

## A Clean Public Procurement System through Commitment Making Officials (PPK) Criminal Liability Reforms

Umar Maksum<sup>1</sup>, Ade Saptomo<sup>2</sup>

Universitas Borobudur, Indonesia

E-mail: umarmaksum50@gmail.com<sup>1</sup>, ade\_saptomo@borobudur.ac.id<sup>2</sup>

### ABSTRACT

This research aims to explore a clean public procurement system through criminal liability reform for Commitment Making Officials (PPK). PPK plays an important role in maintaining accountability, transparency, and integrity in the public procurement process. The research method used is a statutory approach and a conceptual approach. This research analyzes the regulations governing PPK's responsibilities and how they can be held criminally liable if proven to have abused their authority. It was found that PPK is often the party fully responsible for irregularities in procurement, despite the important role of other parties such as the Budget User (PA) and the Budget User Authority (KPA). This research shows that to prevent corrupt practices, stricter monitoring mechanisms and increased legal awareness among PPKs are needed. Criminal liability reform for PPKs is essential to create a more transparent and accountable public procurement of goods and services. Better understanding of legal responsibilities and training for PVRs can reduce the risk of abuse of authority. Achieving a clean procurement system requires improvements in regulation and oversight, as well as capacity building for PVRs. These reforms will support corruption prevention efforts and maximize benefits for society and the state.

**Keywords:** Vacancies of Officials, Regional Heads, Public Administration Services, Inequality

### Introduction

Many irregularities in government procurement of goods and services are caused by procurement officials who abuse their authority to the detriment of state finances. According to data from the Corruption Eradication Commission (KPK), corruption cases in the procurement of goods and services are ranked second in cases handled, which shows the urgency of this problem. These irregularities often fulfil the elements of corruption. In practice, responsibility for irregularities in the procurement of goods and services is often placed on the Commitment Making Officer (PPK). This is regulated in the

provisions of the Presidential Regulation on Public Procurement. This situation creates injustice, because based on Presidential Regulation No. 16/2018 on Public Procurement, it appears that the procurement process does not only involve PPK, but also other parties who play an important role, such as the Budget User (PA) and the Budget User Authority (KPA). The PA is in charge of determining the General Procurement Plan, while the KPA acts based on the authority granted by the PA in terms of procurement (Istiqballia et al., 2020).

Corruption eradication in the context of national development continues to increase (Nambassa & Nurmandi, 2024; Susila & Suharso, 2018). Public participation in creating areas free from corruption greatly assists the government in carrying out corruption eradication efforts. In addition, the role of government institutions is also crucial, one of which is through the preparation of a roadmap for bureaucratic reform, with the main program of creating an Integrity Zone towards a Corruption-Free Area (WBK) and a Clean and Serving Bureaucratic Area (WBBM) (Astuti, n.d.; Kapti et al., 2019; Nila & Wahyudi, 2024). This is in line with the statement of the Chairman of the Public Procurement Policy Institute, Roni Dwi Susanto, who said that corruption cases in public procurement occupy the second position in cases handled by the Corruption Eradication Commission (KPK). Therefore, the eradication of corruption in government institutions, especially in the goods/services procurement sector, is a serious concern.

The allocation of the state budget, one of which is through public procurement, is a fundamental component in realizing good governance. The objectives of government procurement of goods/services include obtaining goods/services at an accountable price, in accordance with the specified quantity, quality, and time (John Michael, 2019; Shaleha & Shaleha, 2021; Sitompul, 2022). Given that the financing of the procurement of goods / services is sourced from taxes paid by citizens, the procurement process must be strictly regulated in accordance with applicable laws and regulations, in order to achieve accountability without reducing the effectiveness of implementation.

Fulfilment of quality public services, both through human development and physical development, is the main goal of the state in accelerating national development. In physical development, the state needs to balance with good regulations related to the procurement of goods / services. With the aim of procurement to provide maximum benefits (value for money), one of the main goals is to produce goods / services that are appropriate for each fund spent, as measured by quality, quantity, time, cost, location, and providers involved (Mahardhika, 2021). The Indonesian Supreme Audit Agency (BPK) explains that many problems that cause state losses are found in the management of

capital expenditures and goods/services expenditures. This is caused by negligence and inattention of responsible officials in complying with applicable regulations, as well as less than optimal in carrying out their duties and functions, weak supervision, and deliberate actions not to account for budget management. Corruption always involves more than one person, in contrast to crimes such as theft or fraud, where the perpetrators of corruption are usually involved in acts of fraud collectively (FismanFisman, R., & Golden, 2017).

