

Mapping Fraud Potentials in E-Purchasing Procurement in Indonesia

By:
Indonesia Corruption Watch

2023
Indonesia Corruption Watch

Published by:
Indonesia Corruption Watch

22 February 2023

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This research was made possible by
the support of Open Contracting Partnership.

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Part 1

Introduction

1.1 Background

Corruption in the public procurement sector continues to be a global issue. According to a report from the United Nations Office on Drugs and Crime (UNODC)¹, 10-25 percent of public money was lost to corruption in this sector. Meanwhile, in a 2014 report titled “The OECD Foreign Bribery Report”, the Organisation for Economic Co-operation and Development (OECD) indicated that 57 percent of bribery cases that involved foreign public officials were committed in order to win public contracts.²

The complexity of public procurement process creates opportunities that perpetrators exploit for their advantage, especially when the process employs a manual or face-to-face system. This situation led to initiatives to transform public procurement into an electronic process to minimize interactions between parties and to eventually closing the gaps for corruption.

This initiative was followed-up by the issuance of Presidential Regulation No. 54 of 2010 concerning Public Procurement. The regulation provides the basis to an electronic procurement system that Indonesia has now adopted and implemented. As part of that implementation, in 2015 the National Public Procurement Agency (NPPA) released e-purchasing method, which allows public agencies to make purchases directly from an electronic catalogue.

According to Salusra Widya, the Principal Secretary of the NPPA, direct purchase or e-purchasing represents one of the government’s endeavors to prevent fraud and corruption in public procurement.³ Additionally, this method is considered effective in expediting procurement process without compromising accountability.

At the same time, ministries/state institutions/local governments (together referred to as buyers) are mandated to use e-purchasing in the procurement of goods and services that are relevant to national and/or strategic interests adopted by a Minister, Head of Institution, or Head of Region.⁴

To promote the uptake of e-purchasing, in 2022 the government through the NPPA targeted to expand the number of products in e-catalogues to 1,000,000 (one million)

¹ United Nations Office on Drugs and Crime, *Guidebook on anti-corruption in public procurement and the management of public finances* (Vienna: United Nations, 2013), pg. 1.

² OECD (2014), *OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials*, OECD Publishing, accessed from <https://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm> on 21 March 2022.

³ LKPP, e-Purchasing Minimalisir Penyimpangan Pengadaan Barang/Jasa (*e-Purchasing Minimizes Procurement Fraud*), <https://latihan-lpse.lkpp.go.id/inaproclat/en/news/Berita/e-Purchasing-Minimalisir-Penyimpangan-Pengadaan-Barang-Jasa> accessed on 21 March 2022

⁴ E-purchasing tanya-jawab (FAQ), <https://e-katalog.lkpp.go.id/fag/detail-fag/Apakah-KementerianLembagaPemerintah-DaerahInstansi-Lainnya-KLDI-wajib-melakukan-ePurchasing-terhadap-barangjasa-yang-sudah-dimuat-di-dalam-eKatalog> accessed on 30 March 2023

items with a focus on domestic products.⁵ With more commodities available on the catalogues, buyers will have more flexibility in their purchase decisions.

With respect to the NPPA's annual state of procurement report, the number of e-purchasing transactions in the last three years made up 10 per cent of the total public procurement. The total procurement packages and cumulative transaction values in 2019 were 345,557 packages and Rp69.2 trillion; 295,532 packages and Rp49.5 trillion⁶ in 2020; and 228,207 packages and Rp49.7 trillion in 2021.⁷

While e-purchasing method is gaining traction, research that is focused on mapping fraud potentials in this particular method was yet to be conducted. This study is therefore pertinent for the government to formulate systems or policies to detect fraud in e-purchasing.

1.2 Purpose

This research aims to identify the steps in e-purchasing in public procurement method and map the fraud potentials that this method may have.

1.3 Timeline

This study was conducted for 8 (eight) months from March to October 2022.

