procurement using electronic platform to provide direct interaction between the procuring entities and suppliers. It promotes public availability of accurate and integrated Beneficial Ownership (BO) data.

Discussions on the identified minor gaps

Absence of data/ statistics on systematic identification and mitigation of procurement related fraud and corruption: No statistics or data available on systematic identification and mitigation of procurement related fraud and corruption. It is recommended that 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.

Lack of data/ statistics on legal proceedings and convictions on procurement related fraud and corruption: No statistics or data available on procurement related fraud and corruption on related legal proceedings and convictions on procurement related fraud and corruption. It is recommended that KPK to consider publication of statistics on related legal proceedings and convictions on procurement related fraud and corruption.

Lack of measures on detection and prevention of corruption associated with procurement: As also indicated under 14 (c), there is no evidence of detection and prevention of corruption associated with procurement due to flawed interpretation of Section 77 of PPL. This section requires reporting when there is harming of public finance and not potential of KKN, as defined in the bidding/tender document to cover potential corruption. It is recommended to clarify the definition of KKN in legislation, to be made consistent with the bidding document and applied consistently for the entire procurement process starting from the needs assessment till completion of the contract.

No evidence of “Red Flag Training” on integrity in procurement process: There is no evidence on red flag training on indication of KKN in the procurement process starting from needs assessment, framing of technical specification evaluation process and contract implementation. It is recommended 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.

Sub-indicator 14(e) – Stakeholder support to strengthen integrity in procurement.

Assessment criteria

- (a) There are strong and credible civil society organizations that exercise social audit and control.
- (b) There is an enabling environment for civil society organizations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.
- (c) There is evidence that civil society contributes to shape and improve integrity of public procurement.
- (d) Suppliers and business associations actively support integrity and ethical behavior in public procurement, e.g., through internal compliance measures.

Summary of Findings

All of the above sub-criteria are found to have minor gaps (a), (b), (c) and (d).

No remarkable Strengths

Based on the responses from CSOs, regarding the question if involvement of CSO in procurement process is consultative and transparent, 80% of responses are “No” or “Uncertain”, and hence in general not consultative. Since the COVID-19 pandemic, the level of transparency decreased. Based on the responses, there are no programs to support the capacity of CSOs to participate in public procurement with 90% of responses as “No” or “Uncertain” (please refer to sub-indicators 11 (a)(a) and 11 (a) (b))

Discussions on the identified minor gaps

Absence of credible CSO to act as third-party monitor to strengthen integrity in procurement process:

There is a lack of credible CSOs that exercise social audit and control as third party monitors to improve integrity in procurement process. Therefore, it recommended to consider strengthening social audit and control to improve integrity in procurement process through credible Civil Society Organizations.

Lack of meaningful role as third party monitors to improve integrity in procurement process. 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. Therefore, it is recommended to involve CSOs to meaningful role as third party monitors to improve integrity in procurement process.

Lack of reliable data on activity carried associations and business actors to support integrity and ethical behavior in public procurement. Therefore, it is recommended to consider collaborating with Suppliers and business associations who can actively support integrity and ethical behavior in public procurement.

Sub-indicator 14(f) – Secure mechanisms for reporting prohibited practices or unethical behavior

Assessment criteria

- (a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behavior.
- (b) There are legal provisions to protect whistle-blowers, and these are considered effective (c) There is a functioning system that serves to follow up on disclosures.

Summary of Findings

There was minor gap identified in the above sub-criterion (a).

Main strengths:

The PPL includes provisions on reporting KKN through a secure mechanism: There are provisions of public grievance related to indications of KKN harming public finance (section 77 of Perspres 12 of 2021). Further there is secure mechanism to report prohibited practices, unethical behavior WBP through the

website: <https://www.integrity-indonesia.com/blog/2017/09/14/corporate-corruption-whistleblowing-indonesia/>

Based on clarification provided by LKPP there is a unit of the Directorate in the KPK that specifically handles community complaints. The number of complaints and follow-up data are available at the link: <https://www.kpk.go.id/id/statistik/pengaduan-masyarakat>

As for Whistleblowers' protection, this is dealt with in Law no.13 of 2006 and KPK's website covers a specific section on Whistleblower's protection.

The KPK whistle-blowers system can be accessed at kws.kpk.go.id. The system technically preserves the identity and information of whistle-blowers and set out instructions on how to ensure confidentiality. Protection procedures and practices can be seen in the links: <https://kws.kpk.go.id> and <https://jdih.setneg.go.id/>

Discussion on the identified minor gap

Reluctance by public on reporting on procurement related fraud and corruption: Though there is secure mechanism to report practices, there is not much evidence of reporting on procurement related fraud and corruption due to concept of "harming public finance" and actual loss. Therefore, it is recommended to consider clarifying the provisions of Section 77 of PPL on Public Grievance and encouraging public to report to authorities if they believe that there are indications of corruption (KKN), both actual and potential.

