



Criminal accountability for corruption of the Government Procurement goods/services working group

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Abstract

Article 3 of Law Number 31 of 1999 on the Eradication of Corruption Crimes states that any person who misuses their authority, opportunity, or means at their disposal due to their position, with the aim of benefiting themselves, others, or corporations, to the detriment of the financial interests or economy of the state, may be subject to life imprisonment or a prison term of at least one year and at most twenty years, and a fine of at least Rp.50,000,000.00. In the practice of law enforcement, the focus on handling corruption in government procurement of goods/services is often limited to the contract implementation stage, while the early process of selecting providers, which is actually a vulnerable point for deviations, is frequently overlooked. The Selection Working Group (Pokja) plays a strategic role in determining the tender winner, and negligence or abuse of authority at this stage can become the root of corruption crimes. The case of the Kuala Gigieng Bridge Construction Project illustrates how the tolerance of fake support letters by the Selection Working Group leads to financial losses for the state. Based on this finding, the act of abusing the freedom to determine policies and continuing with manipulation of language or legal interpretation in deciding the winning contractor by the Working Group should be charged under Article 3 of the Corruption Crime Law. However, in its implementation, the Working Group was not held accountable or designated as suspects to answer for their mistakes or negligence. This study aims to analyze the factors causing corruption in government procurement of goods and services involving the Working Group, identify the legal considerations that place the Working Group as a legal subject in cases of corruption in government procurement of goods and services, and analyze the relevant mechanisms and forms of criminal liability for the Working Group. The research method used is empirical legal research conducted by examining the applicability of regulations regarding the criminal responsibility of the election working group in the crime of corruption in government procurement of goods/services. Data collection techniques include field research and library research. The results show that the factors causing corruption by the working group include individual aspects, institutional factors, work culture, as well as intrinsic motivations (psychological drives) and extrinsic motivations (economic pressures and ambitions for positions). Legally, the working group can be held criminally responsible based on Article 3 of the Anti-Corruption Law, the principle of no punishment without guilt, and the theory of participation under Articles 55-56 of the Criminal Code. Criminal responsibility requires the presence of an objective element (unlawful act) and a subjective element (malicious intent or negligence). The negligence of the working group in the selection process, such as subjective evaluations or allowing deficiencies in providers, can lead to state losses. Therefore, there is a need to strengthen integrity, competency-based selection, limitation of tenure, and mandatory certification from LKPP. Law enforcement must also target vulnerable points such as document preparation to the determination of winners. Collaboration between LKPP, APIP, BPKP, and law enforcement agencies needs to be strengthened so that case handling is more transparent, faster, and unbiased.

Keywords: Criminal Accountability, Corruption, Procurement of Government Goods and Services, Working-Group

Introduction

Government procurement of goods/services is the heart of bureaucratic activities that is vital for driving the wheels of the economy and improving the welfare of the people. As an activity funded by the state budget (APBN)/regional budget (APBD), the procurement process includes the identification of needs up to the handover of results. Ironically, this sector is also the most vulnerable point to corruption practices. Government procurement of goods/services, commonly referred to as bidding (procurement), can be defined as the procurement of goods/services whose funding is partially or entirely sourced from the State Revenue and Expenditure Budget (APBN) or the Regional Revenue and Expenditure Budget (APBD). Government procurement of goods/services encompasses the procurement of goods, construction work procurement, consultancy/training service procurement, and other services procurement according to the needs of each government agency/institution. ^[1]

Regulations regarding the procurement of goods and services in the Indonesian government are governed by Presidential Regulation Number 12 of 2021, which is an amendment to Presidential Regulation Number 16 of 2018. According to the provisions of Article 1 paragraph (1), the procurement of goods/services includes the entire series of activities carried out by government agencies, whether ministries, institutions, or regional apparatus funded through the State Budget (APBN) or Regional Budget (APBD), starting from the stage of identifying needs to the delivery of final results. Furthermore, Article 8 stipulates that participants in this procurement activity consist of various elements that play a role in the process:

- a. Budget User (PA);
- b. Budget User Authority (KPA);
- c. Commitment Maker Officer (PPK);
- d. Procurement Officer;
- e. Selection Working Group (POKJA);
- f. Procurement Agent;

- g. Self-Management Organizer;
- h. Provider.

The Selection Working Group (Pokja), as regulated in Article 8 letter e, has several important functions in the government goods/services procurement process. The main tasks include: preparing and executing the stages of supplier selection, including processes related to the electronic catalog, as well as determining the results of supplier selection in accordance with the method of selection used. This role is central to ensuring that the selection process is conducted transparently, competitively, and in accordance with efficient procurement principles.

The government has made efforts to maintain, strengthen, and uphold the principles of efficient, effective, open and competitive, transparent, fair or non-discriminatory, and accountable government procurement of goods/services.^[2] Various challenges in government procurement of goods and services, such as inefficiencies in the use of the state budget, prolonged procurement processes, weak national competitiveness, and suboptimal governance of the procurement system, drive the need for digital transformation. One approach expected to address these issues is the implementation of an electronic procurement system (e-procurement), which is believed to enhance process effectiveness, strengthen transparency, and accelerate government spending.

Nevertheless, there are still several issues related to the implementation of goods and services procurement in various cases, especially in the area of corruption crimes. In fact, from 2004 to 2023, the KPK has handled 339 cases, with 2024 recorded as the year with the highest number of cases at 63 cases, approximately 277 of which (20%) occurred in the field of goods/services procurement.^[3] The Procurement of Goods and Services (PBJ) sector continues to be a highly vulnerable area to corruption practices in Indonesia. According to the results of the Integrity Assessment Survey (SPI) in 2024, this sector shows a high prevalence of bribery and gratification practices involving government agencies, both at the level of ministries/institutions (K/L) and local governments. The potential abuse rate in PBJ management has reached 97% in K/L and even higher, at 99%, within local government circles. These findings emphasize the urgency of comprehensive reforms to the existing procurement system, including strengthening control and accountability mechanisms.

The 2024 Integrity Assessment Survey (SPI) reveals several serious issues in the management of Goods and Services Procurement (PBJ). A total of 49% of respondents stated that the selection process for providers had been predetermined, indicating a lack of transparency. Additionally, it was found that 56% of the procured goods had quality that did not match their contract value, and 38% of the procurement results did not provide substantial benefits to the agency's needs. Even more concerning, reported nepotism has significantly increased to 71%, and 46% of state organizers documented receiving gratuities from vendors during the PBJ implementation. These findings depict a pattern of systematic deviation and

demand comprehensive reform in the procurement process, especially regarding integrity and accountability.^[4] Based on the monitoring results of Indonesia Corruption Watch (ICW), there were 1,586 cases of corruption related to the procurement of goods and services from 2016 to 2022, with total state losses reaching Rp. 19.5 trillion.