1.4 Method

To map fraud potentials of e-purchasing in public procurement, we utilized two approaches. The first approach was literature study, where we collected various information and data that were relevant to understand the public procurement process where e-purchasing is used. We also examined corruption cases in the public procurement sector to ascertain the scale of corruption in this sector where e-purchasing method is in place. The data that we collected and analyzed included public procurement laws, regulations, and court decisions that are final and legally binding.

Our second method consisting of interview and focus group discussions (FGDs) with the NPPA to confirm the process of e-purchasing method in public procurement and the underlying regulations, and to explore past fraud potentials that had never been criminally investigated.

⁵ Presidential Instruction Number 2 of 2022 on Accelerating the Increase of Use of Domestic, Micro Enterprise, Small Enterprise, and Cooperative Products to Support Proud of Indonesian-Made Products Movement through Public Procurement, https://jdih.setkab.go.id/PUUdoc/176683/Inpres_Nomor_2_Tahun_2022.pdf accessed on 30 March 2022

⁶ LKPP, Profil Pengadaan Barang/jasa Pemerintah Tahun 2020 (*Public Procurement in 2020*) accessed from <https://ppid.lkpp.go.id/information/public/438/profil-pengadaan-barangjasa-pemerintah-tahun-2020> on 21 March 2022

⁷ LKPP, Profil Pengadaan Barang/jasa Pemerintah Tahun 2021 (*Public Procurement in 2021*) accessed from <https://ppid.lkpp.go.id/information/public/437/profil-pengadaan-barangjasa-pemerintah-tahun-2021> on 21 March 2022

1.5 Scope and Limitation

This research focused on public procurement activities that employ the e-purchasing method. This research analyzed fraud potentials at 2 (two) stages of the procurement process, namely commodity listing in e-catalogues and the purchase of those commodities using price negotiations.

In terms of limitation, this research is aware that there has never been a corruption procurement case that involves the e-purchasing method that was investigated and prosecuted by the authorities. As the result, the fraud potentials that this research describes rely primarily on the accounts of procurement experts based on the information they had gleaned when overseeing e-purchasing procurement.

Part 2

Overview and Analysis

2.1 Public Procurement in Indonesia

Procurement refers to the process of procuring goods/services by government buyers that entails phases from needs identification to the handover of procurement output.⁸ The goal of public procurement is to acquire goods/services that are commensurate to the money spent, measured by indicators of quality, time, cost, location, and suppliers and suppliers.⁹

Public procurement that is subject to the Presidential Regulation on Public Procurement¹⁰ is any procurement in ministries/institutions/local governments that is funded by the state/regional government budget (APBN/APBD, respectively); domestic loans and/or domestic grants; and procurement with full or partial funding from foreign loans or foreign grants.

From the above definition, it is clear that procurement activities under State-Owned Enterprises (SOEs) and the Regionally-Owned Enterprises (ROEs) are not subject to the procurement mechanism set out in the presidential regulation.

Generally, a buyer can procure a service or goods through a supplier or by exercising self-managed (*swake/ola*) procurement. Buyers are allowed to choose their preferred procurement method by taking into account value for money and procurement principles of efficiency, effectiveness, transparency, openness, competitiveness, fairness, and accountability.¹¹ The following figure illustrates procurement methods that Indonesia recognizes.