Sub-indicator 14(g) – Codes of conduct/codes of ethics and financial disclosure rules

Assessment criteria

- (a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in PFM, including procurement.
- (b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.
- (c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.
- (d) Regular training program are offered to ensure sustained awareness and implementation of measures.
- (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.

Summary of Findings

There were minor gaps found in the above sub-criteria (c) and (d).

Main strengths:

Procurement Ethics. As also referred to in 14(a), this aspect is covered in PPL s.7 and includes reference to avoiding and preventing conflicts of interest (PPL s.7(1)-(e)) on “preventing of abuse of power and/or collusion”; (PPL s.7(1)-(g)) on “not accepting, offering, or promising to give or receive gifts, rewards, commissions, rebates etc.”; PPL s.7(1)-(h)) on “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”.

PPL s.7 refers to procurement ethics. PerLem LKPP no.10 of 2021 related to Procurement work unit, Chapter VI -Code of conduct and standard operating procedures- A.22 references the code of ethics.

Perpres no. 16 of 2018 Article 82 related to sanctions for PA / KPA / PPK / Pokja / (Commitment Making Officials/ Procurement Working Unit, Selection Working Group/Procurement Officials). Criminal sanctions are given if there is proven state loss.

Asset Declaration Compliance for officials involved in procurement: 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.

https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Indonesia_Regulation%20on%20Asset%20Declaration_2005_EN.pdf

Beneficial ownership declaration: Based on the query any additional information/data including Conflict of interest statements, financial disclosure forms and information on BO are systematically filed, by officials involved in public procurement from the stage of preparation of specification till payment and certification of work (cross refer item 4 of this table). If this information is utilized by decision makers to prevent corruption risks throughout the public procurement cycle.

Discussions on the identified minor gaps

The concept of potential loss not part of definition of fraud and corruption to be clarified. Definition of fraud and corruption to be clarified: Refer 14 (a) (a).

No data/details available on procurement integrity related training while there is a system in place that facilitate the capacity building program. Definition of fraud and corruption to be clarified: Refer 14 (a) (a). LKPP/KPK to compile details of procurement integrity related training.

Table 14: Pillar IV Indicator 14-Substantive or Material Gaps- Risk Rating and Recommendations

Sub-Indicator and Assessment Criteria that have Substantive Gaps	Risk Rating	Explanation on Red Flags*, if any	Recommendations
<p><i>Sub-indicator 14(a)</i> <i>Assessment Criteria: (a)</i></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>	M	No Red Flag.	<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>

Remarks:

- **(Red Flags) are element that could significantly impede the main goals of public procurement and that cannot be mitigated directly or indirectly as such factors lie outside the sphere of public procurement.*
- *Risk Rating (L: Low; M: Medium; H: High)*

4. Consolidated Recommendations

The MAPS assessment identified the following priority areas for improvement:

1. Coverage of the legal and regulatory framework – Undertake critical review of procurement using Swakelola and SOEs procurement: Undertake a study/analysis to assess the use and impact of Swakelola in particular whether, how and to what extent Swakelola has an adverse impact on value outcomes in procurement. Consider also the classification of each of Swakelola types to ensure clarity as to whether the method is properly classified as a form of procurement or whether it is a budget allocation method. In the context of SOEs procurement, consider conducting a study to assess the impact of (i) the decision to create a separate procurement regime for procurement by SOEs using public funds; (ii) the operation of this regime in practice; and (iii) promotion of synergies and prioritizing business cooperation among

SOEs, their subsidiaries and affiliated companies. The assessment to make particular reference to the impact on competition, promotion of integrity and delivery of VfM outcomes in the use of public funds.

#2. E-procurement system, financial procedures and the procurement cycle: LKPP SPSE system is an effective procurement system. LKPP needs to ensure that the SPSE and other LKPP systems that support e-procurement remain current and up-to-date with current trends and security requirements. LKPP to consider expanding reporting and information management systems to (i) take full advantage of the information collected through other systems; (ii) offer notification services to vendors; and (iii) be utilized as advanced monitoring and planning tools for procuring entities and LKPP through the use of Open Contracting Data concepts and additional classifications applied to procurement transactions.

LKPP to also ensure an efficient level of interoperability between the SPSE and the SPAN so that the government can have a full end-to-end contract information from the start of procurement, signing the contract, physical progress implementation and disbursement payments up to the contract closing.

