

# Analysis of Corruption in the Construction Procurement in Accordance with Presidential Regulation No. 16 of 2018

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## ABSTRACT

Corruption is widespread and well-organized in all sectors of life, one of which is particularly concerning in the construction industry. Efforts to prevent corruption are a necessity that can be utilized as a solution to reduce corruption in the construction industry's procurement process, because construction failure can have disastrous effects on the general public. Presidential Regulation No. 16 of 2018 is released to reduce the occurrence of corruption in the construction work procurement program. Although many regulations and legislation relating to the procurement of government products and services including anti-corruption actions and fines have been issued, corruption still persists. This paper attempt to assess the impact of Presidential Regulation No. 16 of 2018 on avoiding corruption in construction procurement. The internal and external factors that drive corruptions in the procurement of the construction industry were identified using a SWOT matrix approach. Internal Factor Strategy (IFAS) and The External Factor Analysis Strategy (EFAS) and their matrix analysis were identified for concerted efforts to achieve the prevention of corruption in the construction industry. Based on the matrix analysis, different alternative strategies were proposed. The result of discussion shows that the efforts can be achieved by placing persons according to their competence, maximizing anti-corruption campaigns and instilling state defence in managers and providers, and increasing public awareness of the job procurement process. The proposed recommendations in the present study can be used to reduce the occurrence of corruption in the construction work procurement program.

*Keywords:* Construction Procurement; SWOT Analysis; Presidential Regulation No. 16 of 2018; corruption prevention

# **1. INTRODUCTION**

The national development program of Indonesia is an activity aimed at strengthening the Indonesian nation and state in order to realize the national goals, which include a just and wealthy society. Government purchase of goods and services is an example of one of the government policies and programs that contribute to national development by improving public services, developing national and regional economies, and increasing budget efficiency. Corruption still exists in the implementation of the purchase of goods and services, which is the polar opposite of the procurement of goods and services' objective.

According to ICW researcher Wana Alamsyah, who spoke to Kompas.com on Thursday, 7 February 2019 [1], corruption in Indonesia occurs not only in central government agencies/institutions but also at the regional level. She said that about 89 percent of corruption cases occur in local governments, namely at the provincial, district, city, and village levels. Table 1 shows the corruption crimes committed by institutions.

#### **Table 1** Corruption Crimes by Institution [1]

Institution	2015	2016	2017	2018	2019	Total
People's Representative Council and Regional People's	3	15	9	4	7	38
Representative Council Government ministries/agencies	21	39	31	47	44	182
State-owned enterprises and regional-owned enterprises	5	11	13	5	17	51
Commission	0	0	0	0	0	0
Provincial government	18	13	15	29	11	86
District government	10	21	53	114	66	76
Total	57	78	68	85	145	433

The corruption case of government procurement of goods and services is the second most common type of case handled by the KPK. This is in line with statistics from KPK@go.id in 2019 [2] on the prosecution of

criminal acts of corruption based on the kind of case category, which shows that cases of corruption in the procurement of goods and services are ranked second after bribery, as shown in Table 2.

Table 2 Corruption Crimes by Type of Case [2]

Type of case	2015	2016	2017	2018	2019	Total
Procurement of Goods/Services	14	14	15	17	18	78
Agreement	1	1	2	1	0	5
Bribery	38	79	93	168	119	497
Charges	1	1	0	4	1	7
Budget Abuse	2	1	1	0	2	6
Money laundering crime	1	3	8	6	5	23
Obstructing the Commission's Process for Combating Corruption	0	0	2	3	0	5
Total	57	99	121	199	145	621

The construction industry's procurement of goods and services is a mechanism for executing development for the community's benefit. When a criminal act of corruption occurs, it means that the construction development is not being carried out in compliance with the needed technical specifications and construction provisions. As a result, the results of development implementation will swiftly deteriorate or break down. Even more hazardous is the possibility of accidents or disasters claiming the lives of the building's occupants. Given the significant impact of corruption on the purchase of goods and services, particularly construction, a well-managed construction procurement process in line with current legislation is necessary. The government has passed Presidential Regulation No. 16 of 2108 regulating government procurement of goods and services to combat abuse of power and even prevent corruption [3]. As a refinement of the earlier presidential regulation, the presidential regulation is thought to be one of the instruments that can combat corruption in government procurement of goods and services. This presidential regulation is intended to provide guidelines for regulating and implementing procurement of goods and services in order to achieve maximum value for money and contribute to increasing the use of domestic products, the role of micro, small, and medium enterprises, and sustainable development.