Figure 1. Procurement Methods in Indonesia

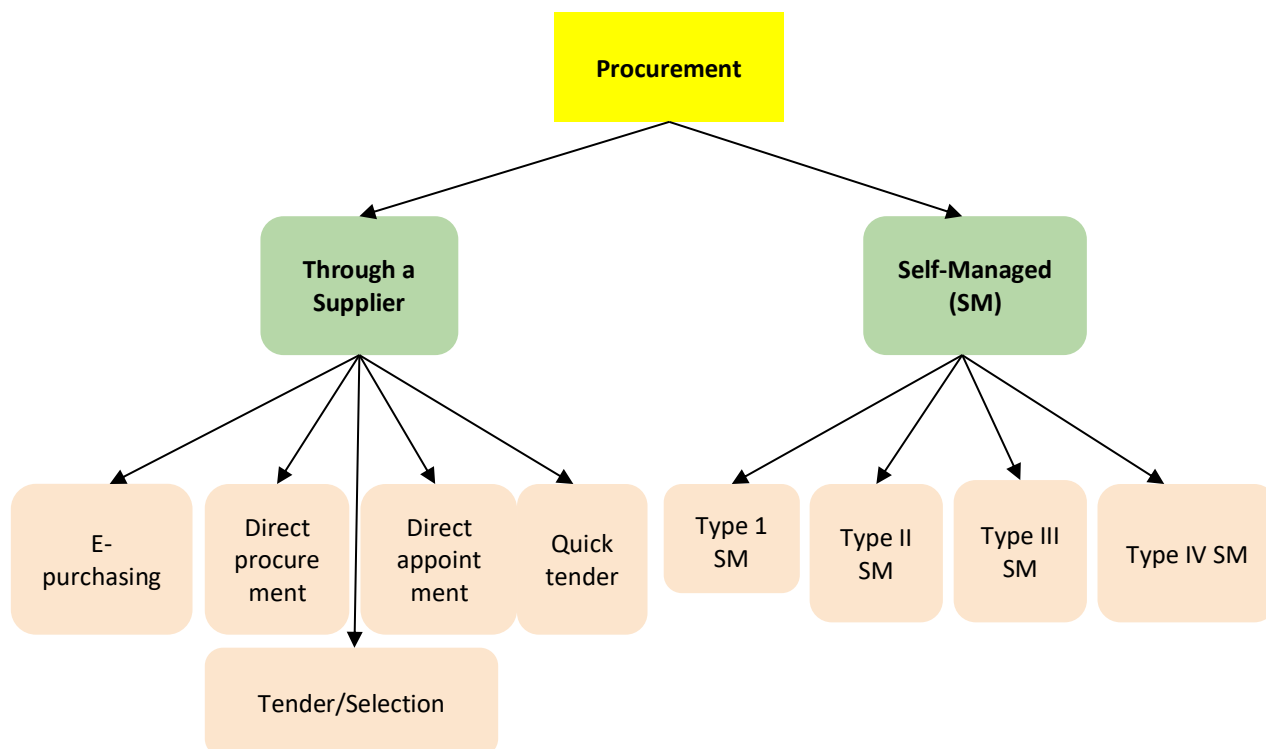
⁸ Presidential Regulation No. 16 of 2018 on Public Procurement, article 1 paragraph 1

<https://jdih.lkpp.go.id/regulation/peraturan-presiden/peraturan-presiden-nomor-16-tahun-2018> accessed on 21 March 2022

⁹ Ibid. Article 4 letter a

¹⁰ Ibid. Article 2

¹¹ Ibid. Article 6



source: Presidential Regulation 16/2018

As indicated in Figure 1, e-purchasing is one of the procurement methods that a public sector buyer can choose when they seek to procure goods and services through a supplier.

2.2 E-Purchasing as a Procurement Mechanism

E-purchasing is a procedure of acquiring goods/services using an electronic catalogue system.¹² The system contains list, types, technical specifications, level of domestic component, a commodity's status as a domestic product, compliance with Indonesian National Standards (SNI), green industry product, country of origin, price, supplier, and other information pertaining the goods/services.¹³

The government distinguished the electronic catalogue into three types¹⁴, namely:

1. National e-catalogue, developed and managed by the NPPA.
2. Sectoral e-catalogue, developed and managed by ministries. To date, 23 ministries¹⁵ have been registered as managers of sectoral e-catalogues.