The problem of corruption in Indonesia is actually not new, as it has existed since the 1950s. In fact, many parties consider that corruption has become part of everyday life, forming a system that is integrated with government administration. Efforts to eradicate corruption in that era, including by using legal instruments in Law Number 3 of 1971 concerning the Eradication of Corruption, experienced many failures. One of the causes of this failure is the inability of the institutions established to eradicate corruption to carry out their functions effectively, weak legal instruments, and law enforcement officials who do not fully understand the serious impact of corruption.

Considering the magnitude of the impact of corruption on the Indonesian economy, especially in accelerating the implementation of state spending, the government feels the need to establish regulations regarding the procurement of goods / services that are simple, clear, and comprehensive, in accordance with the principles of good governance. This regulation is expected to be an effective guideline for all parties involved in the public procurement process. In the budget cycle, the Commitment Making Officer (PPK) always plays a role at every stage, both in planning, implementation, supervision, and accountability.

In the budget cycle, the Commitment Making Officer (PPK) always plays a role at every stage, both in planning, implementation, supervision, and accountability. Based on the provisions of Government Regulation Number 45 of 2013 concerning Procedures for the Implementation of the State Budget and Expenditure, the PPK is an official responsible for the implementation of government procurement of goods/services. The PPK is given authority by the Budget User (PA) or Budget User Authorization (KPA) to make decisions or take actions that can result in the expenditure of the state budget. However, although the PPK has a large role and responsibility, its implementation in the regions is often not fully in accordance with applicable provisions. This can be seen from the fact that there are still structural officials or staff in the government who hold concurrent positions as PPK, which should be avoided

so as not to disrupt professionalism and accountability in regional financial management (Made, 2017).

The Commitment Making Officer (PPK) in public procurement in Indonesia can be seen from several aspects that affect the effectiveness and accountability of the procurement process. First, although laws and regulations, such as Presidential Regulation No. 16/2018 on Public Procurement, generally regulate the roles and responsibilities of PPKs, there are still some ambiguities and uncertainties in their implementation. This has led to different interpretations among various government agencies, which in turn affects the consistency and quality of goods and services procurement. The unclear provisions regarding the limits of PPK's authority and responsibility in procurement also cause problems. In practice, PPKs are often caught in a dilemma between meeting procurement targets and maintaining the principles of accountability and transparency. The absence of concrete guidelines in terms of decision-making, such as in selecting providers or setting evaluation criteria, has the potential to lead to abuse of authority and corruption. The absence of clear norms also makes it difficult for relevant parties to hold PPKs accountable in case of violations, weakening their oversight position.

Another aspect of concern is the lack of training and capacity of PPKs in implementing goods and services procurement. Without an adequate understanding of the applicable regulations and correct procurement procedures, PPKs can make mistakes in carrying out their duties, potentially leading to state losses. This legal vacuum can be exacerbated by the fact that PPKs are often appointed from among employees who have other workloads, so that their attention to the procurement process is divided. Based on this description, it is necessary to discuss several issues, namely the role of Commitment Making Officials in Government Procurement of Goods and Services and Criminal Liability of Commitment Making Officials. The number of irregularities in the procurement of government goods and services is often caused by procurement officials who abuse their authority, which results in state financial losses.

This is evident in Novius research (2024) which shows that violations of goods and services procurement are often related to the lack of accountability of procurement officials. Bhagat et al. (2024) also found that the low understanding of the law among procurement officials contributed to the high level of violations. Further research by Georgieva (2017) highlighted the impact of corruption on the efficiency of public procurement and the importance of reforms to improve transparency.

The novelty of this study lies in the approach that combines legal and policy analysis to evaluate the legal liability of public procurement officials. This study uses a more comprehensive theoretical framework to understand the factors that lead to abuse of power in public procurement in Indonesia.

The implications of this research are recommendations for public procurement policy reform, including improved training for procurement officials and strengthened oversight mechanisms. Theoretically, this study is expected to enrich the literature on accountability in public procurement and serve as a basis for future research in this area.

