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Competition and Corruption in Public Procurement – Note by Indonesia

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1. The Relationship between Business Competition and Corruption in Public Procurement

1. The relationship between business competition and corruption is one of the most strategic issues in modern economic governance. In global practice, corruption is regarded as a factor that undermines market mechanisms, creates distortions in resource allocation, increases transaction costs, inhibits innovation, and weakens trust in public institutions. Conversely, competitive markets tend to reduce the scope for corruption, as economic processes take place openly, transparently, and on the basis of merit.

2. In the context of public procurement, the relationship between competition and corruption is particularly significant, as government procurement involves the use of substantial public funds and carries a high risk of collusion, bid rigging, bribery, conflicts of interest, and abuse of discretion. For this reason, competition authorities and anti-corruption agencies in many countries increasingly recognize that the enforcement of competition law and the eradication of corruption must proceed in a complementary manner. In the Indonesian context, this issue is highly relevant, given that government procurement of goods and services is one of the areas most vulnerable to corruption and tender conspiracy.

2. The Structural Relationship between Corruption and Competition

3. From an economic perspective, corruption and anti-competitive practices feed off each other in a self-reinforcing loop. When public officials take bribes or favor certain firms, they erect artificial barriers that have nothing to do with cost, quality, or innovation. Licensing gets delayed, technical requirements are tailored to exclude outsiders, and access to inputs or public contracts is rationed based on connections rather than efficiency. That distorts selection mechanisms: the firms that win are not necessarily the most productive, but the ones best at navigating corrupt channels. As a result, resources shift away from productive use, prices stay higher than they should be, and productivity growth slows. At the same time, markets that lack effective competition tend to concentrate economic power in a small set of incumbents. Those firms then have both the resources and the incentive to engage in rent-seeking: lobbying for favorable regulations, capturing enforcement agencies, and protecting their position through informal deals. The higher the rents from market power, the more worth it becomes to pay for political influence, which in turn further weakens competitive discipline.

4. In public procurement, this dynamic is especially visible because the state is both the buyer and the regulator of the process. Bid rigging rarely stands alone; it usually relies on complementary corrupt acts to make the scheme work. Colluding bidders will coordinate cover bids, rotate winners, or suppress competition, but they still need to manage the risk that a genuinely competitive outsider enters or that an honest official rejects the outcome. That is where bribery comes in: paying officials to leak confidential bid data, to design specifications that fit only the cartel members, or to manipulate evaluation scores and technical assessments. Discriminatory specifications exclude capable competitors before the tender even opens, while leaked information lets insiders price exactly to win. When these elements combine, the procurement process becomes a mechanism for dividing rents rather than achieving value for money. In practice, corruption and tender cartels are two sides of the same distortion: the cartel secures the market allocation, and corruption

ensures the state mechanism that should prevent it is disabled or turned into a tool for enforcement.

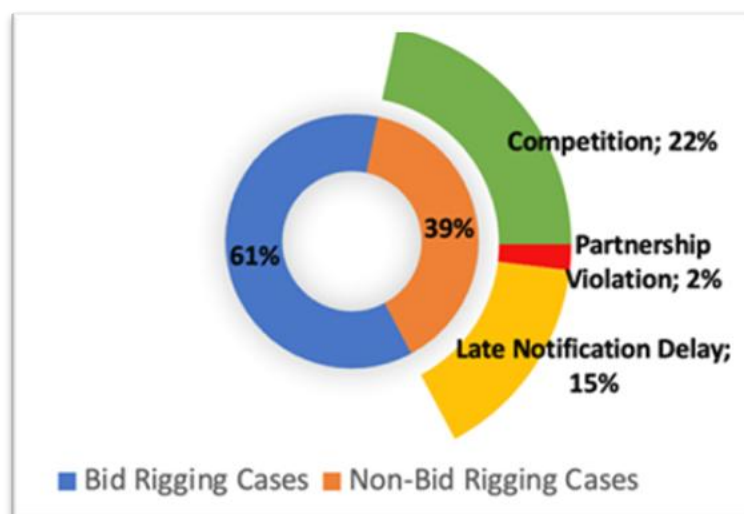
5. In Indonesia, Law No. 5 of 1999 prohibits tender conspiracy under Article 22. Meanwhile, the corrupt aspects may be prosecuted under the Anti-Corruption Law. In practice, the two legal regimes can operate in parallel, as they protect different legal interests. Competition law protects the competitive process and market efficiency, while anti-corruption law protects the integrity of state administration and public finances.