¹² Ibid. Article 1 paragraph 35

¹³ Ibid. Article 72 paragraph 2

¹⁴ Ibid. Article 72 paragraph 1

¹⁵ LKPP, "Katalog Elektronik Sektoral (Sectoral E-Catalogue)", accessed from <https://e-katalog.lkpp.go.id/publikctr/popularcommoditylist?jenis=Sektoral> on 7 July 2022

3. Local e-catalogue, developed and managed by Local Governments.¹⁶ There are now 547 provincial/district/municipality governments that are registered as managers of local e-catalogues.¹⁷

Based on the commodities listed in e-catalogues, the buyer would then proceed with procuring the required services/goods with e-purchasing. There are several means of procurement under E-purchasing:

1. Price competition;
2. Mini-competition; and/or
3. Competitive catalogue.

Of those three, the government has only developed the price negotiation and mini competition features on the e-catalogue system, with the latter launched as early as 29 July 2022.¹⁸

2.2.1 Commodity nomination and publication in e-catalogues

Article 72 of Presidential Regulation Number 16 of 2018 concerning Public Procurement stipulates:

- the selection of commodities listed in electronic catalogues is performed by the buyer or the NPPA (paragraph 3)
- the selection of commodities in electronic catalogues shall use the tender and negotiation methods (paragraph 4)

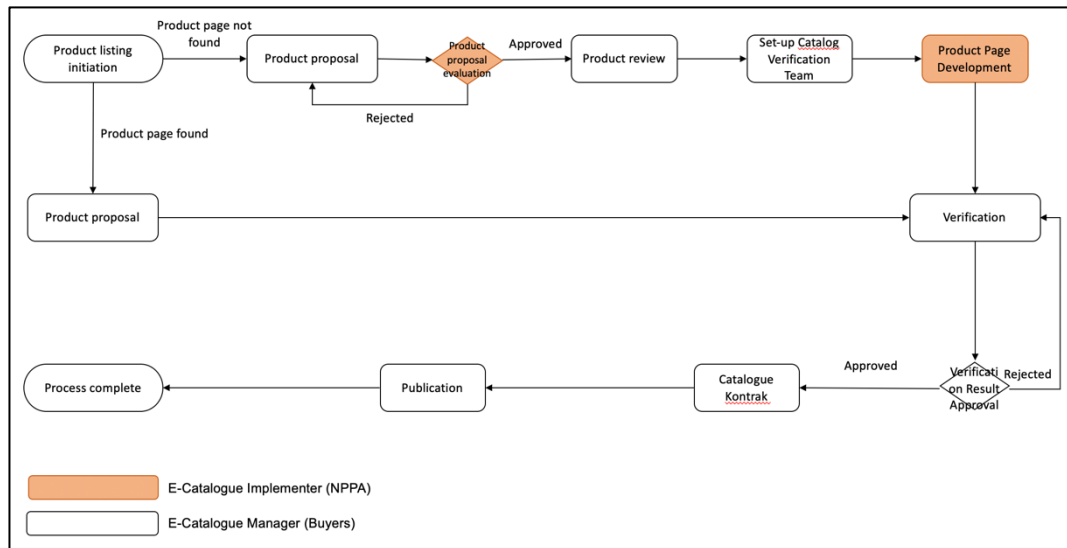
The article suggests that the buyer or NPPA can select commodities to be listed in e-catalogues. The said commodities are also required to pass the verification process by the NPPA's verification team. Additionally, products in e-catalogues may also be selected using tender and negotiation methods. Figure 2 shows in more details the process of a product listing on local and national catalogues.

Figure 2. Listing process of goods/services on local and national e-catalogues

¹⁶ LKPP, Perbedaan Katalog Elektronik Nasional, Katalog Elektronik Sektoral, dan Katalog Elektronik Daerah (*Distinctions Between National, Sectoral, and Local E-Catalogues*), <https://e-katalog.lkpp.go.id/faq/detail-faq/Apakah-bedanya-Katalog-Elektronik-Nasional-Katalog-Elektronik-Sektoral-dan-Katalog-Elektronik-Daerah> on 21 March 2022

¹⁷ Ekatalog, <https://e-katalog.lkpp.go.id/publikctr/popularcommoditylist?jenis=Lokal> on 6 July 2022