### Research Method

In this research, the statutory approach research method or statute approach or can also be called normative legal research is a process for finding legal rules, legal principles, and legal doctrines in order to answer legal issues used to determine the role of the Commitment Maker Official in Government Procurement of Goods and Services. The case approach is an approach that is carried out to analyze, examine, and use it as a guideline for legal issues for the criminal liability of the Commitment Making Officer. Then the conceptual approach is an approach that is carried out starting from the views and patterns of doctrine or thoughts of experts who develop in legal science. From the various approaches and legal research described, it will answer whether the revitalization program is in accordance with the delicts in land.

### Result and Discussion

#### The Role of the Acting Commitment Maker in Government Procurement of Goods and Services

In general, procurement of goods and services is a series of activities aimed at obtaining goods or services, starting from planning needs to completing the entire procurement process. This procurement can be divided into two categories, namely procurement of goods and services in the government sector and procurement in the private or corporate sector. Procurement of goods and services in the government sector has a higher level of complexity because the source of funding is related to the APBN or APBD. Therefore, every stage of the procurement process must be accounted for clearly and transparently. Currently, the procurement of goods includes not only tangible goods, but also intangible goods. Intangible goods include various types of services, such as health services, education services, consulting services, supervision services, management services, and others. The

procurement of these intangible goods is the basis for the procurement of consultancy and other services. Therefore, in such procurement, it is mandatory to enter into an agreement between the Local Government and private parties, especially those related to public services. [7] On the other hand, procurement of goods and services in the private sector or companies is not as complex as procurement in the government sector. The procurement process in the private sector generally follows the internal policies of each agency or company. The legal basis governing the procurement of goods and/or services in Indonesia is the Presidential Regulation, specifically Presidential Regulation Number 16 of 2018 concerning Procurement of Goods and Services, which has been updated through Presidential Regulation Number 12 of 2021.

Public procurement activities have a long history that began with the enactment of a special regulation on Public Procurement in 2003. In the Presidential Decree (Keppres), there are several important things that are regulated, including the procurement of goods/services that are fully financed through foreign loans or grants (PHLN) as well as procurement for investment within Bank Indonesia (BI), State-Owned Legal Entities (BHMN), State-Owned Enterprises (BUMN), and Regional-Owned Enterprises (BUMD) which are partially or entirely charged to the State Budget (APBN) or Regional Budget (APBD).

Unlike the legal instruments that came after, this Keppres does not explicitly and in detail regulate the existence of a Commitment Making Officer (PPK) in the procurement process. However, the authority and function of the PPK has been accommodated by the head of the office or work unit as stipulated in Article 1 point 4 of the Presidential Decree. Although the nomenclature is different, Presidential Regulation No. 16/2018 issued on March 22, 2018 regulates many things related to the Goods/Services Procurement policy. This regulation is intended to improve Presidential Decree No. 80 of 2003, which was considered inadequate in containing several matters, including the existence of legal subjects in the procurement process.

In this Presidential Regulation, there are several subjects involved, including PPK, the Government, Ministries/Institutions/Regional Work Units/other Institutions (K/L/D/I), the Goods/Services Procurement Policy Agency (LKPP), Budget Users (PA), and Authorized Budget Users (KPA). In addition, this Perpres has undergone several changes to continue to improve the procurement process. In the process of procuring government

goods/services, there are various parties who play a role, both directly and indirectly involved, such as PA / KPA, PPK, procurement officials, and committees or officials receiving work results. One party that plays a fundamental role is the Commitment Making Officer (PPK). Juridically, PPK has a number of main tasks and authorities mandated by law, ranging from procurement planning to storing and maintaining the integrity of all activity implementation documents and assessing provider performance.

PPK is prohibited from entering into agreements or signing contracts with providers if there is no budget available or if the existing budget is insufficient, which may result in exceeding the budget limit available for activities financed by the APBN/APBD. There are no violations or deviations from applicable law in the appointment of the Commitment Making Officer (PPK). A person who can be appointed as a PPK is not just anyone and cannot be appointed instantly without careful consideration. PPK must be an individual who meets certain criteria in accordance with the duties he or she carries out. Therefore, there are minimum requirements that must be met so that a person can carry out functions related to the use of state money. Thus, the position and position of PPK cannot be forced, considering that the responsibilities carried out are quite risky.

After the contract is signed with the provider, the PPK's role is to manage the contract so that it can achieve the predetermined objectives. Often, contracts are underestimated because there is an assumption that solutions will arise if the work is not completed within the predetermined time limit, including the possibility of extending the completion time. However, we should try as if there is no opportunity to extend the time, in order to maintain the quality and accuracy of implementation.