3. The Role of the KPPU in Combating Corruption through Competition Enforcement

6. Although the KPPU is not an anti-corruption agency, its enforcement of competition law weakens the structural conditions that make corruption viable. Collusion and tender conspiracy depend on closed, predictable processes where a small group of bidders can divide the market and control outcomes. By breaking up those agreements, imposing fines, and ordering the reopening of tenders, the KPPU forces procurement back toward genuine competition. That matters because competition reduces the rents available for both bidders and corrupt officials to divide. When multiple firms can realistically compete on price, quality, and delivery, the value of rigging the process falls, and the payoff from bribing an official diminishes. In this way, competition enforcement acts as a preventive measure: it removes the economic incentive and opportunity for corrupt deals, even if the KPPU does not prosecute bribery itself.

7. In Indonesia, bid-rigging cases have consistently been one of the largest categories in KPPU's docket. Based on KPPU's distribution case, during the 2001-2025 period, 61% of cases handled by the KPPU were related to tender conspiracies. Moreover, according to The Corruption Eradication Commission (KPK) as of December 31, 2024, 90% of the cases KPK manages being related to procurement. This reflects the structural risks in public procurement. The system involves large budgets, discretion in technical specifications, and repeated interaction among the same contractors and officials, creating fertile ground for coordination.

Figure 1. Distribution of cases 2001-2025



8. In case handled by KPPU, investigations often involved combine evidence, like abnormally tight bid ranges and synchronized price increases, with digital evidence such as shared IP addresses, identical document metadata, and patterns in file creation times that suggest centralized preparation of bids. Affiliation analysis further reveals hidden relationships among bidders presented as independent. By exposing these patterns, the KPPU not only sanctions past conduct but also raises the detection risk for future collusion, changing the cost-benefit calculation for firms and officials considering rigged tenders.

9. Beyond enforcement, the KPPU's policy advocacy role targets the design of procurement rules themselves to reduce opportunities for manipulation. Through recommendations to ministries, local governments, and the National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*, LKPP), the Commission pushes for measures like wider publication of tender opportunities, clearer and non-discriminatory technical specifications, separation of evaluation functions, and the use of e-procurement systems that limit manual intervention. It also advises against practices that unintentionally facilitate collusion, such as overly short bidding periods, excessive qualification requirements, or centralized single-source arrangements without justification. This advocacy complements casework: even if a cartel is broken up, the underlying process can still be vulnerable unless the institutional design changes. By aligning procurement design with competitive principles, the KPPU helps institutionalize transparency and contestability, making it harder for corruption and collusion to re-emerge in the same form.

4. Economic Analysis of Bid Rigging and Corruption

10. Bid rigging destroys the core function of public procurement, which is to use competition to reveal the lowest price and highest quality for a given set of requirements. When bidders coordinate or collude with officials, the appearance of competition is preserved on paper but the outcome is predetermined. Cover bids, bid rotation, and complementary bidding create a façade of rivalry while ensuring the designated winner secures the contract at a price close to the maximum the buyer is willing to pay. Because the selection mechanism no longer rewards efficiency or innovation, firms have little incentive to invest in better processes, technology, or cost reduction. The result is a direct fiscal loss: the government pays more for the same work, and the budgetary space for other public services shrinks. At the same time, quality suffers as firms focus on meeting the minimum formal requirements rather than competing on performance, and innovation stalls because new entrants with better solutions are systematically excluded.