¹⁸ The mini competition feature was recently launched on 29 July 2022. Prior to this, price negotiation had been the only available feature on the system <https://e-katalog.lkpp.go.id/berita/baca-berita/Pemberitahuan-Fitur-Mini-Kompetisi>



Source: Decision of Deputy on Monitoring-Evaluation and Development of Information System No. 61 of 2022 concerning the Procedure of Electronic Catalogue Implementation

Figure 2 shows that product listing in e-catalogues requires at least eight phases. Central to this process is the verification phase that determines the product's acceptance in the e-catalogue. Verification is performed by a verification team from the NPPA, which examines product compliance with administrative requirements, analyzes commodity needs of the buyer, performs tender or negotiation to select a product/commodity to be listed on the e-catalogue, and carries out price negotiation in order to secure below-market prices.

In 2021, the government issued Presidential Regulation No. 12 of 2021 to amend Regulation 16 of 2018 on Public Procurement. The amendment revised Article 72 Paragraph 3 and omitted Paragraph 4 thereunder. Article 72 Paragraph 3 previously stipulated buyers' role of nominating a product/commodity to be listed in e-catalogues. Post-amendment, buyers are now responsible to manage their electronic catalogues. This amendment devolves the NPPA's authority of selecting potentially listed commodities to buyers. According to the NPPA, this amendment introduced a burden and responsibility sharing with buyers, whereby buyer is now involved to ensure that they can choose the best available goods/services and suppliers.¹⁹

One form of fraud that could potentially occur within the listing process in e-catalogues is bribery that could be attempted by a supplier, targeting the E-Catalogue Manager, to ensure that the supplier's commodities are listed or to circumvent the verification mechanism.²⁰

Furthermore, the omission of Paragraph 4 under Article 72 effectively eliminates the tender or negotiation process of commodities prior to their listing. Verification will then rely on commodities' listing background and administrative requirements, such as business permits, tax reports, deed of incorporation, status in the commodity blacklist, and pricing structure.

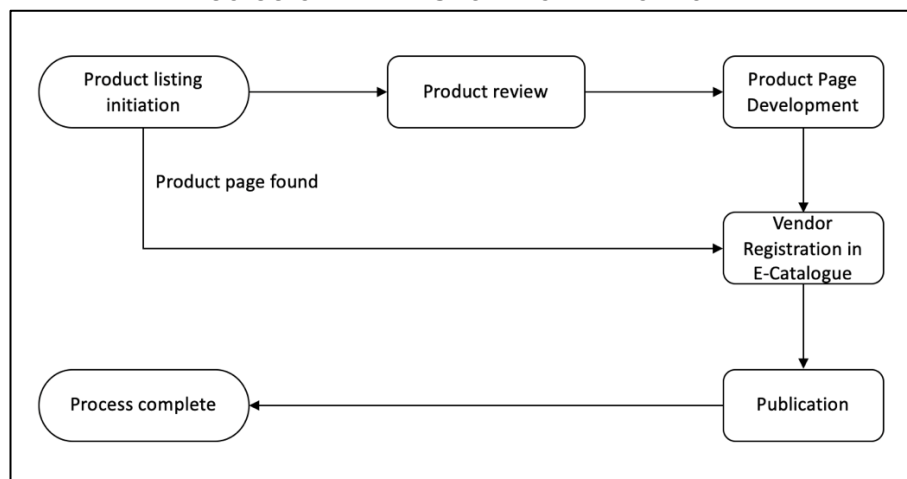
¹⁹ Informant. Public Official. FGD. Tuesday, 19 July 2022.

²⁰ Informant. Public Official. Online Interview. Thursday, 31 March 2022.

This new process shows that price negotiation by the verification team as part of product listing no longer applies. As the result, the listed/published price of a commodity on an e-catalogue now represents the Maximum Retail Price (MRP) applicable to government buyers instead of the best negotiated price. Under the new regulation, a government buyer that intends to use the e-catalogue now must exercise their own price negotiation in order to get the best price possible.

The NPPA has issued NPPA Chair Decree Number 122 of 2022, dated 1 April 2022, that describes in details product listing process in e-catalogues.