#3. Strengthening the performance monitoring and measurement mechanisms: Improving the quality and performance of the Country's public procurement system. This would particularly require an enhanced data analytics dashboard for real-time monitoring and measurement of Public Procurement performance. Pertinent KPIs including for improving competition, VfM and contract management would be used.

4. SPP: prepare strategy, action plan and practical guidelines including use of Life-Cycle Costing principles in the entire procurement process: Consider undertaking an in-depth assessment to inform the strategic planning process leading to the preparation and adoption of a comprehensive SPP policy/strategy in support of national policy objectives. An SPP implementation plan should be prepared in support of the SPP policy/strategy including clear objectives, indicators and targets.

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 SPP, in particular. GOI to consider undertaking a comprehensive assessment, perhaps as part of a wider in-depth assessment for development of SPP strategy/action plan, of the nature and level of participation of women in public procurement. This is to better understand the current position and to inform the development of an action plan to support increased participation of women in public procurement.

Consider promoting the use of economy life-cycle cost approach by particularly issuing technical guidance on its application from design and procurement strategy, as economic evaluation criteria in selection and in contract implementation.

5. Complaints review mechanism - review of routes and processes for appeal against decisions on objection: Consider undertaking a critical review of the various routes currently available to bidders who are unhappy with a final decision on objection. The review to be conducted 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).

In preparation for the critical review, consider what information and data are 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).

6. Procurement performance Audit: To issue written standards and procedures for procurement performance audit. To widely disseminate the procurement audit guidelines to all IGs, and to include certain target of specialized procurement audit in the audit plan of BPK and BPKP.

7. Bring Clarity on definition of procurement related Fraud and Corruption and availability of related data: 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. These include administrative debarment (blacklisting) in procurement, by the need to show loss to the State in the context of criminal offence of corruption.

The definition of KKN in legislation to be clarified, made consistent with the bidding documents and applied consistently for the entire procurement process starting from the needs assessment till completion of the contract. In addition, data to be collected on procurement related fraud and corruption.

#8. Improve accessibility of legal framework documents: Consider ways to improve presentation of procurement legal framework documents and methods for on-line searches. This is 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).

5. Strategic Planning

The Assessment Team has summarized a suggested timeline and priority with a strategy for implementation to be decided by the government. The strategy needs to be realistic, aligned with other reform initiatives, ensuring a balance of perspectives and including a good mix of 'quick wins', as well as medium and long-term initiatives. The following table No. 28 presents the key recommendation actions, suggests a timeline as Short Term (ST), Medium Term (MT), Long Term (LT) or through continuous improvements. It also sets out priorities categorized as 1, 2, or 3 and finally assigns responsibilities to the concerned parties.

Table 15: Key Recommendations

	Key Recommended Actions	Timeline	Priority	Responsibility
1	<p>Coverage of the legal and regulatory framework – Undertake critical review of procurement using Swakelola and procurement by SOEs. This requires conducting a study/analysis to assess the use and impact of Swakelola, in particular whether, how and to what extent it has an adverse impact on value outcomes in procurement. Besides, consider introducing rules and/or guidelines on participation of SOEs for level playing field</p>	MT	1	LKPP
2	<p>Enhance SPSE and other LKPP systems supporting e-procurement to remain up to date with current trends, data and security requirements. This requires host of actions as under:</p> <p>All systems should be sustainable and resourced to support system applications like MONEV to ensure applications remain available.</p> <p>This requires examining options for Open Contracting Data concepts and additional classifications applied to procurement transactions in order to expand data available and support broader monitoring tools and open data access. This to be considered together with -re-examining options for delivering SPSE and other applications from standalone system implementations to a centralized Software as a fully integrated Service.</p> <p>Apply new technologies such as cloud technologies, big data analytics and artificial intelligence, and mobile technologies to streamline operating cost, offer advanced reporting and improve user authentication, notification and messaging services.</p> <p>Fully integrate SPSE, SIKap and INAPROC to be a national service by leveraging existing data to share amongst SPSE and offer Vendors notification services. Improved data analytics and intelligence will assist LKPP with broader digital transformation initiatives and procurement monitoring to keep advancing procurement policies and initiatives.</p>	MT	1	LKPP