Corruption in the Government Goods/Services Procurement sector occurs in six stages, namely during the planning stage, procurement stage, contract drafting and signing stage, contract implementation stage, supervision stage, and reporting stage.^[5] Then several modes were still found in the e-procurement process, such as:^[6]

- a. Fraud in the preparation of the auction schedule and its changes.
- b. Fraud in the preparation of procurement documents.
- c. Fraud in the announcement of procurement.
- d. Adding discriminatory qualification requirements that are beyond what is stipulated in the provisions of the Presidential Regulation.
- e. Setting criteria, requirements, or procurement procedures that are discriminatory and/or based on non-objective considerations.
- f. Fraud in assessing the qualifications of resources.
- g. Fraud in assessing financial capacity.
- h. Fraud in assessing experience.
- g. Fraud in the evaluation of administrative, technical, and price aspects.

These modes are carried out manually and are not documented in the procurement working group's paper, and then electronic input is performed to be known and announced at each stage. Therefore, efforts are needed to detect and uncover new modes in the auction. The phenomenon of corruption in procurement often focuses on the contract execution phase, but does not focus on the early selection process, which is vulnerable.

It is strongly suspected that the Working Group (Pokja) for Procurement, as the party with full discretion in determining the winner of the tender, becomes the starting point for deviations that lead to corruption. The corruption committed by Pokja is often initiated with discretionary corruption, which is the abuse of freedom in determining policies, followed by illegal corruption through manipulation of language or legal interpretation. In the context of determining the winner of the tender, Pokja can disqualify other participants with made-up reasons, even when the winning company is known to be unqualified. This manipulative action by Pokja, which deliberately qualifies unqualified companies, becomes the foundation for legal problems and state losses in the execution of contracts.

Several cases of Government Procurement of Goods/Services that occurred in the Jurisdiction of the Class I A Banda Aceh District Court. Types of deviations began to occur at the stage of implementing the selection of planning consultant service providers and had consequences up to the contract stage for the construction planning of the building by the provider. The data is as follows in the following table:

Table 1: Cases of Criminal Corruption in the Procurement of Goods/Services of the Government that occurred in the Jurisdiction of the Class I A Banda Aceh District Court During the Period of 2015-2017

No.	Project Name	State Loss	Defendant/Suspect	Cause of Corruption Crime
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1	Planning Project for Construction of the Ministry of Religious Affairs Aceh Province Office, FY 2015	Over Rp 1.1 billion	- PPK, Provider - Procurement Team as Witness	- The procurement team performed duties based on assumptions without proper clarification
2	Review Design Project for Construction of Balohan-Sabang Port Terminal, FY 2016	Rp 600 million	- PPK, Provider - Procurement Team as Witness	- The procurement team knew the companies shared the same IP address and participants were from the same entity - Despite knowing this, the evaluation process continued
3	Construction Project of Kuala Gigieng Bridge Phase I, 2017	Rp 1.4 billion	- Provider, KPA, PPK - Procurement Team as Witness	- The procurement team passed the bidding document of CV. Pilar Jaya even though it was found to contain forged inspection evidence - CV. Pilar Jaya was still selected even with document irregularities - The company failed to meet bridge girder technical standards according to RSNI T-03-2005 and did not use standard components

Deviations in the implementation of government procurement of goods and services have the potential to violate the provisions of Article 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001. This article states that any individual who, in order to gain personal profit, profit for others, or a legal entity, abuses authority, opportunities, or means inherent to their position or rank, which causes losses to state finances or the economy, can be sentenced to imprisonment for a minimum of one year and a maximum of twenty years, or even life imprisonment. In addition, the perpetrator may also be subject to a minimum fine of Rp.50,000,000.

Based on the background description and the cases that occurred within the jurisdiction of the Class I A Banda Aceh District Court, the defendants PA/KPA/PPTK/SUPPLIER have been found guilty in the procurement of goods/services through e-procurement. The issue reveals criminal acts that originated from a series of fraud committed by the Working Group (POKJA).

The working group as the party with the authority to pass participants and determine the winners of the tender, as well as to designate one company for the contract, is strongly suspected to be the starting point for the occurrence of deviations so that, according to regulations, they can be held criminally accountable for their mistakes and negligence that cause profits for others and losses for the state. This phenomenon has drawn the author's attention to further investigate why the Selection Working Group was not also made a defendant or suspect in the case. Therefore, this study raises the title: "Criminal Liability for Corruption of the Government Procurement Goods/Services Working Group".

Corruption in the procurement of goods/services in government involving the Selection Working Group (Pokja) is generally caused by low integrity, conflicts of interest, weak oversight, and external or internal pressure to favor certain parties. Legally, members of the Pokja can be subject to legal action because they have real authority in the selection process of providers of goods/services, such as evaluating and declaring the tender winners. If found to have abused their authority or received gratuities that harm state finances, Pokja members can be held criminally liable on an individual basis through the applicable legal process. This liability includes imprisonment, fines, and other

additional sanctions, depending on the role and evidence of involvement of each individual.

Research Method

This research is an empirical legal study, also referred to as field research, which examines the applicable legal provisions as well as what actually occurs in society [7]. Empirical legal research is legal research concerning the enforcement or implementation of normative legal provisions in action on each specific legal event that occurs in society. [8] This type of empirical legal research is chosen because the research begins and is initiated with legal aspects or positive law, which regulates the forms of legislation and other provisions, which are then related to the practices in their implementation. The type of research in this study is descriptive-analytical research, which involves analyzing data using primary and secondary data, including the content and structure of positive law determined by the author to ascertain the content or legal meaning. It determines the legal rules that will serve as a reference in resolving legal issues that are the subject of the research. [9]

This research uses an empirical juridical approach, which is a method that examines the application of legal norms in the practice of organizing government procurement of goods and services. The main focus is directed at testing the effectiveness and applicability of regulations related to criminal accountability attached to the Procurement Selection Working Group (Pokja), in the context of alleged corruption crimes. Through this analysis, the research aims to understand to what extent legal norms are consistently applied in practice and how criminal elements are formed based on the authority exercised by procurement actors. This research employs a case study approach with the following steps:

- a. Making legislation, namely the Criminal Code and the Anti-Corruption Law, a normative benchmark (in abstracto) and a legal act (in concerto) against the issues in this research object.
- b. An analysis of the implementation of the provisions in Presidential Regulation Number 12 of 2021 shows a dynamic process in the reform of government procurement of goods and services. This regulation is an improvement upon the previous regulation, namely Presidential Regulation Number 16 of 2018, which aims to enhance efficiency, accountability, and transparency in procurement governance. In practice,

this policy has begun to show positive impacts, such as increased utilization of electronic systems (e-procurement), simplification of the stages of provider selection, and strengthening the role of procurement actors.

