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Harmonization Of Funding For Government Cooperation With Small-Scale Business Entities (Kpbu Sk) In Relation To Law Number 1 Of 2022 On Central-Local Government Financial Relations

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Abstract

This research aims to examine the relevance of the Minister of Bappenas Regulation No. 7 of 2023 and Law No. 1 of 2022 in supporting the Small-Scale Public-Private Partnership (PPP) scheme. The background of this research is the low utilization of PPP by local governments, primarily due to complicated document requirements, high minimum project value, and substantial implementation costs. The urgency of this study lies in the need for regulatory harmonization to enhance regional fiscal capacity and financial management effectiveness to ensure project success. This research employs a normative juridical method with a legislative and conceptual approach. The results indicate that since 2015, the implementation of PPP in Indonesia has successfully transacted 34 projects, including 6 projects under local governments. However, local government participation in PPP remains limited. The conclusion of this study is that the Small-Scale PPP, as regulated by the Minister of Bappenas Regulation No. 7 of 2023, is expected to simplify the process for projects with a simpler scope. Harmonizing PPP regulations with the HKPD Law is essential to increase fiscal capacity and improve implementation effectiveness. The novelty of this study is the recommendation for the government to update PPP regulations by simplifying requirements, lowering the minimum project value, and strengthening harmonization with the HKPD Law to promote more equitable and sustainable infrastructure development across regions.

Keywords : KBPU; Harmonization; Regional Government.

1. INTRODUCTION

In the latest regulation issued by Bappenas, Small Scale PPP has been introduced. SMALL SCALE PPP is a PPP project that provides economic benefits, mainly to the community with a simple structure and/or scope¹. Small Scale PPP criteria as shown in Figure 1 below:



¹ Maramis, "Faktor Faktor Sukses Penerapan KPBUSK Sebagai Sumber Pembiayaan Infrastruktur: Suatu Kajian."

Figure 1. Definition and criteria of Small Scale PPP

Based on picture above it can explained that Small Scale PPP Scheme has a lot function if we connect with developing an infrastructure. In recent decades, Small Scale PPP schemes have been applied by many developing countries at the local level for small-scale projects such as waste management, street lighting, city parking facilities, city park maintenance and so on.² The infrastructure that can be cooperated under the Perpres PPP is economic infrastructure and social infrastructure.³ Several Small Scale PPP activities have previously been implemented and successfully achieved construction such as the Road Lighting Equipment (APJ) in Madiun with an investment value of 100 billion using the availability payment (AP) financing scheme⁴. This financing scheme is a form of PPP that is carried out in a way that the government pays for the performance produced by the Business Entity without looking at the demand⁵.

Currently, the implementation of Small Scale PPP itself has only succeeded in the electricity sector, namely Street Lighting Equipment, although not a few have failed, such as the health sector in the Zainal Abidin Hospital project, the transportation sector, namely roads in Medan⁶. The failure to achieve construction is due to, among others, regional fiscal capacity which certainly will not be able to finance development as carried out by national fiscal capacity. This is different compared to conventional PPP projects that are almost successful in twenty-one sectors regulated in Presidential Regulation 38 of 2015 on PPP⁷.

Based on APBD data, the majority of regions in Indonesia have low regional fiscal capacity, especially districts whose dependence on regional transfers is high.⁸ Data from the Minister of Finance, which is in line with the results of the examination from the Supreme Audit Agency, only 10% of the total 451 districts in Indonesia are fiscally independent, and the remaining 90% of the regions are in the category of fiscally not independent so that the actual implementation of this can be maximized again, which can be done by providing government support.

Government support is defined by the contribution of fiscal support and/or other forms submitted by the minister / head of institution / regional head and / or minister who carries out government affairs in the field of state finance based on the authority given to him to strengthen the financial capacity and effectiveness of PPP. In contrast to the definition of feasibility support, which is defined as government support in the form of fiscal support that is financial in nature for PPP Projects, where the provision is carried out by the minister who carries out government affairs in the field of state finance as well as support provided to several PPP projects at the national level in the form of financing a maximum of 49% of

² Ahmad and Shukla, *A Preliminary Review of Trends in Small-Scale Public-Private Partnership Projects*.
³ (Setiajatnika et al., 2023).

⁴ (Suhendra et al., 2023).

⁵ (Mahani et al., 2022).

⁶ Lathifah and Suyanto, "Kebijakan Single Presence Policy Terhadap Struktur Kepemilikan Bank Pasca Konsolidasi Bank Umum."

⁷ Margono et al., "Keabsahan Pengenaan Pajak Karbon Dalam Peraturan Perpajakan."

