

Indonesia: KPPU maps out indications of rigged bids

In brief

KPPU (the Indonesian Competition Commission) continues its enforcement against rigged bids, although bid-rigging investigations no longer dominate its caseloads. Initial indications of rigged bids that we laid out in [our previous publication](#) have been confirmed by the issuance of [KPPU Chairman Regulation No. 3 of 2023 on Guidelines on Tender Conspiracy Prohibition \("KPPU CR 3/2023"\)](#). KPPU CR 3/2023 provides elaborate indications and scenarios of rigged bids involving various mechanics (vertical and horizontal) and stages. Businesses can use this guidance in their training materials to enhance their compliance.

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No more reasons to say "I don't know"

With KPPU CR 3/2023 laying down so many possible scenarios and indications of rigged bids from the planning stage, formation of the procurement committee stage, prequalification stage and open tender process, up to the appeal and decision-making stage, there are no more reasons for business actors to say they don't know how to identify a potentially rigged bid.

KPPU CR 3/2023 clarifies that the prohibition of tender conspiracy set out under Article 22 of the Anti-Monopoly Law (Law No. 5 of 1999 on the Prohibition of Monopolistic and Unfair Business Practices) applies not only to public/government tenders, but also to tenders in the private sector.

KPPU CR 3/2023 also states that indirect or circumstantial evidence in the form of communication evidence or economic evidence may be used as a form of "Indication", which is a type of evidence recognized under Article 42 of the Anti-Monopoly Law.

In a rigged public/government procurement involving government officials, KPPU may also coordinate its efforts with other law enforcement authorities (e.g., the Attorney General Office or the Corruption Eradication Commission) to carry out criminal investigation.

We summarized the rigged-bid indicators under KPPU CR 3/2023 in our [2023 Competition Law Guide](#).

Aggressive regulation-making activity by KPPU during leadership transitional period

KPPU seems to be very active at issuing regulations and chairman regulations during its leadership transitional period. Within the last couple of months, KPPU announced [a new merger filing regulation](#), [a new case-handling regulation](#), [a new policy-influencing regulation](#), and three new chairman regulations [on defining relevant market](#), [paying administrative fines by instalments](#), and [negative impact](#).

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