The determination of the sample in this thesis research was conducted using feasibility testing (purposive sampling), where the entire study took several people as samples who are expected to represent the entire population. Primary data was collected through interviews with various parties involved in the implementation of e-tendering, so the location chosen by the author is in the jurisdiction of the Class I A Banda Aceh District Court/Corruption Court, while the population includes UKBPJ, POKJA, the Prosecutor's Office, the Police, and the Financial Supervisory Agency / Financial and Development Supervisory Agency (BPKP) that can provide answers and explanations related to this research.

Results and Discussions

a. Factors Contributing to the Occurrence of Criminal Acts of Corruption in the Procurement of Goods/Services by the Government, Specifically Involving the Selection Working Group (POKJA)

The procurement of goods and services by ministries, agencies, and regional authorities is a series of processes for selecting providers and consultancy services funded through allocations from the state budget (APBN) and regional budgets (APBD). Starting from the needs identification stage to the handover of work results, all of these processes are subject to the provisions stated in the Presidential Regulation of the Republic of Indonesia Number 12 of 2021 as an improvement to the previous regulations.^[10]

Nevertheless, although the e-tendering system has been integrated into the process of selecting providers and construction consultants in the government environment, its implementation still faces various obstacles. Internal factors such as human resource capacity and technical constraints, as well as external factors such as the potential intervention of certain parties, are the main barriers to achieving efficient and transparent procurement. Despite being supported by a clear legal framework, the existing regulations have not fully addressed the need for a robust enforcement mechanism against corrupt practices in the procurement of goods/services in the government. Therefore, strengthening regulatory and institutional instruments is necessary so that the e-tendering system is not merely administrative, but also serves as a tool to ensure integrity and public accountability.^[10]

The Electronic Procurement System (SPSE) is a digital platform used in the process of selecting suppliers of goods and services, including consultancy services, in a transparent and efficient manner. The management of this system is the responsibility of government agencies, both at the ministry level, institutions, and regional governments, through a special work unit known as the Electronic Procurement Service (LPSE). LPSE serves as the main facilitator in conducting information technology-based procurement processes, thus strengthening integrity and accountability in public procurement governance.

In the entire procurement process of goods and services through the e-tendering system, starting from the uploading of bid documents, the evaluation process, to the

determination of the winner, the digital platform has legal and technical responsibilities to ensure the protection of intellectual property rights. Additionally, the system must maintain data confidentiality and ensure the security of all digital documents used in the process. This function becomes a crucial element in ensuring the integrity and validity of information, while also strengthening public trust in technology-based procurement.

In general, the current e-procurement system used, especially through SPSE, has made a significant contribution to preventing various modes of fraud perpetrated by the Procurement Selection Committee. Transparency, digital trails, and real-time data integration have narrowed the potential for manual intervention and manipulative practices. However, the Government Goods/Services Procurement Working Unit also recognizes that this system is not yet completely immune to loopholes, especially if there is collusion occurring outside the system, such as specification arrangements that favor certain participants or non-objective technical assessments.

Therefore, the effectiveness of e-procurement must be supported by the integrity of human resources, active internal oversight, and public participation in monitoring the process. The Government Procurement Goods/Services Work Unit also continues to encourage the utilization of data between systems (for example, tender data with SIRUP data) to strengthen prevention from the planning stage.^[10] To minimize the potential for deviations in the implementation of goods and services procurement, the government has taken a number of policy measures, including revising the legal framework governing the process. One of the most significant changes is marked by the issuance of Presidential Regulation Number 12 of 2021, which is an update to Presidential Regulation Number 16 of 2018. This regulatory update demonstrates the government's commitment to improving procurement governance by emphasizing the principles of efficiency, transparency, and accountability in every stage of the public procurement process.

However, the weak adherence to regulations has also come under scrutiny because stopping corruption in the procurement of goods and services cannot be achieved merely by creating an online tender system, considering that corruption occurs due to the intention of the perpetrators accompanied by the presence of opportunities. Although the procurement system currently implemented has been designed well, its effectiveness heavily depends on the integrity of local leaders and state civil apparatus. Integrity serves as the moral foundation that encourages officials to manage authority, power, and state finances responsibly, solely for the public interest, not for personal gain.^[11]

In general, corrupt behavior can be traced through two main types of motivation. The first is intrinsic motivation, which is the drive from within the individual based on personal satisfaction that arises from committing corruption. The second is extrinsic motivation, which is external stimuli that encourage a person to commit corruption, even though this urge is not naturally attached to the individual's behavior for personal gain.^[12] Examples of extrinsic motivation include economic pressure, ambition to obtain certain positions, or the desire to instantly improve status and career. From a psychological perspective, this corruptive drive indicates the presence of personal needs prioritized over public interests and existing legal norms. This is often triggered by

dissatisfaction with current conditions, a desire to gain quickly, or a tendency to excessively pursue power.

The Selection Working Group (POKJA) is indeed vulnerable to corruption in the procurement of goods and services due to its crucial role in the provider selection process. Corruption can occur through manipulation in the evaluation of bids, up to the absence of strict sanctions for violators. Maladministration in the Procurement Process of Goods/Services often becomes the root of corruption. In general, maladministration can be understood as a form of behavior or action that deviates from ethical principles and administrative norms, thus hindering the achievement of administrative goals that should be met. This behavior reflects a discrepancy between the execution of administrative duties and the applicable legal, procedural, or moral standards, and often impacts public service disruption as well as decreasing public trust in the organizing institutions. Examples include: delays and prolonged services, unfair practices, demands for rewards, and abuse of authority. In terms of corruption in the procurement of government goods/services, there is maladministration both in the tender process and in the behavior of human resources in the procurement of government goods/services. The critical points or potential maladministration that often occurs in the goods and services procurement sector can be detected from three aspects, namely planning, selection, and contracts:^[13] First, the planning stage usually includes: Compiling needs identification without beginning with a feasibility study of the goods/services, budget users only look at the available budget without determining the appropriate method for procurement implementation (self-management and/or through provider selection) in the procurement plan of goods/services. In the PPK (Budget User Commitment), there is usually no contract draft prepared and no appropriate contract type established based on the nature of the work, nor is there a plan for procurement implementation arranged/established. Moreover, the specifications are not based on the results of a review of the general procurement plan and it is often found that PA/KPA and PPK do not have a deep understanding of the legal risks involved in the procurement process of the goods/services in question.