Figure 3. Listing process of goods/services on local and national e-catalogues – Decree of NPPA Chair No. 122 of 2022



Source: NPPA Chair Decision No. 122 of 2022 on the Procedures of E-Catalogue Implementation

Figure 3 describes product listing process in local and national e-catalogues. For local catalogues, the process starts with the listing initiation, while the process for national catalogues begins with product evaluation.

Decree of NPPA Chair No. 122/2022 stipulates a more streamlined process and easier product listing into e-catalogues. One major distinction that the decree brought was that a verification team is no longer required.

Azwar Annas, the then Chair of NPPA, conveyed that the bureaucracy of product listing process had been cut down/shortened from eight to just two phases.²¹

This, on the one hand, can certainly accelerate the target of having one million products listed in e-catalogues; on the other hand, buyers will need to spend more resources when selecting products/commodities from the catalogues to screen suppliers' qualification, product quality, and perform price negotiations to acquire the best price.

2.2.2 Price Negotiation in the Purchase of Goods/Services in E-Catalogues

As of today, the e-catalogue system only accommodates price negotiation and mini competition features, and the competitive catalogue is not yet available. In this section,

²¹ Lakukan Transformasi, e-Katalog LKPP Tembus 1,13 Juta Produk, Penyedia Kecil-Menengah Mendominasi (Transformation Executed, NPPA's e-Catalogues Now Have Over 1.13 Million Products with Small-Medium Suppliers Dominating the Lists), <http://www.lkpp.go.id/v3/#/read/6654>, 20 September 2022

we want to focus on examining fraud potentials in the procurement of commodities through e-catalogues where price negotiation method is employed. This method requires buyers to negotiate prices prior to agreeing to a transaction.²²

The Circular of the Director on Catalogue System Development number 27199/D.2.2/10/2022, dated 25 October 2022, states that the published prices in e-catalogues are not the final prices and that price correction/verification has to be performed through negotiation.²³