PPK, as an important organ in the procurement process, does not only work hard during the pre-contract period. PPKs also have an obligation to maintain procurement stability throughout the process. This is important because government projects are designed for the benefit of the community and the benefits will be enjoyed by many people, with the source of funding coming from state money. In maintaining the stability of work during procurement, PPK has several tasks after the contract is signed, including:

1. Identify the intended outcomes of the contract which can be seen from the contents of the contract, specifications, drawings, and other documents prepared by the planning consultant or expert.
2. Form a team for contract administration and contract supervision.

3. Develop work control tools, such as S-curves, or other simple forms of control.

Based on the explanation above, according to the General Indonesian Dictionary, competence is defined as the authority to determine something. Sedarmayanti explains that competence is a fundamental characteristic of an individual, which directly affects or can predict excellent work performance. Competence includes the ability to carry out a job that is based on skills and knowledge, and is supported by a professional work attitude.

In Presidential Regulation Number 16 of 2018 amended by Presidential Regulation Number 12 of 2021 concerning Government Procurement of Goods/Services (hereinafter referred to as Presidential Regulation No. 12 of 2021), Article 1 number 1 defines goods/services procurement as a procurement activity carried out by ministries, institutions, or regional apparatus financed by the APBN/APBD, starting from the identification of needs to the handover of work results. Meanwhile, Article 8 of Presidential Regulation No. 12 of 2021 states that the actors of goods/services procurement consist of:

- a. Budget User (PA);
- b. Authorized Budget User (KPA);
- c. Commitment Maker Official (PPK);
- d. Procurement Officer
- e. Selection Working Group;
- f. Procurement Agent;
- g. self-management Organizer;
- h. Provider.

The scale of public procurement work management can be categorized from simple to the most complex. This grouping can be used as a standard for determining the competence of Commitment Making Officials (PPK) based on the type of work they do. In LKPP Circular Letter Number 8 of 2020 concerning the Typology of Commitment Maker Officials and Competency Standards for Government Goods/Services Procurement for Commitment Maker Officials, PPKs are grouped into three typologies, along with the competency standards required in government goods/services procurement.

The typology of Commitment Maker Officials (PPK) is divided into three categories, namely Type A, Type B and Type C. The gradation in this typology is based on the different scale of work handled by each PPK. Type A PPKs are PPKs that handle work with complex contract management categories, which



involve high risks, require advanced technology, use specially designed equipment, involve foreign service providers, and/or difficulty in technically defining ways to meet the needs and objectives of goods/services procurement. Examples of Type A PPKs include satellite procurement, dam construction, as well as underwater mineral natural resource mining work. Type B PPK is a PPK that handles work with contract management categories that are common or commonly found in an organization, but are not included in the category of complex or simple work. Examples of Type B PPK are car procurement, excavator procurement, and bridge planning consulting. Meanwhile, Type C PPKs are PPKs that handle work with simple contract management categories, which are operational, routine, standard, and/or repetitive in nature. Examples of work for Type C PPK include the procurement of office stationery, meeting consumption, and cleaning services.

### **Corruption Criminal Liability of Commitment Maker Officials**

Criminal responsibility, in foreign terms, is known as *toerekenbaarheid*, criminal responsibility, or criminal liability. These terms refer to efforts to determine whether a person can be held accountable for criminal acts committed. [10] Problems that arise in the public procurement process are often caused by the actions of procurement officials and other related officials who abuse their authority. These deviations result in losses to state finances, given that the source of funds for the procurement of government goods and services comes from state finances listed in the State Budget (APBN) or Regional Budget (APBD). Therefore, this action fulfills the elements contained in the offense of corruption. In terms of accountability, the practice in the field shows that the responsibility for irregularities in the procurement process is fully allocated to the Commitment Making Officer (PPK), as stipulated in the provisions of the Presidential Regulation on Goods/Services Procurement.