Secondly, at the supplier selection stage in the procurement of goods and services, indications of deviations often arise due to a lack of understanding among the parties regarding the legal scope that binds this stage. Ignorance or negligence of the applicable legal provisions can result in the selection process not adhering to the principles of transparency, accountability, and healthy competition. This includes the preparation of inaccurate procurement documents, irrelevant technical requirements, and neglect of the evaluation and winner determination procedures that have been stipulated in the regulations. The Selection Working Group (POKJA) did not hold a meeting to discuss the preparation of procurement documents, administrative and technical requirements that are groundless and do not affect the scope, quality, and outcomes/performance of the work. In addition, other critical points can be seen in the business license requirements set out in the qualification documents that are not based on statutory regulations, failing to prepare Instructions to Participants (IKP), Selection Document Sheets (LDP), Qualification Data Sheets (LDK), General Contract Terms (SSUK), and Special Contract Terms (SSKK) clearly and meticulously. Third, during the contract

process, the PPK did not hold a preparatory meeting for the contract signing, signed the contract before the provider submitted the performance guarantee. There are also PPKs who do not implement Contract Implementation Control, transfer the execution of the main work by subcontracting to other parties besides the Goods/Services Specialist Provider, provide an advance payment without requesting an advance guarantee and/or without reviewing the plan for the use of the advance payment from the provider.

Maladministration not only causes losses to society but also to the state. Maladministration prevents the primary goal of the government procurement process, namely value for money (producing the right goods/services for every dollar spent) from being achieved. Repeated maladministration will become an entry point for corruption in government procurement of goods/services. This is illustrated in the Criminal Corruption Case Decision Number: 36/Pid.Sus-TPK/2022/PN Bna concerning the First Phase Construction Project of the Kuala Gigieng Bridge in 2017. This case started from the process of selecting a construction service provider, where CV. Pilar Jaya was declared the winner of the tender conducted by the working group (POKJA) for the procurement of goods and services. The POKJA passed the proposal documents during the tender, and CV. Pilar Jaya submitted a letter of support from PT. Woogneer Biro, a company specifically engaged in bridge steel manufacturing. However, it was later revealed during examination that all these documents were fake, as PT. Woogneer Biro stated that they had never provided support to CV. Pilar Jaya, yet POKJA still declared CV. Pilar Jaya as the tender winner.

After the contract for the implementation of the steel frame installation of the bridge was carried out by CV. Pilar Jaya, it was followed by the concreting of the bridge deck, where a sagging of the bridge girder occurred, leading the PUPR department of Pidie to stop the concreting work. Then, tests were conducted on the steel frame of the bridge, and it was found that the condition of the steel frame installed by CV. Pilar Jaya was declared technically unfit because the girder of the Gigieng Bridge did not meet the standards of RSNI T-03-2005 and SNI 1725:2016, thus it was unable to safely support the weight of the bridge.^[14]

Thus, in the indictment of the public prosecutor in the tender case for the construction of the Kuala Gigieng Bridge Phase One in 2017, which was carried out by CV. Pilar Jaya, it did not meet the specifications and quality, resulting in a loss to the state finances or national economy of Rp. 1,663,908,154.00. The Contract Signing Officials (PPK) and the suppliers have been named suspects and found guilty. In addition, the factors contributing to the occurrence of corruption committed by the Procurement Working Group (POKJA) include^[14]:

- a. The weakness of individual integrity and morality. The existence of a mentality of "facilitating money" or gratification that is considered normal.
- b. Lack of oversight and accountability. No effective control or reporting system.
- c. High discretion without oversight. The existence of intervention opportunities from other officials or third parties.
- d. Pressure from external parties. The existence of "entrusted" practices from vendors or partners.
- e. Non-transparent systems and procedures. The E-Procurement system that has not been optimized or is misused.

- f. Weakness in the capacity and competency of the working group regarding procurement regulations (Presidential Decree 12/2021 or its derivatives). The working group is not independent or merely a formality.
- g. There are personal or group interests. The working group receives rewards, commissions, or gifts to manipulate auction results. h) An organizational culture that does not support integrity, a work culture that is permissive toward deviations.

One of the fundamental weaknesses in the planning process for the procurement of goods and services is the tendency of public procurement implementers to identify desires rather than the actual needs of the organization. This phenomenon is often influenced by the presence of 'favors' or interventions from certain parties that are not based on objective needs analysis. As a result, the procurement plan becomes misaligned with public service objectives and poses a risk of budget waste and inefficiency in program implementation. There is various *modus operandi* in government procurement services, which leads many potential providers or tender participants to be trapped in government procurement that is suspected to have predetermined winners from the outset. Some of these *modus* include the following:

1. Deviations in the procedure for selecting providers

The procedure that is often violated is the evaluation of suppliers' bids that do not comply with the provisions in the Procurement Document, resulting in the Selection Committee acting discriminately and arbitrarily, as well as changes to the procurement document in the middle of the selection process that are not based on participants' questions during the clarification meeting (*aanwijzing*), which is strongly suspected to be an attempt to steer the tender specifications towards certain prospective suppliers.

2. Indecent acts by the Human Resources for Goods/Services Procurement

Moral hazard in the procurement of goods/services in the government, such as the Selection Working Group (*Pokja Pemilihan*) and Contracting Officer (PPK), remains a major complaint. The common *modus operandi* found is:

- a. Collusion between prospective providers and procurement human resources in the packaging process and bid evaluation;
- b. The selection working group not answering questions during the explanation session (*aanwijzing*);
- c. Carelessness of the selection working group in evaluating bids and determining the tender winner.

3. Implementation of the procurement contract for goods/services that deviates from the procedures.

The implementation of contracts by the PPK that does not comply with the contract, subjective assessment of work, and abuse of power in unilateral contract termination, usually become a *modus operandi* so that the 'unwanted tender winner' appears to be in breach of contract or negligent, thus leading to unilateral contract termination to

allow for a re-tender/selection process to win the 'desired tender winner.'