11. These distortions generate classic deadweight loss and reduce overall public welfare. Higher contract prices mean fewer projects can be funded from the same Government Budget envelope, so infrastructure, health, and education programs are scaled back or delayed. The misallocation of resources worsens when corruption enters the equation, because decisions shift from value-for-money criteria to rent-seeking logic. Contracts are awarded to connected firms rather than capable ones, and procurement officials may favor specifications that inflate costs or limit participation. Over time, this transforms procurement from a competitive allocation mechanism into a tool for political and private rent distribution. The economy bears the cost twice: once through higher spending and once through weaker productivity, as resources flow to firms that excel at navigating corrupt networks rather than at delivering goods and services efficiently.

5. Leniency Programmes and Corruption Issues

12. Leniency programmes are designed to destabilize cartels by creating distrust among members. The basic mechanism is simple: the first cartel participant that reports the conduct and provides evidence can receive full or partial immunity from competition sanctions. This creates a prisoner's dilemma, each member has an incentive to break ranks before others do. Internationally, leniency has proven effective in uncovering hard-core cartels that would otherwise remain hidden, because direct evidence of secret agreements is rare. In theory, the same logic applies to tender cartels, if one bidder fears that a rival will self-report, the cost of staying in the conspiracy rises sharply, and the cartel becomes harder to sustain.

13. The complication arises when tender conspiracy overlaps with corruption. In these cases, the same conduct that violates competition law (bid rotation, cover pricing, information exchange) also involves bribery, abuse of authority, or falsification of documents under criminal law. If a company receives full leniency from the competition authority but remains exposed to criminal prosecution for bribery, it has little incentive to cooperate fully. Conversely, if leniency in the competition case automatically shields individuals and firms from corruption charges, enforcement against public officials and other criminal actors can be undermined. This may create a policy tension, leniency must be attractive enough to generate cooperation, but it cannot become a backdoor to impunity for corruption. Several jurisdictions address this by limiting leniency to administrative competition sanctions and explicitly excluding criminal liability, while allowing coordinated evidence-sharing between agencies.

14. Indonesia does not yet have a functioning leniency regime in Law No. 5/1999, and KPPU Regulation No. 2/2023 only mentions cooperation as a mitigating factor, not immunity. The absence of a formal programme means KPPU currently relies on whistleblowers and investigative tools without the ability to offer credible immunity in exchange for evidence. As policy design moves forward, the key challenge will be to structure leniency so it complements, rather than conflicts with, anti-corruption enforcement. That requires a clear legal boundary: cooperation in a competition case should not automatically confer immunity from criminal prosecution. Instead, KPPU and law enforcement agencies such as the KPK and police need formal mechanisms for case coordination, evidence exchange, and joint prioritization. A coordinated approach preserves the deterrent effect of both competition and criminal law, ensures that corrupt officials are still held accountable, and gives firms a predictable framework for self-reporting without expecting blanket protection from all legal consequences.

6. Cooperation between the KPPU and Other Institutions

15. The effectiveness of tackling tender conspiracy hinges on how well institutions with different mandates work together, because no single agency sees the full picture. The KPPU can detect patterns of collusion through market and bidding analysis, but it cannot prosecute bribery or quantify state financial losses. The Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK), the Attorney General's Office, the Police have the authority to investigate and prosecute criminal corruption, but they often lack the economic and market-structure evidence that signals where collusion is likely. Meanwhile, LKPP governs the procurement process and sets system rules, the Supreme Audit Agency (*Badan Pemeriksa Keuangan*, BPK), the Finance and Development Supervisory Agency (*Badan Pengawasan Keuangan dan Pembangunan*, BPKP) audit for financial irregularities and losses to the state, and only by combining these perspectives can

enforcement move from isolated cases to systemic fixes. Without coordination, cases fall between mandates: the KPPU may sanction a cartel while corrupt officials remain untouched, or auditors flag losses without identifying the underlying competitive distortion that enabled them. Structured cooperation, through information-sharing protocols, joint task forces, and referral mechanisms, allows each institution to use its findings to trigger action by the others.