In Presidential Regulation No. 70/2012 on Public Procurement, the perpetrators of irregularities that may be subject to sanctions include the Goods/Services Provider and/or the Procurement Service Unit (ULP). The actions that can be sanctioned are formulated starting from Article 118. Based on these provisions, there are several actions that can be processed criminally if committed by Goods and Services Providers, including:

- a. Attempting to influence the ULP, Procurement Officer, or other authorized parties in any form and manner, either directly or indirectly, to fulfill desires that are contrary to the provisions and procedures set

- forth in the Procurement/Contract Documents, as well as applicable laws and regulations.
- b. Colluding with other Goods/Services Providers to set the Bid Price outside the Goods/Services Procurement implementation procedure, so as to reduce, hinder, minimize, and/or eliminate fair competition and/or harm other parties.
  - c. Making and/or submitting untrue documents and/or other information to fulfill the Goods/Services Procurement requirements stipulated in the Procurement Document.
  - d. Withdraw from the execution of the Contract for reasons that cannot be justified and/or cannot be accepted by the ULP/Procurement Officer.
  - e. Unable to complete the work in accordance with the Contract responsibly; and/or based on the results of the inspection referred to in Article 99 paragraph (3), it is found that there is a discrepancy in the use of domestically produced Goods/Services.

Every action has consequences that must be accounted for in accordance with applicable legal provisions. Regarding criminal responsibility, there are two views in criminal law doctrine that are commonly used to determine whether a person can be held criminally responsible, namely the monistic and the dualistic views formulated by Simon as follows: According to the monistic view, an act that is punishable by law, contrary to the law, and committed by a guilty person, is considered an act for which the individual can be held accountable. On the other hand, the dualistic view emphasizes that the elements of the *strafbaar feit* include both the elements of the act known as objective elements and the elements of the perpetrator referred to as subjective elements. Thus, the combination of the element of the perpetrator with the element of the act leads to the conclusion that the *strafbaar feit* is identical to the conditions for imposing punishment, so that if a *strafbaar feit* occurs, the perpetrator is considered to be subject to punishment.

The concept of criminal responsibility in law is often studied through various doctrine that seek to explain the conditions necessary for a person to be held accountable for his actions. The two main views in this context are the monistic and the dualistic. The monistic views argue that for an act to be criminally liable, it must fulfill three main elements: the act is punishable by law, contrary to law, and committed by someone who can be considered guilty. In other words, if an individual commits an act that meets these three criteria, then that individual can be held criminally responsible for the act. This view

emphasizes that legal actions can be accounted for directly, without considering other aspects that might influence the will or intention of the perpetrator.

On the other hand, the dualistic view offers a more complex approach by emphasizing the existence of two interrelated elements in a criminal act, namely objective elements and subjective elements. The objective element refers to the act itself, while the subjective element relates to the mental state of the perpetrator, including the intention and guilt present in the individual at the time of committing the act. This school suggests that in order to impose criminal sanctions, there needs to be a combination of both elements. Thus, if there is only an element of action without being balanced by wrongdoing or unlawful intent, then criminal liability cannot be applied. This dualistic approach gives more weight to the psychological aspects and the context in which the act was committed, thus allowing for a fairer assessment of the perpetrator's behavior.

In practice, the application of these two schools in the criminal law system is often complementary. The monistic school provides a basic framework for understanding that every unlawful act has consequences, while the dualistic school enriches the understanding by adding mental and contextual dimensions in the assessment of the act. This is important to ensure that justice is served, both for the society protected by the law and for the individual accused of the offense. As such, a comprehensive understanding of both schools can assist in developing a more effective and equitable criminal liability system.

Criminal liability by Commitment Making Officials (PPK) related to state financial losses can be analyzed through actions or decisions taken by PPK at each stage of the goods/services procurement process. An action that is considered a criminal offense must fulfill a number of certain conditions. According to Moeljatno, a criminal act is an act prohibited by a legal norm, which is accompanied by the threat of criminal sanctions for anyone who violates the prohibition. Thus, a criminal act can be defined as an action prohibited by law and threatened with punishment, with an emphasis that the prohibition is aimed at the act (which refers to a situation or event arising from a person's behavior), while the criminal threat is aimed at the perpetrator who caused the incident.