3	Develop a performance monitoring and measurement mechanism including establishment of a set of KPIs to measure the overall performance of the public procurement system. The mechanism should focus on both quantitative and qualitative aspects, by way of incorporating and using data from different integrated e-Procurement Platforms.	MT	1	LKPP
4	Develop standard procurement documents for Design Build for Works/Plant, and EPC/Turnkey and use in practice.	ST	1	LKPP
5	Implement SPP. Prepare strategy, action plan and practical guidelines. Consider undertaking an in-depth assessment and adoption of a comprehensive SPP policy/strategy in support of national policy objectives.	MT	2	Gol/LKPP
6	Improve complaints review mechanism - review of routes and process for appeal against decisions on objection. Consider undertaking a critical review of the various routes currently available to bidders who are unhappy with a final decision on objection.	LT	2	LKPP
7	Remove potential Barriers to Competition. Consider removing requirements on foreign business entities to establish business cooperation with national business entities. Consider conducting a data-driven analysis of the impact of domestic product provisions in practice, particularly in terms of impact on competition.	MT	1	Gol/LKPP
8	Improve accessibility of legal framework documents- 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.	ST	1	LKPP
9	Set-up Centralized Procurement Body: Government to consider setting up a separate body in charge of consolidated procurement, framework agreements or specialized procurement. LKPP to focus on providing guidance on initiating the framework agreement for national product (via e-catalogue).	MT	2	Gol/MoF/LKPP

10	Promote the application of economy life-cycle cost approach in practice based on technical guidance (further to item 5 above on SPP)	MT	2	LKPP
11	Add specific mechanism and/or procedures and enabling mechanism in the legislation, for involving CSOs in procurement and contract implementation process.	MT	2	LKPP
12	Institutionalize procurement performance audit. Issue written standard and procedures for procurement performance audit. Disseminate them widely to all IGs and include certain target of specialized procurement audit in the audit plan of BPK and BPKP.	MT	2	LKPP/BPK/BPKP
13	Bring Clarity on definition of procurement related Fraud and Corruption and availability of related data. Consider implementing activities at inter-ministerial/agency level to ensure full alignment with UNCAC definitions of corruption.	MT	2	LKPP/KPK
14	Publish statistics on procurement related fraud and corruption and steps taken on systematic identification and mitigation of procurement related fraud and corruption.	ST	1	LKPP/KPK
15	Clarify the Legal and regulatory framework provisions on Public Grievance and encourage public to report to authorities if they believe that there are indications of KKN, both actual and potential.	ST	1	LKPP/KPK

6. Information regarding Validation

A joint validation workshop (hybrid, in person and virtual) was held on 27 June 2022 in collaboration with LKPP, World Bank, ADB and IsDB involving all relevant stakeholders to agree on: (i) findings of the assessment, (ii) reform priorities, and (iii) a shared strategy for addressing key weaknesses in the public procurement system. LKPP and World Bank present the result of MAPS assessment including key recommendation action plan to participants subsequently followed by discussion. In addition to LKPP, ADB, IsDB, ministries' representatives, validation workshop was also attended by internal and external government auditor (BPKP & BPK), corruption eradication commission (KPK), local governments' representatives, researcher/universities, Indonesia Competition Commission (KPPU). List of attendance is provided in Annex 2 of Volume III.

Table 16: Validation Process

#	Description	Expected Outcome	Planned/ Actual date
1	Validation workshop with all stakeholders held	Validation of the assessment findings and recommendations	June 27 th , 2022
2	Decision meeting by the WB Management after internal peer review	Final draft report	Jan 27 - February 7, 2023 (virtual DM)
4	Review by Assessment's Technical Advisory Group	ATAG's review of Final Draft Report	March 2023/Feb 6, 2024
5	Final MAPS Report and Certification by MAPS Secretariat	Certified report	Mid April 2023/Mid March 2024
6	Dissemination/Publication of Final MAPS Report	Dissemination is conducted successfully	End of June 2024

Appendices

Appendix 1 (Volume II): Detailed Indicator Matrix

Volume II covers Assessment Criteria, Qualitative Analysis, Quantitative Analysis, Gap Analysis, Potential Red Flag, and Initial Input for Recommendations as per standard MAPS template for Pillars I, II, III and IV.

Appendix 2 (Volume III): Annexes

Volume III includes the following annexes:

Annex 1: Concept Note

Annex 2: Lists of stakeholders consulted, agencies for sample cases & validation workshop attendants

Annex 3: Assessment Team, Steering Committee and minutes of meetings

Annex 4: Immediate Response to Emergency Situation (post COVID-19)

Annex 5: Stakeholder Analysis

Annex 6: Results of Private Sector Survey

Annex 7: Summary of Feedback from CSOs consultations

Annex 8: Sample Cases-Approach for sampling

Annex 9: Procurement by SOEs in Indonesia

Annex 10: List of key documents reviewed