Despite the fact that presidential order no. 16 of 2018 governing the procurement of government goods and services has been issued, the KPK report in the Annual Report 2019 on Case Handling indicates that corruption remains widespread. According to the KPK report, there were still 23 cases of corruption in the construction industry, 19 cases of corruption at State-owned enterprises, and 77 cases of corruption in the Government ministries [4]. It is vital to conduct research utilizing a SWOT analysis to assess how far presidential regulation No. 16 of 2018 has helped to avoid corruption. The idea is that SWOT may be utilized as a paradigm for examining both profit and non-profit organizations with the goal of better understanding the current state of the organization [5]. The benefit here is that Presidential Regulation No. 16 of 2018 is expected to be able to function as a tool for avoiding corruption and maximizing value for money. The goal of this research is to show how the SWOT analysis of Presidential Regulation No. 16 of 2018 works to prevent criminal acts of corruption in construction procurement.

#### 2. METHOD

The research method utilized in this study is qualitative research, which involves gathering information from the object or participant across a broad range of questions. The participants' words or texts were used to obtain the majority of the data. Word analysis is a subjective process. This study also draws on data from the literature [6] and [7], specifically literacy in relation to internal and external factors that influence corruption. Then, under the effect of Presidential Regulation No. 16 of 2018, the weighting is given and indicated in the SWOT analysis table in order to obtain the circumstances of corruption in the procurement of construction services. SWOT analysis is a straightforward framework for developing alternative plans based on a situation analysis that identifies internal components as strengths or weaknesses and external factors as opportunities or threats [8].

The internal and external factors driving corruptions in the procurement of the construction were identified using a SWOT matrix approach. The internal factors include the positive strengths and negative weaknesses. Whereas, the external factors comprise positive opportunities and negative threats. Subsequently, the matrix analysis of the Internal Factor Strategy (IFAS) and the External Factor Analysis Strategy (EFAS) were identified for the rule that must be present in the fight against corruption. The positions of corruption prevention based on the internal and external factors were then scored using the Internal-External SWOT Matrix model. Finally, the SWOT strategy matrix were drawn based on the combination of Internal Factor Evaluation (EFI) Strengths and Weaknesses with External Factor Evaluation (EFE) Opportunities and Treats for the recommended alternative strategies. The study's findings are likely to yield recommendations for preventing corruption.

## 3. RESULT AND DISCUSSION

The first step in the SWOT analysis is to identify the factors that drive corruption in the construction industry, including those that directly influence those from within and those that do not. The sources for discussion are taken from Presidential Regulation 54 of 2010 [9] and its amendments, Presidential Regulation 16 of 2018.

# 3.1. SWOT Analysis of Internal and External Factors

The procurement of building work can have a good or bad impact depending on internal and external factors that influence corruption. The internal factors that directly affect the prevention of corruption in construction procurement are categorized as positive strengths and negative weaknesses, while external factors that influence the prevention of corruption are classified as positive opportunities and negative threats.

#### 3.1.1. Strength

 a) The Integrity Pact is a commitment to avoid and not commit collusion, corruption, and nepotism in the procurement of goods and services (Article 13 of Presidential Regulation 54 of 2010). This suggests that if all parties involved in construction procurement (PPK, Committee, Provider, PPHP, and Wasyek) follow the integrity covenant, corruption can be avoided.

- b) Government Procurement of Goods and Services Standard Operating Procedures (SOP) are guidelines or procedures for carrying out construction procurement that are followed systematically in the completion of construction work with the goal of achieving effective and efficient work results. The level of corruption will, of course, be reduced if the SOP is adopted.
- c) Procurement organizational structure, with the principle that some procurement units be accommodated in autonomous work units so that their role may be maximized in not getting involved even if they can prevent criminal acts of corruption.
- d) According to Presidential Regulation No. 16 of 2018, Article 74, the objective is that ASN/TNI/Polri, as human resources in charge of procurement, have expertise in the field of goods and services procurement. Competence entails not only possessing a certificate of competence in the procurement of goods and services, but also being academically qualified and/or having experience and knowledge of building work, in order for procurement to deliver the best possible value.
- e) Procurement honours: construction work procurement management personnel have received honoraria for managed work packages that are not influenced by the amount of salary + other benefits, the amount of which is regulated by PMK No.78/PMK.02/2019. Of course, the honoraria will provide awareness for procurement managers not to commit criminal acts of corruption with the honorarium.
- f) With technological advancements, the current goods and service procurement system is implemented online, making it more open and transparent to all parties, including providers, managers, APIP, and the community/stakeholders, and limiting space and movement for corruption in the application.