Criminal liability by the Commitment Making Officer (PPK) related to state financial losses can be analyzed through actions or decisions taken by the

PPK at each stage of the goods/services procurement process. An action that is considered a crime must meet several specific requirements. According to Moeljatno, a criminal act is an action that is prohibited by a legal norm, which is accompanied by the threat of criminal sanctions for anyone who violates the prohibition. Thus, a criminal act can be interpreted as an action that is prohibited by law and is subject to criminal penalties, with the emphasis that the prohibition is directed at the act (which refers to a condition or incident that arises due to a person's behavior), while the criminal threat is directed at the perpetrator who caused the incident. Fulfillment of the responsibility of the Commitment Making Officer (PPK) results in different limits of legal liability, namely in the fields of criminal law, civil law, and administrative law. In the context of criminal liability, this arises due to the legal relationship between the PPK and a third party or provider of goods/services, which starts from the preparation stage to the handover of the work results, then continues with the achievement by the PPK. The concept of criminal responsibility involves the existence of a criminal act or *actus reus* and a mistake or *mens rea*, which can be either intentional or negligent. Therefore, the parameters for the existence of criminal responsibility of PPK lie in the element of an unlawful act involving abuse of authority, either intentional or negligent, which results in losses to state finances and the national economy.

Fulfilling the responsibilities of the Commitment Making Officer (PPK) in the public procurement process results in various limits of legal responsibility, covering the fields of criminal law, civil law, and administrative law. These legal responsibilities are important to ensure accountability and transparency in the management of state resources. In the context of criminal law, PPK's responsibilities arise as a result of the legal relationship that exists between PPK and third parties or goods/services providers. This relationship starts from the procurement preparation stage to the handover of work results, where PPK has a crucial role in ensuring that the entire process takes place in accordance with applicable regulations.

In terms of criminal responsibility, there are two main elements that must be met: *actus reus* (criminal act) and *mens rea* (evil intent). *Actus reus* refers to actions that violate the law, while *mens rea* covers the wrongdoing that occurs, whether it is intentional or negligent. PPK's criminal responsibility lies in the ability to show that the actions taken violated the law, with an element of abuse of authority. This shows that PPK must carry out its duties with integrity

and in accordance with established procedures, so as to avoid actions that can harm state finances.

The elements of unlawful acts involved in PPK's criminal responsibility can be in the form of deliberate acts of abuse of authority, or negligence in carrying out their duties which result in losses to state finances and the national economy. Therefore, it is very important for PPK to understand the responsibilities and legal risks associated with the procurement of goods/services. High legal awareness among PPKs and all parties involved in procurement is needed to prevent irregularities, as well as to maintain integrity and accountability in state financial management. Meanwhile, civil liability arises from the legal relationship between PPK and third parties or goods / services providers starting from the signing of the contract until the end of the contract. If a dispute occurs, such as a provider defaulting, the settlement will be carried out through a civil law mechanism. Civil liability for Commitment Making Officials (PPK) arises from the legal relationship formed between PPK and third parties, which in this case are goods/services providers. This relationship starts from the signing of the procurement contract, where the PPK has an obligation to carry out its duties and responsibilities in accordance with the agreed provisions in the contract. Therefore, the contract becomes an important basis in determining the rights and obligations of both parties, as well as a reference in assessing each other's performance.

In practice, if there is a dispute between PPK and the goods / services provider, such as a default case where the provider does not fulfill its obligations in accordance with the contract, this problem will be resolved through a civil law mechanism. Defaults can occur in various forms, such as late delivery of goods, quality of goods that are not in accordance with specifications, or non-performance of work in accordance with the terms of the contract. In this case, PPK has the right to file a lawsuit in court to request compensation or other settlements that are deemed appropriate. The civil dispute resolution process is generally carried out through mediation, arbitration, or litigation. Mediation is a peaceful resolution effort that involves a third party to help reach an agreement, while arbitration is a process in which disputes are resolved by one or more appointed arbitrators. If both methods are unsuccessful, the PPK party can take the case to court. In this case, it is important for PPK to have complete and clear documentation related to the

contract and work implementation in order to strengthen arguments and evidence before the law.

Responsibility in the realm of administrative law is related to the legal relationship between the PPK and third parties or providers of goods/services related to decisions taken by authorized officials, such as in the preparation of Self-Estimated Prices (HPS), technical specifications, and the issuance of Government Goods/Service Provider Appointment Letters (SPPBJ). If the PPK is proven to have violated applicable provisions, administrative sanctions can be imposed, in the form of light, medium, or heavy disciplinary sanctions by the Personnel Development Officer or authorized officials in accordance with laws and regulations. Deviations due to administrative errors made by the PPK can have implications for criminal liability if proven to meet the elements of a criminal act of corruption. Responsibility in the realm of administrative law for the Commitment Making Officer (PPK) is closely related to the legal relationship established between the PPK and third parties or providers of goods/services. This relationship includes various decisions and actions taken by the PPK, including in the process of preparing Self-Estimated Prices (HPS), technical specifications that must be adhered to in procurement, and the issuance of Government Goods/Service Provider Appointment Letters (SPPBJ). These decisions are very important because they form the basis for the implementation of procurement and pricing in accordance with government needs. When the PPK carries out its duties, it must comply with the provisions of applicable laws and regulations. If the PPK is proven to have violated these provisions, it can be subject to administrative sanctions. These sanctions can vary from light disciplinary sanctions, such as a reprimand, to moderate or severe disciplinary sanctions, which may involve suspension of office or even dismissal. These administrative sanctions are imposed by the Personnel Development Officer or other authorized officials in accordance with existing provisions. The aim is to enforce discipline in the implementation of the PPK's duties and responsibilities and to maintain the integrity of the procurement process.