16. Each agency's distinct focus is actually complementary if the system is designed to connect the dots. The KPPU's analysis of bidding patterns, affiliations, and market concentration identifies where competition has broken down. That output becomes a lead for law enforcement to look for bribery, abuse of authority, or document falsification. LKPP can use the same evidence to redesign specifications, adjust qualification rules, and tighten e-procurement controls to close the loopholes that enabled the scheme. BPK and BPKP provide the quantification of financial loss and procedural non-compliance that underpins both administrative and criminal cases. The challenge is to avoid duplication and siloed investigations, and to ensure that evidence collected under one mandate is admissible and usable under another. Memoranda of understanding, joint case-screening meetings, and common training on forensic economics and procurement law are practical ways to align these mandates without overstepping legal boundaries.

17. Looking forward, integration of data and analytics is what makes coordination operational. Indonesia's SPSE e-procurement system, built by LKPP, already generates structured data on bidders, bid times, document uploads, and contract awards. If that data is linked with company registry records, tax data, and audit findings, forensic analytics can flag suspicious patterns automatically (repeated IP addresses, identical document metadata, abnormal price clusters, or rapid changes in supplier pools). Early warning systems built on these analytics allow agencies to intervene before contracts are signed, rather than only investigating after losses occur. Digital procurement also reduces the physical meetings and informal contacts that create opportunities for bribery and bid-rigging, replacing them with auditable electronic trails. But technology alone isn't enough, the impact comes when KPPU, KPK, LKPP, and the audit bodies share access to the same data infrastructure and agree on common risk indicators. That turns procurement from a blind spot into a transparent, data-driven process where collusion and corruption are harder to conceal and easier to disrupt.

7. Division of Authority and the Risk of Overlapping Enforcement

18. A single procurement can involve horizontal collusion among bidders to fix prices or allocate contracts, while at the same time involving vertical bribery of procurement officials to leak information, tailor specifications, or approve rigged evaluations. From a competition perspective, the harm is the restriction of market rivalry and the distortion of allocative efficiency. From an anti-corruption perspective, the harm is the abuse of public office for private gain and the breach of fiduciary duty. Competition law safeguards the competitive process and consumer welfare, while criminal anti-corruption law protects public integrity and the lawful exercise of state authority. Sanctioning a cartel does not preclude prosecuting the officials who facilitated it, and vice versa.

19. Because the conduct, evidence, and actors are intertwined, agencies can end up investigating the same documents, witnesses, and digital trails. The practical challenge is to avoid procedural conflict and ensure that enforcement is complementary rather than contradictory. Without clear coordination, this creates a risk of conflicting findings, duplicated requests for information that burden firms, and inconsistent timelines that weaken both cases. A common approach in other jurisdictions is to allow the competition

authority to pursue administrative sanctions quickly while referring corruption elements to law enforcement, with both sides agreeing on which evidence can be used in which forum. Parallel enforcement is generally permissible and often necessary because each regime protects a distinct legal interest.

20. In Indonesia, Corruption Eradication Commission (KPK) has the authority to wiretap during the investigation and inquiry stages without court permission (based on coordination with the Supervisory Board). This information is strictly confidential. If necessary, the KPK can catch perpetrators red-handed or collect criminal evidence before they realize they are being targeted. Meanwhile, confidentiality at the KPPU is economic-procedural to protect market data and the rights of business actors before a final decision is made. During the investigation into allegations of unfair business competition, the KPPU holds sensitive company data (cost structures, pricing strategies, vendor lists). By law, the KPPU is obligated to safeguard these trade secrets to prevent public disclosure. The KPPU lacks the search and wiretapping powers possessed by the KPK. This situation makes it possible that the cases the KPK is handling may overlap with the KPPU's work, in which case the KPK would undoubtedly handle those cases first.