#### 3.1.2. Weaknesses

- a) Awareness of leadership: The procurement manager's leadership in the execution often doesn't care because he lacks the necessary expertise, so he delegated it to subordinates or appointed teams with low oversight and control. This can make it easy for their subordinates to oversee projects that lead to illicit activity.
- b) Purchasing and selling projects: Purchasing and selling projects still happens in the construction industry, which means that the supplier pays a particular amount of money to get or win the contract. According to data from KPK@go.id, the procurement of goods and services ranks second in terms of corruption.
- c) The Procurement Document, which serves as a guideline for the procurement of construction work,

is not yet defined in the technical requirements, making it vulnerable to abuse during project implementation. The Advisory Team or Expert Team was not used in the development of procurement documents, resulting in contract document changes. It has the potential to be abused.

- d) Project Administration: Although the project manager receives an honorarium from the state, he or she frequently requests project administration funds, particularly when establishing payment terms for work performed.
- e) The Presidential Regulation on the Procurement of Government Goods and Services does not include the phrase "honest." Honesty must be included in the government's procurement standards or ethics. Because it is not required by law, procurement players, including rice suppliers, are not required to be honest.
- f) Some procurement managers lack a thorough understanding of the application of syrup, SPSE, and LPSE, such as e-tendering and e-catalogue, slowing down the procurement process and selection of ineffective procurement methods.

#### 3.1.3. Opportunities

- a) The Anti-Corruption Law, Law No. 19 of 2019, amending Law No. 30 of 2002 [10], addresses the Corruption Eradication Commission for the second time. According to Article 6, the Corruption Eradication Commission is responsible for adopting preventative measures to ensure that corruption does not occur, as well as for creating possibilities in the fight against corruption.
- b) In this case, APIP, the government's internal supervisory apparatus, is in charge of supervising the implementation of the construction work procurement through audits, reviews, monitoring, evaluation, and other supervisory activities so that it can run transparently and in accordance with the provisions of construction procurement.
- c) The Corruption Eradication Commission's anticorruption campaign is one of the commission's responsibilities in preventing corruption in the public sector and in the procurement of construction projects so that corruption can be eradicated.
- d) Public concern and community engagement are the community's right and role in the administration of a corrupt-free state and as a social check on corruption, according to Government regulations No. 71 of 2000 [11]. The public's active interest in engaging in the intrinsic supervision of the development program/construction work procurement in their region will reduce, if not eliminate, corruption.
- e) The government gives appreciation to people who play an active role in preventing and eradicating corruption, in accordance with applicable regulations, so that people are motivated to participate in achieving a corruption-free government. By convention, procurement managers

who are successful in obtaining an efficient tender value are rewarded.

f) The spirit of defending the state, the construction project manager, and, of course, the ASN/TNI/Polri who have been trained in state defence, so that by awakening the spirit of defending the state, patriotism is cultivated and they are brave to uphold the truth and reject gratification and corruption.