Furthermore, deviations caused by administrative errors made by the PPK not only result in administrative sanctions but can also have implications for criminal liability. If these deviations meet the elements of a criminal act of corruption, the PPK can be faced with a more serious legal process. This shows that violations in the procurement of goods/services are not only an internal

problem in administration, but can also harm state finances and create wider losses. Therefore, it is important for PPK to carry out its duties with full responsibility, comply with all applicable provisions, and ensure that all decisions taken are within the legal corridor. Awareness of this responsibility will help minimize the risk of deviations and increase transparency and accountability in government procurement of goods/services. Thus, the procurement process is not only effective but also fair and provides maximum benefits to the community and the state. Deviations and corruption can occur at all stages in the government procurement process, including:

1. Needs determination stage
2. Preparation stage for design and preparation of procurement documents
3. Selection of participants and determination of tender winners
4. Stage of work implementation
5. Stage of work handover
6. Work payment stage
7. Reporting stage and audit process

PPK's accountability for state financial losses must fulfill the elements of the crime of corruption regulated in Article 2 paragraph (1) of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, namely:

- a. Unlawfully
- b. Enriching oneself, others, or a corporation
- c. May harm state finances or the state economy

Or fulfill the elements in Article 3, namely:

- a. Aiming to benefit oneself, others, or corporations
- b. Abusing the authority or means possessed because of position or position that can harm state finances and the state economy

In corruption cases related to the procurement of goods/services, generally the perpetrators are charged with violating Article 2 paragraph (1) which classifies unlawful acts to enrich themselves, thus harming state finances or the state economy, as well as Article 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption (hereinafter TIPIKOR Law) which covers abuse of authority.

Article 2 of the TIPIKOR Law reads as follows:

- (1) Any person who unlawfully commits an act of enriching oneself or another person or a corporation that may harm the state finances or the state economy, shall be punished with life imprisonment or

imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years, and a fine of at least Rp. 200,000,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

- (2) In the event that the crime of corruption as referred to in paragraph (1) is committed under certain circumstances, the death penalty may be imposed.

Meanwhile, Article 3 of the TIPIKOR Law reads as follows: "Every person who with the aim of benefiting himself or herself or another person or a corporation abuses the authority, opportunity, or means available to him or her because of his or her position or position that may harm the state finances or the state economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years, as well as a fine of at least Rp. 50,000,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)." The high number of corruption cases in procurement, caused by abuse of authority, results in significant state losses. This can be attributed to the weak role of supervision and low legal awareness among the implementers of goods/services procurement. The crime of corruption falls into the category of formal offenses, where the fulfillment of the elements of the formulated act is sufficient to postulate the existence of a criminal offense, without requiring the occurrence of an effect. This is reflected in the word "may" before the phrase "harming state finances or the state economy" in Article 2 and Article 3, which indicates that perpetrators of corruption offenses can be convicted without the need to prove the occurrence of state losses or their impact on the state economy.

## Conclusion

Procurement of goods and services is a complex and structured process, both in the government and private sectors. In the government sector, the procurement of goods and services involves not only the purchase of tangible goods, but also services and intangible goods, all of which must be carried out with high transparency and accountability. The PPK's obligation to comply with legal regulations and maintain the quality of procurement is especially important, given that the source of funds comes from the APBN or APBD. The legal basis for the procurement of goods and services in Indonesia, mainly through Presidential Regulations, clearly regulates the roles and responsibilities of each party involved, including PPK. In carrying out their duties, PPKs must have sufficient competence according to the typology of the work being



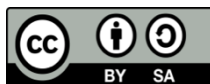
handled, namely Type A, B, or C. This shows that the selection of PPKs who meet certain criteria is very important to ensure the smooth and successful procurement process. Finally, good management of PPK not only affects the effectiveness and efficiency of procurement, but also the positive impact on society, because the results of public procurement aim to improve public welfare. Therefore, it is important for all parties involved in procurement to commit to the principles of integrity, professionalism and accountability.