21. From a due process perspective, procedurally, the KPPU does not transfer case files in the prosecutorial sense used by police investigators. Instead, it provides recommendations, shares findings of suspected criminal conduct, and possibility coordinates roles for parallel proceedings on the same case. The KPPU and the KPK are both aware of the potential for overlap between the cases they handle. Therefore, close cooperation is necessary, strengthened through a formal commitment through a Memorandum of Understanding (MoU) since 2006 that recognizes the substantial overlap between anti-competitive conduct, such as cartels and tender rigging, and corruption, including bribery of public officials. The MoU provides a structured framework for collaboration in cases where these offenses intersect. The main elements of the MoU include data and information exchange, joint study, support in investigation as expert witnesses, joint outreach, and joint compliance program.

22. This coordination was evident in the e-national identity card (*e-kartu tanda Penduduk/e-KTP*) procurement case at the Ministry of Home Affairs. In 2012, well before the matter became a high-profile KPK investigation, the KPPU found that the PNRI Consortium and several supporting companies had engaged in tender collusion in violation of Article 22 (bid-rigging) of Law No. 5/1999 and imposed administrative fines. Decision No. 03/KPPU-L/2012 examined the 2011-2012 tender for the national electronic national identity card program and found evidence of both vertical and horizontal bid rigging. The investigation centered on how the procurement process was structured to favor the PNRI Consortium. On the vertical side, the Tender Committee facilitated this outcome through discriminatory technical specifications and an evaluation process that lacked objectivity. The Committee overlooked material discrepancies in the equipment specifications submitted by the winning bidder, effectively lowering the competitive standard for that consortium while maintaining stricter requirements for others. On the horizontal side, the KPPU identified coordination among bidders that went beyond legitimate interaction. Similarities in bidding documents, timing of submissions, and patterns of communication indicated that competitors were exchanging information and aligning their bids outside the formal process. This level of coordination signaled that the competition was artificial, with arrangements made behind the scenes to ensure the project went to a predetermined consortium. As a result, other firms were denied a genuine opportunity to compete on price, quality, and technical capability. By distorting both the design of the tender and the conduct of the bidders, the behavior restricted participation, inflated costs, and undermined the integrity of a nationally strategic project. The KPPU's findings on collusion, falsified tender documents, and inflated pricing structures provided key economic evidence that later

supported the KPK's investigation into bribery payments to government officials and members of the House of Representatives.

8. Procedural Law and Evidence in Tender Conspiracy Cases

23. In KPPU practice, direct evidence of tender conspiracy is rare. Participants rarely leave written admissions or recorded agreements, and the conduct is designed to avoid detection. As a result, cases are built on indirect and economic evidence that reveals coordination through patterns of behavior rather than explicit statements. This approach treats the tender process as a data-generating event: when bidding outcomes deviate from what would be expected under genuine competition, the deviation itself becomes evidence.

24. The most common indicators include structural and technical similarities across bids. Identical typographical errors, formatting, metadata, and file creation timestamps suggest that documents were prepared jointly or copied from a common source. Shared IP addresses, login times, and email domains point to a single control point for multiple bidders. Corporate affiliations, hidden through shell companies, shared directors, or overlapping ownership, explain why ostensibly competing firms submit complementary bids. Beyond documents, behavioral patterns such as winner rotation, complementary bidding, and abnormal price clusters signal that firms are allocating contracts rather than competing. These patterns are assessed against economic benchmarks: price levels, participation rates, and variance in bids are compared to competitive markets for similar goods and services.

25. Technological developments have made digital forensic evidence central to this analysis. E-procurement systems like SPSE generate detailed logs of document uploads, access times, IP addresses, and user actions. Metadata embedded in files can reveal authorship, editing history, and last-modified details that link supposedly independent bidders. Communication records, financial flows, and device identifiers further allow investigators to map relationships between firms and procurement officials. In electronic tenders, these digital footprints are harder to erase and easier to cross-reference than paper trails, providing strong circumstantial evidence of coordination. When combined with economic analysis, digital forensics allows the KPPU to reconstruct how a rigged tender was organized, who participated, and where intervention occurred, even in the absence of a confession.