#### 3.1.4. Treats

- a) Permissive culture, in which corrupt officials do not feel humiliated and, after being proven guilty, volunteer to represent the council.
- b) Because of the fear of being removed from the office or relocated to a distant location, or on the grounds that the service provider working on the tender results is of questionable quality, the leadership is extremely likely to intervene in the tender process to win over one of the service providers. Corruption is a threat.
- c) The provider's gratification/gratification is one of the tricks of the provider by giving something with the intention of winning the tender/obtaining the project, which will result in the construction work not being completed in accordance with the specified speck, causing quality and quantity issues.
- d) Procurement planning that is developed and presented does not always match the stated targets and budget ceiling amount, resulting in changes in work/revision of planning papers, making them vulnerable to fraud and corruption.
- e) Implementation and monitoring of the project: Because field supervisors are the backbone of the success of construction work, if there is flirtation between supervisors and project implementers, the quality of the building will be a victim of corruption in project implementation.
- Mechanism or System for Reporting: The State f) Budget funds construction projects, and payments are given on a term basis in accordance with the contract. Submission of terms is something that is frequently done not in accordance with job performance, and on the other hand, the procedure for submitting terms must be accompanied by a fairly complicated administration, requiring approval from the field supervisor, PPK, Urji, Treasurer, and others, where it is rare to run without an envelope, even if the contents of the envelope are enlarged to submit terms that do not match the progress of the work, and where without an envelope, it is rarely possible to run, even if the contents of the work.

#### 3.2. Internal Factor Strategy (IFAS)

The Internal Factor Strategy is shown in Table 3. According to the findings of the External Strategy Factors/EFAS matrix analysis, the Anti-Corruption Law, for example, is the absolute power that must exist in the fight against corruption:

- a) The Corruption Eradication Commission Act of 2019.
- b) Strengthening the Government's Commitment to Preventing Corruption, Presidential Regulation No. 54 of 2018.
- c) PP No. 71 of 2000 on Public Corruption Prevention.
- d) Anti-Corruption Education for Colleges.

The legislation is a legislative framework for the enforcement and eradication of corruption, as well as a deterrent effect or deterrence not to commit corruption, with the goal of preventing corruption as the starting point. When it comes to construction procurement, the Standard Operating Procedure on the Procurement of Construction Work is a guide and guide for the implementation and management of construction procurement, which, if prepared in accordance with Presidential Regulation No. 16 of 2018 and implemented responsibly, will be directly free of corruption.

Corruption in construction procurement will be suppressed even more if it is staffed by competent human resources for construction procurement, both as managers (KPA, PPK, Committee, Supervisor, PPHP, Paku) and as providers who understand the presidential regulations for construction work procurement so that it runs smoothly and without corruption. The Integrity Pact is a self-declaration by the construction procurement manager not to commit a criminal act of corruption, which will, of course, give him the mental strength to avoid it. Village procurement is managed through the LKPP (Government Goods/Services Procurement Policy Agency) with the LPSE (Electronic Procurement Service) system, which will significantly reduce face-toface meetings and thus reduce corruption. The amount of the honorarium for the construction procurement manager has been set by the Minister of Finance, and it is based on the procurement budget ceiling. Because the construction procurement manager will be under a lot of strain, and if the leader does not back up, the construction procurement will fail. Furthermore, the lack of honesty in Presidential Regulation No. 16 of 2018 is the polar opposite of anti-corruption, and the numerous administrative procedures for building procurement are frequently abused to commit corruption, which is a flaw in the anti-corruption strategy. Procurement documents are vulnerable because they are not carefully produced, and procurement dynamics frequently alter owing to leadership preferences. The ability to master IT has not been evenly regulated by procurement managers, resulting in frequent delays in innovation and creativity connected to the creation of LKPP/LPSE applications. Buying and selling projects is a form of corruption that has gone unpunished since it does not directly hurt the state, i.e., the work is not carried out by the tender winner, lowering the quality of the job, which PPK/KPA are unaware of.

	Factors of internal strategy	Weight	Rating	Weight X Rating				
Strei	Strength							
1.	Integrity pact	0.10	4	0.40				
2.	Procurement SOP	0.15	4	0.60				
3.	Anti-Corruption Law	0.20	4	0.80				
4.	Procurement HRD	0.13	4	0.53				
5.	Procurement honour	0.08	3	0.24				
6.	Transparency/On line	0.12	3	0.36				
Wea	knesses							
7.	Leadership awareness	0.01	2	0.02				
8.	Projects trading	0.03	2	0.06				
9.	Procurement Documents	0.05	1	0.05				
10.	Project Administration	0.04	1	0.04				
11.	No "honest"	0.04	1	0.04				
12.	IT Capabilities	0.05	1	0.05				
T o t	al	1.00	30	3.19				