4. The unresponsiveness of the complaint service of the Service Unit and APIP.

5. Article 77 of Presidential Regulation Number 12 of 2021 states that the public can submit reports or complaints regarding the procurement of goods/services to the Inspectorate, which acts as the internal government supervisor (APIP). However, the APIP complaint mechanisms for government procurement of goods/services are sometimes unavailable, and APIP does not always provide responses or resolutions to complaints from the public.^[11] This does not comply with the provisions of Article 44 Paragraph (1) in conjunction with Article 50 Paragraph (2) of the Republic of Indonesia Law Number 25 of 2009 concerning Public Services.

The District/City Inspectorate has the task of fostering and supervising the implementation of government affairs that are the authority of the region as well as supporting tasks by regional apparatus. This supervision includes the implementation of government programs that are the responsibility of the region, support tasks funded by the local government budget (APBD), compliance with legal regulations, including norms, standards, procedures, and criteria from the central government. Supervision occurs at all stages, from planning to accountability.

The Inspectorate, as the Government Internal Supervisory Apparatus (APIP), plays an important role in the procurement of goods and services for the government to ensure effectiveness, efficiency, transparency, and accountability. APIP conducts internal supervision over the management of the duties and functions of government agencies, including the procurement of goods and services, to ensure that the procurement complies with applicable regulations.

The role of APIP in Goods and Services Procurement:

1. Internal Supervision (Internal Audit), APIP conducts audits on the procurement process of goods and services, both before, during, and after the process takes place. This audit aims to evaluate compliance with regulations and procedures, budget efficiency, and the effectiveness of achieving procurement goals.
2. Early Warning System, APIP acts as an early warning system to prevent potential deviations or losses to the state due to the procurement of goods and services that do not comply with regulations.
3. Internal Control, APIP ensures that the existing internal control systems in the procurement of goods and services function properly and effectively.
4. Corruption Prevention, APIP plays a role in preventing corruption in the procurement of goods and services, through strict supervision and early detection of potential deviations.
5. Quality Control, APIP ensures that the goods and services purchased by the government meet the established quality standards.
6. Increasing Accountability, the Internal Audit Apparatus plays a role in enhancing the accountability of state finances through effective, efficient, transparent, and accountable oversight of procurement of goods and services.

The Inspectorate plays an important role in addressing indications of corruption in the procurement of goods/services for the government through supervision and audit mechanisms. They conduct examinations of the procurement process, including planning, implementation, and handover of the work, to identify potential fraud or deviations. The Inspectorate can also receive and follow up on incoming complaint reports, as well as coordinate with related parties such as the Police and the Prosecutor's Office for further handling.

In addition, BPKP as a probity advisor has optimized its role in identifying fraud or the conditioning of work packages by providing assistance to the Auditee through a Probity Audit. A Probity Audit is an independent examination conducted to ensure that the procurement process for goods and services is conducted honestly, transparently, and in accordance with regulations. This audit aims to maintain integrity, prevent deviations, and ensure that all stages of procurement are carried out fairly and accountably. The purpose is to provide assurance that the procurement process has met the requirements of honesty (probity requirements), complied with procurement procedures, and adhered to the principles and ethics of procurement of goods/services.^[15] The Probity Audit is conducted during the procurement process (real-time) or only at certain stages of the procurement considered urgent and critical, namely at the stages:

- a. Planning for the procurement of goods/services,
- b. Preparation for the procurement of goods/services.
- c. Selection of suppliers of goods/services
- d. Contract signing
- e. Implementation of the contract
- f. Utilization of procurement results

The result of this Probity Audit consists of conclusions along with recommendations and guidance, so that fraud can be avoided early on. BPKP aims to reveal indications of manipulation by the Working Group in the selection process using the investigation audit method, which is often used to uncover an event/case, and is a combination of the SCAT (Systemic Cause Analysis Technique) method and the 5W+1H Data Collection Method.^[15] The SCAT method uses a structured list of questions and guidelines to analyze the factors contributing to an event/case, subsequently applying the 5W+1H method for gathering information on what (What), who (Who), where (Where), when (When), why (Why), and how (How) an event/case occurs, which is then organized into a flow chart diagram of the event/case process.

The acquisition of information through

Interviews/clarifications/requests for information/confirmation (with related personnel such as the working group, candidates/providers, and other parties who may be involved in manipulation), Examination of documents/data/evidence (related to procurement files, meeting minutes, correspondence, procurement application data, electronic communication data, etc.), and Transaction Tracking (unusual/suspicious transactions, transactions with unregistered entities, financial transactions using unofficial/intermediary accounts, and transactions with entities that have special relationships) will reveal the process of fraud in the selection of providers.

Corruption in the procurement of goods and services by the government, especially in the working area of the Selection

Working Group, is influenced by various universal factors. Among them are the weak appreciation of religious values in daily life, a closed and authoritarian leadership style, and the suboptimal function of the legislative body as a balance to executive power. In addition, weak oversight and law enforcement, as well as sanctions that do not deter, further exacerbate the situation. The lack of role models from public officials and the low welfare of employees also serve as major triggers, as it opens up opportunities for the abuse of power for personal gain.^[11]

b. Legal Considerations for Involving the Selection Working Group (POKJA) as Legal Subjects in Corruption Cases Related to Government Goods/Services Procurement Processes

In the process of procuring goods and services for the government, criminal law is applied if there are violations committed by either the user or the provider. This application is based on the principle of 'geen straf zonder schuld' which means there is no punishment without fault. Vulnerable points for the occurrence of corruption crimes in procurement can be found from the planning stage, such as budget inflation (mark-up), directed procurement, or manipulation of procurement packages for the purposes of collusion, corruption, and nepotism.