9. Competitive Procurement Design as a Preventive Measure against Corruption

26. Prevention is more cost-effective and durable than relying solely on enforcement after a cartel has formed. Once collusion is embedded in a procurement market, detecting and proving it requires substantial investigative resources, and the financial and reputational damage is already done. Embedding competition principles into the design of the procurement system itself reduces the structural opportunities for coordination and makes rigging harder to sustain.

27. Conversely, designs that encourage broad participation lower the risk of collusion. Using lotting strategies to split contracts into packages of manageable size, setting proportionate qualification criteria, and allowing joint ventures create entry points for new competitors. Safeguarding strategic information, such as delaying the release of detailed bid data until after award, removes the feedback loop cartels use to monitor each other. Procurement analytics applied to SPSE data can flag risk factors automatically: repeated bidder pairings, abnormal price clustering, identical document metadata, and unusual

winner rotation. These analytics allow procurement officers and oversight bodies to intervene before contracts are signed.

28. The KPPU's role here is *ex ante* rather than *ex post*. Through its mandate to assess government regulations and procurement designs, the KPPU can review draft rules, tender documents, and standard procedures for their competitive effects. By issuing competition assessments and recommendations, the KPPU helps LKPP and line ministries identify provisions that unintentionally facilitate collusion and replace them with alternatives that preserve legitimate policy goals while maintaining rivalry. This shifts enforcement from reacting to completed cartels toward preventing the conditions that make cartels possible.

10. The Impact of Digitalization on Competition and Corruption

29. The digitalization of public procurement shifts both the risks and the tools available for detecting them. On the opportunity side, e-procurement systems like SPSE reduce physical contact between bidders and officials, create auditable electronic trails, and centralize data that was previously fragmented across paper documents. Automated publication of tender notices, standardized submission portals, and digital evaluation records lower information asymmetries and make it harder to manipulate procedures without leaving a trace. This cuts down on the informal meetings and undocumented negotiations that are most vulnerable to bribery.

30. At the same time, digital systems create new vectors for collusion. Algorithms and automated bidding tools allow firms to coordinate at scale with minimal human interaction. Software can be used to submit complementary bids, rotate winners across tenders, or mirror pricing patterns in milliseconds, making coordination harder to observe through manual review. More sophisticated forms of digital coordination include sharing bidding scripts, using virtual private servers to mask shared control of multiple accounts, and exploiting metadata to verify that competitors are using a common template. In some cases, internal procurement officials can embed discriminatory parameters into the system itself, automating bias without direct contact with bidders.

31. To address these forms of collusion, competition authorities and anti-corruption agencies need to build technical capacity beyond traditional investigation methods. Digital investigation skills are required to extract and analyze logs, metadata, and access records from e-procurement platforms. AI and forensic analytics can process large volumes of bid data to identify structural patterns, price clustering, winner rotation, and document similarity, that signal coordination. Market intelligence capabilities are needed to link digital footprints to corporate structures, ownership networks, and past bidding behavior. Without these capacities, enforcement risks lagging behind the methods used to conceal collusion. Developing them allows agencies to move from reactive casework to proactive monitoring, where suspicious patterns are flagged and investigated before contracts are awarded.

11. Conclusion

32. The relationship between business competition and corruption in public procurement is a fundamental issue in modern economic governance. Healthy competition strengthens market integrity, while corruption and tender collusion undermine economic efficiency, increase public costs, and hinder development.

33. In the Indonesian context, enforcement against tender conspiracy carries strategic significance not only from a competition policy perspective, but also in efforts to strengthen governance and ensure the effective use of public funds.

34. Going forward, strengthening coordination between the KPPU and anti-corruption agencies, advancing digital procurement governance, employing forensic analytics, and improving the quality of procurement design will be key to creating a procurement system that is more competitive, transparent, and accountable.

35. Ultimately, the eradication of corruption and the enforcement of competition law are not separate agendas, but rather parts of the same objective: to create markets and economic governance that are efficient, fair, and based on integrity.