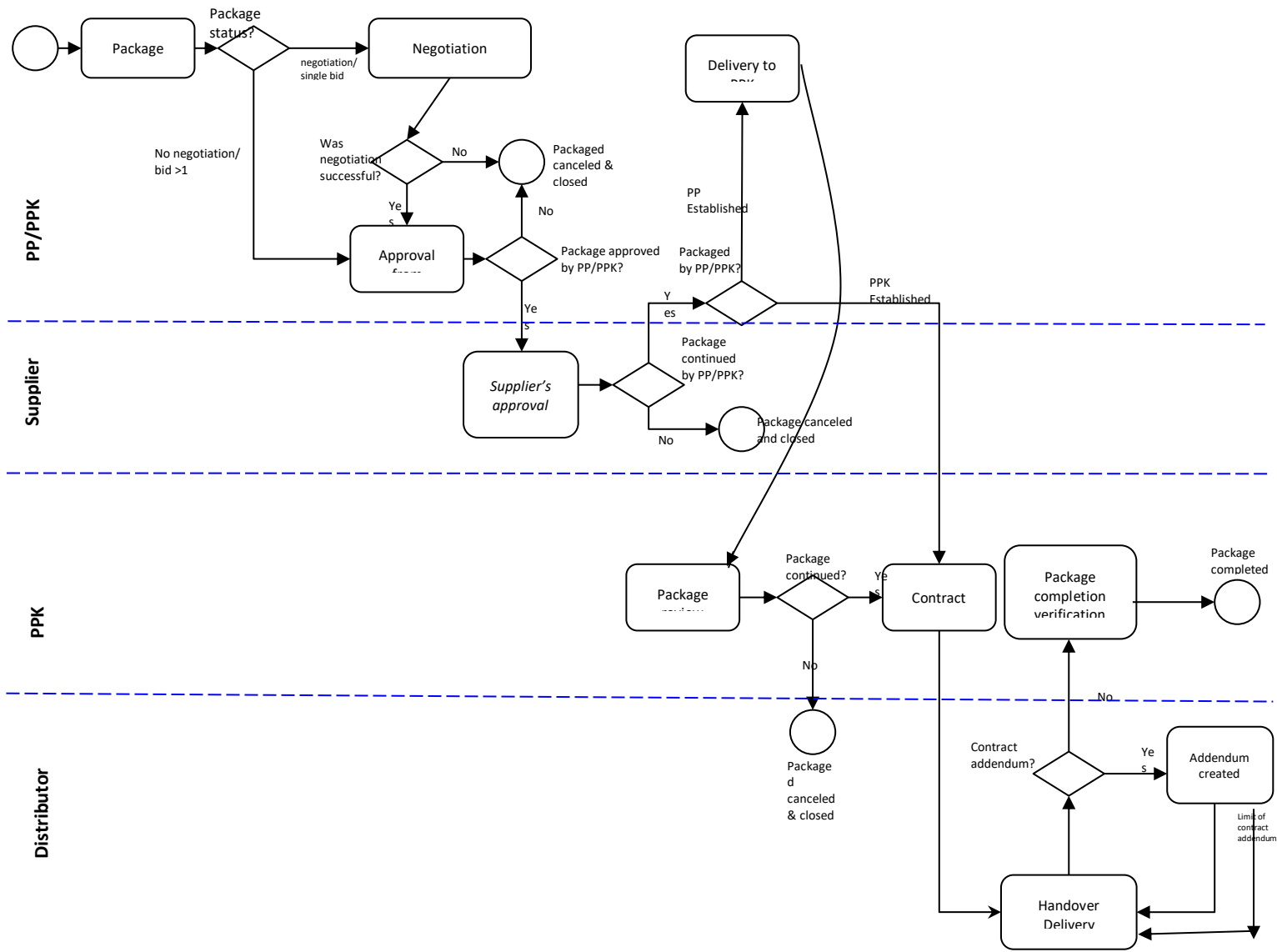
By regulation, when a purchase value exceeds Rp200 million (~US\$13,000), purchase order/procurement package formulation is carried out by a procurement official (*Pejabat Pembuat Komitmen*, henceforth PPK). For procurement packages under Rp200 million, the purchase order/procurement package is formulated by a procurement officer (*Pejabat Pengadaan*, henceforth PP).

Figure 4 describes in more details about product procurement through e-catalogue.

²² Informant. Public Official. Online Interview. Thursday, 31 March 2022.

²³ SE Direktur Pengembangan Sistem Katalog nomor 27199/D.2.2/10/2022
<https://lpse.dephub.go.id/eproc4/pengumuman/29300114>

Figure 4. E-Purchasing Flow Chart



Having examined e-purchasing procurement, ICW identified a total of eight gaps where procurement fraud could occur.²⁴ *One*, the potential of price fixing as the result of conspiracy between listed suppliers and the PP/PPK. Conspiracy may occur from the communications between PP/PPK, as the party authorized to create procurement packages in the system, with the supplier. Price fixing can be motivated by self-enrichment of the PP/PPK or the supplier.

Two, PP/PPK may not actually engage suppliers in price negotiations even when they have selected the negotiation feature for a procurement package. This could result in overspending of public budget and may lead to squandered state finances. The prices listed by suppliers in e-catalogues are the maximum price possible; if the PP/PPK go through with the negotiation mechanism, it can result to up to 30 percent cost-saving. Today, the e-catalogue system can only accommodate price negotiation method, which makes this method mandatory.²⁵

Three, the potential conspiracy between PP/PPK and suppliers during their transactions for “click cost” kickbacks. As the party that is authorized to select commodities to meet a buyer’s needs, there is potential that PP/PPK asks for a “click cost” to a supplier to guarantee a commodity’s purchase. The supplier then pays kickbacks to the PP/PPK as a reward for purchasing their commodities. This method of fraud also requires the PP/PPK and suppliers to communicate.²⁶