Table 3 Internal Factor Strategy

# 3.3. The External Factor Analysis Strategy (EFAS)

The External Factor Analysis Strategy (EFAS) is shown in Table 4. According to the results of the analysis of the External Factor Strategy/EFAS matrix in Table 4, external factors that become opportunities for significant corruption prevention can be carried out with anticorruption campaigns, meaning that they provide socialization about corruption, both types of models and types of acts. Bribery, threats of punishment, and rewards for those who report bribery The formation of a religious, patriotic spirit that defends the interests of the state and society will also enable them to avoid corruption because it instils a determination not to commit corruption and the courage to uphold the truth if there is corruption. Because removing corruption is the obligation and responsibility of all levels of society, giving rewards is the tiniest opportunity to prevent corruption. The internal factor that becomes the greatest threat in preventing corruption is the intervention of the leader/supervisor in a negative context. With his power, the leader is able to provide policies that benefit himself, using satire and indirect threats to ensure that he follows through and obeys according to his policies, which will then be followed by his members, added to the mechanism of budget reporting and withdrawal. Starting with receiving letters, dispositions, and ratifications, sticky notes are required to keep things running smoothly, so that huge corruption occurs, even if the value is tiny, and the country and the nation suffer. Furthermore, the project's planning, implementation, and supervision pose a risk, beginning with the planning stage, for example, planning according to orders by increasing the volume of work or prices, and continuing through the implementation stage, for example, not completing the work and sharing the budget with the supervisor, and so on. Not less risky is gratification, which entails giving something in exchange for a tender; of course, the gratuity budget is deducted from project finances, resulting in suboptimal job results. And what is odd about this country is the permissive and shameless attitude. Despite the fact that they had been convicted of corruption, he offered to be a member of the council once his term was completed.

Table 4 External Factor Strategy/EFAS

	Factors of internal strategy	Weight	Rating	Weight X Rating
Орра	ortunities			
1.	Anti-Corruption Law	0.15	3	0.45
2.	The role of APIP	0.10	4	0.40
3.	Anti-corruption campaign	0.15	4	0.60
4.	Public concern	0.13	4	0.53
5.	Award	0.05	3	0.15
6.	National Spirit	0.17	3	0.51
Trea	t			
7.	Permissive culture	0.06	2	0.12
8.	Leadership intervention	0.02	2	0.04
9.	Persuade of providers / gratuities	0.03	2	0.06
10.	Procurement Planning	0.05	1	0.05
11.	Project Implementation and Monitoring	0.05	1	0.05
12.	Reporting Mechanism	0.04	1	0.04
T o t	1 0	1.00	30	3.00

#### 3.4. Matrix Analysis: Internal - External (IE)

The next step is to determine the position of corruption prevention based on an analysis of the total score of internal and external factors using the Internal– External SWOT Matrix model [8], where the total score of the External Factor Evaluation Matrix (EFE) is 3.00, the total score of the External Factor Evaluation Matrix is 3.19, and the average is 3.03. The SWOT Internal-External Matrix Table, as shown in Table 5, is used to apply these.

Table 5 Matrix of Internal-External Factors

			<b>Total Score IFS</b>	
	ЕГЕ	High (3-4)	E F I Average (2-3)	Low (1-2)
EFS	High (3-4)	1	2	3
Score		Growth	Growth	Retrenchment
900	Average (2-3)	4	5	6
al		Stability	Growth/ Stability	Retrenchment
Total	Low (1-2)	7	8	9
H		Growth	Growth	Retrenchment

The Internal-External Matrix is the result of the analysis of Table 3, and it is in quadrant 3, indicating that corruption prevention is in a weak state or retrenchment, necessitating concerted efforts to achieve corruption prevention in the construction procurement context.

#### 3.5. Alternative Strategy

The next step is to categorize the weak condition/retrenchment into several alternative strategies based on an analysis of the combination of Internal Factor Evaluation (EFI) Strengths and Weaknesses with External Factor Evaluation (EFE) Opportunities and Treats [8], see Table 6 for more information.