PPK can be held criminally liable for actions that harm state finances due to abuse of authority in the procurement of goods/services. To be criminally liable, the act must fulfill the elements of *actus reus* (criminal act) and *mens rea* (evil intent). PPK actions can be categorized as corruption if they meet the elements stipulated in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. This includes acts that unlawfully enrich themselves, others, or a corporation, which can harm state finances. PPK's responsibility is not only limited to criminal aspects, but also includes civil and administrative law. This creates complexity in determining the accountability of PPKs, who must comply with applicable provisions in carrying out their duties. Deviations can occur at various stages of the procurement process, from determining needs to reporting and auditing..

### Bibliography

- Astuti, I. I. (n.d.). *A Culture of Smiling and Greetings as Bureaucracy Reform in Public Services at the Chemical Analyst High School Padang, West Sumatera*.
- Bhagat, G., & Jha, K. N. (2024). Exploring the Impact of the Integrity Climate on Integrity Violations in Public Procurement: A Partial Least Square Structural Equation Modeling Approach. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 16(1), 4523042.
- FismanFisman, R., & Golden, M. A. (2017). (2017). *Corruption: What everyone needs to know*. Oxford University Press.
- Georgieva, I. (2017). *Using Transparency Against Corruption in Public Procurement* (Vol. 167). Springer.
- Istiqballia, N. F., Ardelia, R., & Ramadhanti, P. (2020). Pertanggungjawaban Hukum Pejabat Pembuat Komitmen (Ppk) Dalam Pengadaan Barang/Jasa Pemerintah. *Perspektif*, 25(2), 129–134.
- John Michael, I. (2019). *Procurement practices and service delivery in local governments*. Kampala International University.
- Kapti, P. T. E., Kamil, M., & Salahudin, S. (2019). Implementation of the Integrity Zone Development Program towards a Corruption-Free Area and a Serving Clean Bureaucracy Region. *Journal of Local Government Issues (LOGOS)*, 2(2), 134–148.

- Made, W. H. (2017). Kedudukan Pejabat Pembuat Komitmen dalam Pengelolaan Keuangan Daerah di Kabupaten Sidoarjo. *JKMP (Jurnal Kebijakan Dan Manajemen Publik)*, 5(1), 61–74.
- Mahardhika, V. (2021). Pertanggungjawaban Pidana Pejabat Pembuat Komitmen Sebagai Upaya Pencegahan Korupsi Pengadaan Barang/Jasa Pemerintah. *Jurnal Hukum Samudra Keadilan*, 16(1), 140–155.
- Nambassa, G., & Nurmandi, A. (2024). EGDI Impact on Control Corruption in Africa: Exploring E-Government Development Index. *Policy & Governance Review*, 8(3), 269–283.
- Nila, B. S. B., & Wahyudi, R. (2024). Factors Affecting The Achievement Of The Integrity Zone Predicate For A Clean And Serving Bureaucracy (Wbbm) In The Office Of The Pekanbaru City Land Agency. *Indonesian Journal of Social Sciences, Policy and Politics*, 2(2), 54–61.
- Novius, A. (2024). Analysis of Factors Influencing Procurement Fraud in Government Agencies Environment (Case Study at Regional Apparatus in “XYZ” Regency). *InJEBA: International Journal of Economics, Business and Accounting*, 2(1), 76–86.
- Shaleha, Q. I., & Shaleha, S. M. (2021). The Implementation of Good Corporate Governance (GCG) Principles Over Goods & Services Procurement Over PT. Angkasa Pura Solusi. *Journal of Multidisciplinary Academic*, 5(3), 222–229.
- Sitompul, A. (2022). E-procurement system in the mechanism of procurement of goods and services electronically. *International Asia Of Law and Money Laundering (IAML)*, 1(1), 57–63.
- Susila, A., & Suharso, S. (2018). Eradication Development of Corruption and Neoliberalism in the Current Era. *Varia Justicia*, 14(2), 94–100.



licensed under a  
Creative Commons Attribution-Share Alike 4.0 International License