In addition, the potential for violations also arises in the qualification stage of providers, evaluation of offers, contract signing, and delivery of goods. Goods that do not meet specifications or are of low quality can cause state losses and become objects of criminal liability. Therefore, every stage of procurement must be strictly monitored to ensure adherence to the principles of transparency, accountability, and efficiency. Additionally, suppliers of goods and services also have the potential to commit criminal acts in procurement, especially through document forgery and default or breach of contract in the implementation of work. Both actions are forms of legal violations that can lead to financial losses for the state, and serve as the basis for criminal liability if proven to be committed intentionally and detrimental to public interests. In corruption crimes, in addition to applying Articles 2 and 3 of Law Number 20 of 2001 on Amendments to Law Number 31 of 1999 Regarding the Eradication of Corruption Crimes, it is also regulated as per the theory of participation (deelneming), an offense involving more than one person necessitates the identification and legal responsibility of each perpetrator. Based on the provisions of Articles 55 and 56 of the Criminal Code, an individual's involvement in a crime can be classified as follows:

- a. The principal actor (pleger) is the person who directly commits the criminal act.
- b. The instigator (doenpleger) is the person who instructs others to commit a crime, even if they do not do it themselves.
- c. The accomplice (medepleger) is the person who consciously and actively participates with the main perpetrator in committing the crime.
- d. The encourager (uitlokker) is the person who encourages or persuades others to commit a crime, for example through promises, threats, or influence.
- e. The accessory (medeplichtige) is the person who assists in the commission of a crime, either before or during the act, for example by providing means or information.

Article 55 paragraph (1) point 1 of the Penal Code states that a person may be punished as the perpetrator of a crime if he

1. Committing the criminal act, oneself (pleger) is an individual who directly and alone fulfills all elements of the crime.
2. Instigating someone else to commit (doen pleger) is a party who does not commit the criminal act themselves but instructs others to do so. In this case, the person who is instructed acts merely as a tool and cannot be held criminally responsible because they lack culpability or the capacity to be responsible.
3. Participating in the act (medepleger) refers to an individual who consciously and actively engages in the criminal act together with the principal actor.

Meanwhile, a person who participates means that two or more people are together committing a crime, at least there are two or more individuals, namely the person who commits and the person who assists in committing the crime, and all must perform the act of execution. Furthermore, as per the Principle of No Punishment Without Guilt (Geen Straf Zonder Schuld), criminal law for corruption is applied when there are corrupt acts committed by related parties in the procurement of goods/services, both budget users and providers. This principle serves as the foundation that criminal liability can only be imposed on parties proven to have committed a wrongdoing or possessed mens rea (malicious intent) or culpa (negligence) in the occurrence of the corrupt act.

The Selection Committee has a central role and significant responsibility in the procurement process of goods/services. The authority granted to the Committee to evaluate and determine the winner of the tender places them in a strategic position vulnerable to abuse of power. If the Committee deliberately or through gross negligence takes actions contrary to the legislation that result in state losses and the occurrence of corruption in its implementation.^[13]

The basic legal consideration for involving the work group (Pokja) as a legal subject in corruption crimes is if the work group is proven to have committed unlawful acts and has 2 valid pieces of evidence as well as there is state loss, and/or there is an act of complicity as referred to in Article 55 and Article 56 of the Criminal Code. The investigator's duty is only to ensure that at least two pieces of evidence and the elements of the crime are met in accordance with Article 183 of the Criminal Procedure Code. The authority for prosecution is entirely with the public prosecutor.

Criminal liability in Indonesian law requires two main elements

- a. **Objective element:** Illegal actions (for example, manipulation, neglect of procedures, or abuse of authority).
- b. **Subjective element:** The presence of an error in the form of intention (dolus) or negligence (culpa).

In the context of the Selection Working Group, negligence that causes state losses or unlawfully benefits certain parties can be categorized as a criminal act of corruption if it meets the aforementioned elements. To ensure that the case files from the police are strong enough to prosecute the Working Group, several aspects must be considered: Completeness of documents, the case file must be accompanied by the

necessary documents, police reports, minutes, examinations, and other evidence. Then, the quality of evidence submitted by the police must be of good quality and reliable, such as original documents, CCTV footage, and credible witnesses. Consistency and accuracy, ensuring that the information in the case files is consistent and accurate. Careful examination of the case files to ensure that all legal aspects have been met and there are no gaps that can be exploited by the Working Group. Consult with legal experts or other specialists to ensure that the case files meet the required standards. The Selection Team may be held criminally accountable in cases of corruption in the procurement of goods/services for the government if it is proven to have committed or participated in acts against the law that harm state finances.^[14]

1. Legal Basis of Responsibility

The Working Group is part of the procurement actors as regulated in Presidential Regulation No. 16 of 2018 (and its amendments, including Presidential Regulation No. 12 of 2021 and Presidential Regulation No. 46 of 2025). If a member of the Working Group abuses authority or violates procedures, they may be charged with:

- a. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Criminal Acts of Corruption, specifically Articles 2 and 3.
- b. Article 55 of the Criminal Code concerning participation (if collaborating with other parties).

2. Forms of Acts That Can Be Punished

The working group can be considered a subject of criminal law if^[14]:

- a. Engineering the bidding process, for example by drafting technical specifications that target certain providers.
- b. Conducting fictitious evaluations or evaluations that do not match selection documents.
- c. Accepting bribes or gratuities from tender participants.
- d. Allowing procedural violations without corrective action.

3. The Principle of Personal Accountability

Although the working group is a collective, criminal accountability is individual. This means that each member of the working group can be held accountable according to their role and contribution in the criminal act.

4. Jurisprudence and Practice

In several court rulings, members of the Working Group have been sentenced for:

1. Determine winners who do not meet the requirements.
2. Collude with providers to raise prices (mark-up).
3. Illegally ignore the objections of other participants.

5. Current Context

According to ICW data, out of 1,189 procurement corruption cases between 2019 and 2023, a total of 2,898 people has become suspects, including members of the Purchasing Team, Commitment Making Officials, and suppliers. This indicates that the Purchasing Team is not only a technical executor but also a strategic actor who can be part of a corruption scheme if they do not carry out their duties professionally and accountably.^[16]

The necessity of involving the Election Working Group (POKJA) as a legal subject in corruption cases related to

government procurement of goods/services is based on the crucial role of POKJA in the procurement process and the potential for significant legal violations. POKJA has the authority and responsibility to select suppliers of goods/services, so their involvement in corrupt criminal acts can result in state losses and undermine a clean procurement system.

1. Authority and Responsibilities of the Working Group, the Working Group has the authority to select providers of goods/services, determine specifications, and evaluate proposals. This presents a significant potential for the Working Group to be involved in collusion, fraud, or abuse of authority leading to corruption.
2. Role in the Procurement Process, the Working Group plays a central role in the procurement of goods/services. Every stage of the procurement process, from planning to contracts, involves the Working Group. If corruption occurs, the impact will be widespread and detrimental to the state.
3. Potential Legal Violations, the involvement of the Working Group in procurement corruption cases may encompass various criminal acts, such as bribery, gratification, collusion, or abuse of authority. These violations can harm state finances and cause losses to society.
4. Legislation, Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 provides a legal basis for action against corruption, including cases involving working groups (POKJA).
5. Fair Law Enforcement, Investigating and prosecuting POKJA involved in procurement corruption is important to uphold the law fairly and prevent future corruption.
6. Prevention and Eradication of Corruption, Investigating and prosecuting POKJA involved in procurement corruption is an important part of efforts to prevent and eradicate corruption in Indonesia.
7. Learning and Application, Corruption cases involving POKJA can serve as valuable lessons for the government and law enforcement agencies in overseeing procurement processes and preventing future corruption.