#### Table 6 SWOT Strategy Matrix

		EFI	
EFE	<ul> <li>Opportunities (O)</li> <li>1. Anti-Corruption Law</li> <li>2. APIP's Role</li> <li>3. Anti-corruption campaign</li> <li>4. Community concern</li> <li>5. Awards</li> </ul>	<ul> <li>Strengths (S)</li> <li>1. Integrity Pact</li> <li>2. Procurement SOP</li> <li>3. Procurement Organization</li> <li>4. HR Procurement Personnel</li> <li>5. Procurement honour</li> <li>6. Transparency/On line</li> <li>SO Strategy</li> <li>Socialization of Corruption Law and SOP</li> <li>Cultivation of noble character and the spirit of defending the country</li> </ul>	<ul> <li>Weaknesses (W)</li> <li>7. Leadership awareness</li> <li>8. Buy and sell projects</li> <li>9. Procurement Documents</li> <li>10. Project Administration</li> <li>11. There is no "honest" term</li> <li>12. IT Skills</li> <li>WO Strategy</li> <li>HR quality improvement</li> <li>Involvement of APIP and the Community in Supervision</li> </ul>
	<ol> <li>National Spirit</li> <li>Treats (T)</li> <li>Permissive culture</li> <li>Leadership intervention</li> <li>Persuade of providers/gratuities</li> <li>Procurement Planning</li> <li>Project Executor and Supervision</li> <li>Reporting Mechanism/System</li> </ol>	<ul> <li>ST Strategy</li> <li>Rewards and Punishments</li> <li>Right man on the right place</li> </ul>	<ul> <li>WT Strategy</li> <li>Tighten supervision</li> <li>Fix THE Presidential Regulation No. 16 Years 2018</li> </ul>

In this study, the alternative strategies were proposed to fight against the occurrence of corruption in the procurement of the construction projects based on the SWOT analysis approach. However, it is aware that it is difficult to measure and predict the occurrence of corruption as its clandestine nature. For comparison purpose, other studies reported that Owusu et al. [12] developed a model to evaluate the tendency of the corruption in the procurement process of construction projects using a soft computing approach. The method is used to assess the levels of susceptibility to the stages of corruption corresponding to the procurement process of construction projects in a developing country. Hong Wang [13] investigated the competitive procurement managed by an agent who is responsible for evaluating bids on the price and quality using a scoring rule. The factors influencing the equilibrium corruption was identified. Olga Chiappinelli [14] proposed a theoretical framework to explain the occurrence of corruption in the procurement of public projects by politicians. The result indicated that a benevolent politician tends to use a strict auditing to prevent the contracting firm from padding costs, whereas a selfish politician takes a relatively careless auditing to make an incentive for cost-padding and involves in corruption with the firm.

The alternative strategies proposed to fight against the occurrence of corruption in the procurement of construction projects in the present study were conducted based on the SWOT analysis approach. However, it is aware that it is difficult to measure and predict the occurrence of corruption because of its clandestine nature. For comparison purposes, other studies reported that Owusu et al. [12] developed a model to evaluate the tendency of corruption in the procurement process of construction projects using a soft computing approach. The method is used to assess the levels of susceptibility to the various stages of corruption corresponding to the procurement process of construction projects in a developing country. Hong Wang [13] investigated the competitive procurement managed by an agent who is responsible for evaluating bids on the price and quality using a scoring rule. The factors influencing equilibrium corruption were identified. Olga Chiappinelli [14] proposed a theoretical framework to explain the occurrence of corruption in the procurement of public projects by politicians. The result indicated that a benevolent politician tends to use strict auditing to prevent the contracting firm from padding costs, whereas a selfish politician uses relatively careless auditing to create an incentive for cost-padding and is involved in corruption with the firm.

#### 4. CONCLUSION

In this study, the corruption occurred in the construction procurement was analysed in accordance with Presidential Regulation No. 16 of 2018. The effect of Presidential Regulation No. 16 of 2018 on preventing corruption by using SWOT analysis indicates the need

for concentrated efforts to achieve corruption prevention in the scope of construction procurement. The recommended anti-corruption methods based on the results of the SWOT analysis matrix on the impact of Presidential Regulation No. 16 of 2018 on preventing corruption in construction procurement are proposed as follows:

SO Strategy:

- Socialization of Corruption Law and SOP.
- Cultivation of noble character and the spirit of defending the country. WO Strategy:
- HR quality improvement.
- Involvement of APIP and the Community in Supervision.
- ST Strategy:
- Rewards and Punishments.
- Right man on the right place.
- WT Strategy:
- Tighten supervision.
- Fix THE Presidential Regulation No. 16 Years 2018.

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