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Versi Bahasa Indonesia

Enforcement Date

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Related ILB

- Presidential Regulation on Government Procurement: a Relatively Comprehensive Framework, in Anticipation of a Law
- Amendment on Government Procurement of Goods and Services
- President Improves Goods/Services Procurement Provisions
- Utilization of Domestic Product on Public and Non-Government Funded Procurement
- Terms of Payment for Government Construction Projects

Provisions on E-Procurement and Public Construction Procurement Redefined

Presidential Regulation [No. 4 of 2015](#) ("Fourth Amendment") was recently issued to Amend Presidential Regulation [No. 54 of 2010](#) on Government Procurement ("54/2010 Regulation").¹

The Fourth Amendment changes the procedures for the procurement of goods /services by government institutions, agencies, and ministries, covering:

- a. Criteria to directly appoint contractors;
- b. Payment methods for construction services procurements;
- c. Performance bonds; and
- d. Electronic procurement (E-Procurement).

Prior to the Fourth Amendment, the 54/2010 Regulation has been amended three times by the following regulations: 1) Presidential Regulation [No. 35 of 2011](#);² 2) Presidential Regulation [No. 70 of 2012](#) ("Second Amendment");³ and 3) Presidential Regulation [No. 172 of](#)

[2014](#).

The Fourth Amendment is relevant to parties taking part in government procurements for construction services held by governmental institutions, agencies, and ministries ("Contractors").

Direct Appointment

An important distinction to note is that "direct appointment" must not to be confused with "direct procurement". Direct appointment means certain goods/services are procured directly by appointing a supplier. Direct procurement, on the other hand, is the procurement of goods/services carried out without undergoing the process of a tender/selection/direct appointment.⁴

Direct appointment/procurement may be conducted by a procurement official (*pejabat pengadaan*) at a government institution, agency, or ministry. The official may directly appoint/procure a contractor to carry out construction work that meets the following criteria:⁵

- a. Value of the construction project is less than IDR 200 million; and/or
- b. Value of the consultation services for the construction project is less than IDR 50 million.

¹ For more information on 54/2010 Regulation, see ILD [No. 173](#).

² For more information see ILB [No. 1710](#).

³ For more information on the Second Amendment, see ILB [No. 1979](#).

⁴ Art. 1 (31) and (32), Fourth Amendment.

⁵ Art. 1 (31) and 17 (2) (h), Fourth Amendment.

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Previously, the IDR 200 million and IDR 50 million thresholds only applied to direct procurement.⁶

Payment Methods

In general, the 54/2010 Regulation provides three types of payment methods for the procurement of goods/services, namely: 1) monthly payment; 2) payment based on work progress; or 3) lump-sum payment. Under the Fourth Amendment, the procurement of construction services must be made based on work progress.⁷

Payment in advance is possible provided that:⁸

- a. Collateral was provided at the time of or before the advance payment is made;
- b. The nature of the procured construction work requires advance payment and a guarantee has already been provided;
- c. Payment is for uninstalled equipment which is part of the completed construction work.

These exceptions were not included in the Second Amendment.⁹ A Ministerial Regulation will further regulate point "b" above.¹⁰

Performance Bond for Construction Work

Appointed contractors must deposit a performance bond if the value of the services to be provided is greater than IDR 200 million. However, this obligation can be waived on any of the following grounds:¹¹

- a. The procurement is performed through the following method: direct procurement, direct appointment, procurement in emergency situations, contests, or competitions (*sayembara*);
- b. The procurement official has possession of the contractor's assets; or
- c. The procurement was carried out using the E-Purchasing method.

Previously, an exemption from depositing a performance bond was possible for point "b" above as provided for under the Second Amendment.¹²

E-Procurement

The Fourth Amendment sets out a number of new provisions on E-Procurement. One such provision requires all government procurements to now be carried out electronically.¹³ Previously, government institutions, agencies and ministries had the option of holding procurements for their goods/services either electronically (E-Procurement) or manually.¹⁴

E-Procurement is comprised of: E-Tendering and E-Purchasing.¹⁵ As of the Fourth Amendment coming into force, every governmental institution, agency and ministry must use the E-Procurement system provided by the Policy Board for Government Procurement of Goods/Services (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah* -

⁶ Art. 1 (32) and 17 (2) (h), Second Amendment.

⁷ Art. 89 (1) (2a), Second Amendment.

⁸ Art. 89 (4), Fourth Amendment.

⁹ Art. 89, Second Amendment.

¹⁰ Art. 89 (4a), Fourth Amendment.

¹¹ Art. 70 (1) (2), Fourth Amendment.

¹² Art. 70 (1), Second Amendment.

¹³ Art. 106 (1), Fourth Amendment.

¹⁴ Art. 106 (1), Second Amendment.

¹⁵ Art. 106 (2), Fourth Amendment.

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“LKPP”).¹⁶ Additionally, a Purchase Order Receipt issued through the E-Procurement system constitutes a purchase order (proof) between the procurement official and supplier.¹⁷

The E-Tendering system is designed to provide all information on government procurements, covering: 1) announcement of a procurement of goods/services; 2) bidding; and 3) announcement of the awarded supplier.¹⁸ Although E-Tendering is now mandatory, E-Tendering only applies for procurement of goods/services that:¹⁹

- a. Do not require an assessment of the participant’s qualifications, an administrative assessment, and a technical assessment ; and
- b. Do not include a rebuttal or rebuttal appeal from other participants.

The E-Purchasing system, on the other hand, is an internet portal managed by the LKPP. The portal provides a list of goods/services for purchase by the government, known as an electronic catalogue (“E-Catalogue”). Goods / services listed on the E-Catalogue must be acquired via the E-Purchasing system.²⁰

Previously, the abovementioned provisions on E-Procurement were not included in the 54/2010 Regulation.

The Fourth Amendment has been in force since 16 January 2015.

¹⁶Art. 108 (3), Fourth Amendment.

¹⁷Art. 55 (1) (e) and 55 (6), Fourth Amendment.

¹⁸ Art. 109 (1) and 109A (3), Fourth Amendment.

¹⁹ Art. 109A (2), Fourth Amendment.

²⁰ Art. 110, Fourth Amendment.

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