In the event of deviations in the procurement of goods and services that lead to acts of corruption, it is necessary to examine the actions of the perpetrator in their role as a government representative as well as in their capacity as an individual. An analysis of the perpetrator's actions will have implications for the accountability that will be demanded from the perpetrator, whether it is official accountability or personal accountability.^[13] Accountability of position is the legal responsibility imposed on the state/government for mistakes or consequences arising from the actions of the position. Meanwhile, personal accountability is criminal accountability, which is the legal responsibility imposed on an individual for mistakes or consequences of their actions on a personal level.

According to administrative law, the parameters of accountability for a position are the principle of legality (validity) of the actions of officials, and the issue of the legality of officials' actions is related to the approach of power. The legality of officials' actions is based on

authority, procedures, and substance. Every action of officials, including in the procurement of goods and services, must be based on legitimate authority. This authority is derived from three sources: attribution (authority established by laws and regulations for government agencies or officials), delegation (derived from delegation), and mandate (derived from assignment).

Personal accountability or criminal responsibility relates to maladministration in the use of authority and public service. The parameters of criminal accountability are based on the principle of no penalty without fault. Thus, it is associated with criminal acts of corruption in the procurement of goods and services, where the parameters of personal accountability include committing illegal acts and abusing authority.^[17]

Criminal accountability in procurement corruption of goods and services is a personal responsibility, namely a legal responsibility imposed on an individual for the mistakes or consequences of their actions personally. If there is fault within the perpetrator, only then can the perpetrator be prosecuted, but if there is no evidence of fault in the perpetrator at the time of committing the criminal act, the judge must acquit them. Involving the Procurement Working Group (POKJA) as a legal subject in cases of corruption in government procurement of goods/services is important to uphold the law fairly, prevent corruption, and protect state finances. The crucial role of POKJA in the procurement process and the potential for significant legal violations provide a strong legal basis for investigating and prosecuting POKJA members who are proven to be involved in corruption.

c. Mechanism and Forms of Criminal Accountability for Corruption Relevant to the Selection Working Group (POKJA) in the Case of Criminal Acts of Corruption in the Procurement of Goods/Services in Government

According to Roeslan Saleh, criminal responsibility is defined as the continuation of the objective blame that exists in criminal acts and subjectively meets the requirements to be punishable due to that act.^[18] What is meant by objective blame is that the act committed by that person is an act that is prohibited, the prohibited act referred to here is an act that indeed contradicts or is forbidden by law, both formal law and material law. Meanwhile, subjective blame refers to the perpetrator of the prohibited act, or it can be said that subjective blame is directed towards the person who committed the forbidden act or acted against the law. Regarding criminal liability, the burden of responsibility falls on the perpetrator of the criminal offense in relation to the basis for imposing criminal sanctions. A person will possess the nature of criminal responsibility if an act or action they have performed is unlawful, however, a person may lose their responsibility if there is a factor found within themselves that causes the loss of ability to be responsible.

The Selection Working Group (POKJA) in the process of procuring goods/services for the government can be considered criminally liable for corruption if involved in criminal acts of corruption, such as bribery, gratification, or actions that harm state finances. The Selection Working Group plays an important role in managing the selection of providers, and violations of procurement rules can lead to criminal sanctions. This can be further reinforced by actions such as:

- a. **Negligence or Fraud in the Determination of Winners:** If the Procurement Working Group (Pokja) commits significant negligence or fraudulent actions in the process of selecting providers and determining the winner of the tender, which directly results in the occurrence of corruption in the execution of the contract.
- b. **Disregarding Indications of Document Forgery:** If the Pokja, from the selection process to the determination of the winner, is aware of indications of document forgery but does not report it to the Head of the Procurement Goods/Services Unit (UKPBJ) and continues the determination process, resulting in corruption after the execution of the contract is completed.

As stated by Hanafi & Mahrus, responsibility refers to what can be accounted for regarding an obligation, including decisions, skills, abilities, and competencies, as well as the obligation to be accountable for the implementation of laws and regulations.^[19] In this context, the Working Group is responsible for implementing the selection process as regulated in Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods/Services and must possess specific skills or expertise in Procurement of Goods/Services before being appointed as a selection task force and can be held accountable for their actions or negligence in carrying out the government procurement process.

As stated in the Verdict of Corruption Case Number: 36/Pid.Sus-TPK/2022/PN Bna regarding the Kuala Gigieng Bridge Construction Project Phase One in 2017. This case originated from the process of selecting a construction service provider that designated CV. Pilar Jaya as the winning bidder in a tender conducted by the procurement working group (POKJA). The selection POKJA approved the bidding documents during the tender; however, the letter of support submitted by CV. Pilar Jaya was found to be fake during the investigation. Consequently, during the implementation, state losses occurred due to the specifications not being adhered to, and the selection POKJA failed to report the findings of the forgery, thus making them accountable under the regulations.

Based on Article 13 paragraph (1), the Working Group (POKJA) has duties including: The Purchasing Selection POKJA in the Goods/Services procurement as referred to in Article 8 letter e has the following duties: a) to carry out the preparation and implementation of the supplier selection; b) to carry out the preparation and implementation of the supplier selection for the electronic catalog; and c) to determine the winner of the selection/supplier for the selection method.

It can be concluded that the Selection Working Group (POKJA) plays an important role in the procurement process of Government Goods and Services in carrying out its duties, not only as someone with special skills but also performing the tasks and functions according to the regulations governing the Procurement of Goods and Services. This is because if the Selection Working Group (POKJA) is proven negligent in carrying out its tasks, resulting in state losses, they can be held accountable.