The kickback method was used in an alleged corruption in the procurement of computer units in 2018 for the purpose of computer-based test in schools, which involved the Education Office of Banten Province. The supplier in this case allegedly bribed the PPK in the amount of Rp60 million in order to secure their transactions.²⁷

Four, the PPK may not perform actual evaluation on the commodities delivered by a distributor. As the result, the commodities’ specification may be different from what the listed information in e-catalogues.²⁸

Five, supplier and PP/PPK may agree on a fictitious delivery cost. The delivery cost claimed by and paid to the supplier may be transferred to the PP/PPK who appear in person to pick-up the goods to the supplier’s location.²⁹

Six, conspiracy to manipulate delivery costs. The difference between claimed and actual cost is paid to the PP/PPK by the supplier. To achieve this, during transaction process, PP/PPK would have to communicate with the supplier to deliver the

²⁴ *Ibid.*,

²⁵ *Ibid.*,

²⁶ *Ibid.*,

²⁷ Banten Hits, “Pegawai yang Klik Diduga ‘Disawer’ Rp60 juta, PT Astragraphia Xprins Indonesia Hormati Penyelidikan Korupsi Pengadaan Komputer UNBK 2018” (Staff Allegedly ‘Tipped’ Rp60 Mil Per Click, PT Astragraphia Xprins Indonesia Respects Investigation Into Suspected Corruption in Computer Procurement for the 2018 CBT in Schools), accessed from <https://bantenhits.com/2022/03/04/pegawai-yang-klik-diduga-disawer-rp-60-juta-pt-astragraphia-xprins-indonesia-hormati-penyelidikan-korupsi-pengadaan-komputer-unbk-2018/> on 5 July 2022.

²⁸ Informant. Public Official. Online Interview. Thursday, 31 March 2022.

²⁹ *Ibid.*,

purchased goods to a different location than the intended destination. Suppose a PP/PPK from District X purchased a certain item in the e-catalogue from a supplier – located closer to District Y than to District X. The PP/PPK may then ask the supplier to deliver the item to District Y instead, under the agreement that the supplier would transfer to the PP/PPK the difference of delivery cost that the supplier claims.³⁰

Seven, buyers may encourage suppliers to list their commodities to e-catalogues to increase their sales potential. Nevertheless, a transaction may only occur merely one time by any of the buyer.³¹

Eight, PP/PPK selects more expensive commodities. The e-catalogue system may list similar commodities with different prices; in this case, the PP/PPK is required to select the commodity with the most competitive price that can meet the buyer's needs.³²

³⁰ *Ibid.*,

³¹ *Ibid.*,

³² *Ibid.*,

PART 3

Conclusions and Recommendations

3.1 Conclusions

Based on our assessment on fraud potentials in public procurement that uses e-purchasing method, our conclusions are as follows:

1. Regulation amendments that target commodity listing in e-catalogues have indeed made the listing process easier for suppliers. On the other hand, buyers now have a greater responsibility when going through e-catalogues to screen supplier's qualification and product quality. Given that suppliers now publish MRP as their listed price, buyers also need to carry out price negotiations.
2. The procurement process using e-catalogue fails to identify a specific stage to verify the consistency of the delivered goods/items with the listed specification in the catalogue. The process does identify a package completion verification step, but only to assess the supplier.
3. Fraud potentials in e-purchasing method emerge not only at the purchasing stage, but also at the product listing stage.
4. ICW identified nine fraud potentials in e-purchasing; one at the listing stage and eight during the purchase process.

3.2 Recommendations

Informed by our findings, ICW recommends the following:

1. The NPPA must immediately publish transaction data that involve e-purchasing segregated by buyer.
2. The NPPA needs to set up a public oversight channel to allow public monitoring on product verification and listing to dissuade and deter conspiracies.
3. The NPPA should ensure that a package completion verification is equipped with another mechanism to verify the consistency of delivered goods/services and their listing documents in e-catalogues.

The NPPA must ensure that any and all correspondence between PP/PPK and suppliers are documented in the system to minimize the room for bribery.



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