The procurement of government goods and services involves very large funds, and various deviations can occur

at different stages of the public goods/services procurement process. This can be caused by negligence and the incompetence of the implementers and participants of the procurement, but it is also not uncommon for these deviations to be deliberate actions by the implementers or participants in the Procurement of Goods/Services, intended for corruption and collusion which ultimately results in the waste of public money, budget leaks, and suboptimal procurement outcomes. Among the many risks faced by actors in the Procurement of Goods/Services, legal risk is the biggest threat that must be confronted by procurement actors, especially given the euphoria in the enforcement of anti-corruption by Law Enforcement Agencies (APH), Non-Governmental Organizations (NGOs), and the community. In the process of criminal justice, it is often the case that there is an error in selecting the legal subject as the party responsible for the criminal offense that has been committed, starting from the investigation phase, inquiry, prosecution, and the evidence phase during the trial. This is especially true for corruption offenses, where the criminal regulations are specific and often change according to the times and needs.

Criminal liability in the common law system is always associated with mens rea and punishment. Criminal liability has a relationship with society, namely the relationship of accountability to the community as a fungus; here, accountability has the power to impose penalties so that accountability serves a social control function, preventing the commission of criminal acts in society.

Besides that, criminal liability in the common law system is related to mens rea, meaning that criminal responsibility is based on a mental state, namely as a wrongful thought (a guilty mind). Guilty mind means a subjective fault, where a person is declared guilty because the perpetrator is deemed to have had a wrongful thought, thus the person must be held accountable. Since criminal liability is imposed on the perpetrator, the perpetrator must be punished. The absence of a wrongful thought (no guilty mind) means there is no criminal responsibility, resulting in the perpetrator not being punished.

Mistake as a part of mens rea is also defined as an error due to violating rules or breaching legal regulations. Anyone who commits a violation of the law is obligated to take responsibility for their actions. Mistake as an element of accountability in this view provides a guarantee for individuals and establishes control over a person's freedom in relation to others. This assurance protects an individual from actions taken by others who commit legal violations, and serves as a control mechanism because anyone who commits a criminal offense is subject to criminal liability.

Similar to the case of the Corruption Crime Verdict Number: 36/Pid.Sus-TPK/2022/PN Bna regarding the Kuala Gigieng Bridge Construction Project Phase One in 2017. This case originated from the selection process of construction service providers that designated CV. Pilar Jaya as the tender winner conducted by the procurement working group (POKJA), where the POKJA approved the bid documents during the tender process. CV. Pilar Jaya submitted a letter of support from PT. Woogneer Biro, which was later discovered to be a forged document during the inspection. However, the POKJA still declared CV. Pilar Jaya as the tender winner.

According to the provisions of the duties and functions of the Election Working Group (POKJA), they should play an

important role when they find that a bid document from a participant is incorrect or counterfeit. The Election Working Group (POKJA) is obligated to report this to their superiors, namely the Goods/Services Procurement Working Unit (UKPBJ), so that appropriate action can be taken. This ensures that participants who submit incorrect or counterfeit documents are processed according to legal procedures, are not declared winners, and that contracts are not concluded to prevent state losses.^[11]

From the facts of the trial of the Corruption Crime Case Decision Number: 36/Pid.Sus-TPK/2022/PN Bna in the First Phase Construction Project of the Kuala Gigieng Bridge in 2017, the Selection Working Group (POKJA) appeared negligent and careless in carrying out their duties and functions, resulting in state losses. Therefore, according to the provisions of criminal accountability, the Selection Working Group (POKJA) can be held liable for their negligence in the selection process, not only as witnesses in the case but also as defendants or suspects. As the theory of Guilty mind suggests, it refers to a subjective fault, meaning that a person is declared guilty because they possess a wrongful mindset, thus that person must be held accountable.

Criminal liability for corruption for the Selection Working Group (POKJA) in cases of corruption in government procurement of goods/services can be carried out through several mechanisms.^[13]

1. Investigation from the police or the prosecutor's office conduct investigations to gather evidence and determine whether there are sufficient grounds to prosecute POKJA. If there are sufficient grounds and evidence of POKJA's actions, they should be held accountable.
2. Court If
3. there is enough evidence, the case will be brought to court and POKJA will be tried.
4. Proof In the court process, the public prosecutor must prove that POKJA has committed a corruption offense.

The mechanism and forms of criminal accountability for corruption that are relevant to the Selection Task Force in cases of criminal acts of corruption in the procurement of government goods/services involve a series of legal processes aimed at uncovering and acting against the parties involved from the outset of the potential state losses. Criminal Accountability Mechanism:

- a. **Investigation:** Law enforcement agencies (Police or Prosecutor's Office) will conduct investigations to gather information and preliminary evidence related to the alleged criminal act of corruption in the procurement of goods/services. In this context, the investigation not only focuses on the contract execution phase but also on the provider selection process conducted by the Working Group. This aims to identify potential legal violations that have occurred since the determination of the tender winner.
- b. **Inquiry:** If strong indications of criminal corruption involving the Selection Working Group are found, an inquiry stage will be carried out. Investigators will gather further evidence if there are strong indications of criminal corruption involving the Selection Working Group.

The form of accountability that can be carried out by the working group (POKJA) that has been proven guilty due to

its actions, whether intentional or negligent, in the procurement of goods and services is^[14]:

1. Imprisonment, If the POKJA is found guilty, they may be sentenced to imprisonment.
2. Fines, in addition to imprisonment, the POKJA may also be fined.
3. Compensation for Losses, The POKJA may be required to compensate for the losses caused by corrupt criminal acts.

In cases of corruption related to the procurement of goods/services by the government, the procurement working group (POKJA) can be held criminally accountable if they commit illegal acts, such as accepting bribes or engaging in collusion. Therefore, it is important for POKJA to perform their duties transparently and accountably to prevent corruption.^[11]

Conclusion

The Selection Working Group (Pokja) plays a strategic role in the initial stages of the government procurement process and is potentially liable for criminal charges if involved in corruption. Factors that drive Pokja's involvement in corruption include individual, institutional, work culture, and intrinsic and extrinsic motivations such as economic pressure, ambition for positions, and psychological urges. Legally, Pokja can be made a legal subject based on Article 3 of the Corruption Criminal Law and the principle of 'no crime without guilt,' as well as the provisions of participation in Articles 55 and 56 of the Criminal Code. Criminal liability occurs if there are objective elements in the form of unlawful acts and subjective elements in the form of intent (*dolus*) or negligence (*culpa*) that harm state finances or unlawfully benefit certain parties. The law enforcement mechanism against Pokja includes stages of investigation, inquiry, prosecution, court examination, and judgment, all of which are important to realize a procurement system that is transparent, clean, and accountable, and to provide a deterrent effect for corruption perpetrators.

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