⁸ Sofi, "Pelaksanaan Pembangunan Infrastruktur Di Daerah Melalui Pemanfaatan Skema Kerja Sama Pemerintah Daerah Dan Badan Usaha."

the construction value⁹. The selection of risk allocation strategy can actually be viewed as a process of determining the proportion of risk management responsibilities between internal and external organizations based on a set of characteristics of the risk management service transactions concerned¹⁰. Details of government support and feasibility support are shown in Figure 2 below.

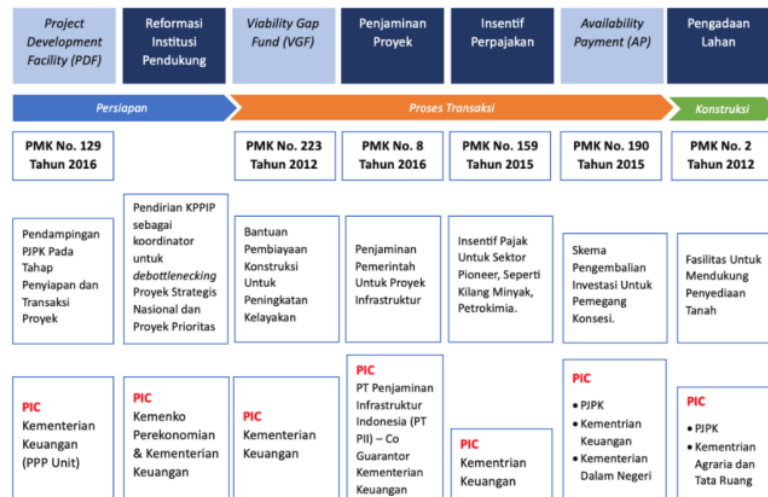


Figure 2: Government support at each stage of PPP

Source:¹¹

The image above outlines the stages of Public-Private Partnership (PPP) projects in Indonesia, including preparation, transaction process, and construction. It highlights key regulations, government roles (PIC), and financial mechanisms supporting infrastructure projects. The support of the government can be seen on the enactment of Law No. 1 of 2022 on Financial Relations between Central and Regional Governments (hereinafter referred to as the HKPD Law) provides a great opportunity for regions that are not yet fiscally independent to implement projects with the Small Scale PPP scheme through funding synergies introduced in the HKPD Law in order to improve regional fiscal and synergy with national fiscal. In the five years since the HKPD Law was passed, the Regional Government is obliged to allocate an infrastructure ceiling of at least 40% of APBK expenditure in addition to financing infrastructure projects that can be carried out by synergizing funding from the General Transfer Fund (DTU) with the Special Allocation Fund (DAK)¹². The same thing in the Permen of Bappenas, SMALL SCALE PPP can also

⁹ Kusumastuti and Ishwara, "Kedudukan Hukum Memorandum of Understanding (MOU) Digital: Implikasi Dan Orizasi Dalam Perspektif Hukum Inklusif."

¹⁰ Jin, "Allocating Risks in Public-Private Partnerships Using a Transaction Cost Economic Approach: A Case Study."

¹¹ Gan Gan Dirgan, (2022)

¹² Hardiyanti and Taupiqurrahman, "Investor's Obligations in Default Dispute of Build Operate Transfer Agreement for Market Revitalisation Many Indications of Default in the Market Revitalisation Process. PT ALS Continues to Manage the Cikampek I Market Because It Considers That the Karawang Regent Made a

be done by funding collaboration through one of them through DTU or DAK. Departing from the explanation as described above, it can actually be seen that The potential of Small Scale PPP is very high but needs regulatory support¹³.

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Departing from the explanation above, it can actually be done related to the PPP regulation with the HKPD Law, especially in this case related to the minimum limit criteria for infrastructure spending so that later in increasing the fiscal value and efficiency of the SMALL SCALE PPP project, no one has examined it so that it actually still opens opportunities for researchers to conduct research on the harmonization of regulations on various regulations that discuss PPP with regulations contained in the HKPD Law so that later a regulation can be obtained that can explain the harmonization of infrastructure development regulations, especially in this case infrastructure development with the PPP scheme.

Small Scale PPP's funding synergy ultimately aims to realize the acceleration of infrastructure development that not only has an economic impact but also has a social impact on people's lives. Economic infrastructure will have a positive effect on regional development and economic growth, while social infrastructure has a positive effect on human capital and quality of life¹⁴. Therefore, some policy implications that can be done are first, government policy interventions to support the economic growth of underdeveloped provinces. Second, the proper use of the budget, especially in budget items that support capital accumulation in the form of human capital and hard infrastructure. Finally, seeking improvements to infrastructure based on regional needs and geographical aspects¹⁵. Thus, the risks and impacts of problems that occur (for example "the failure of the spaceport project in Biak Papua") related to administration, Environmental, Social and Governance (ESG) such as the risk of delays, costs, or even cancellation can be avoided.¹⁶

From the background that has been described in the introduction, there are two identification problems that will be researched in this thesis, among others:

How is the implementation of Small Scale PPP in Indonesia linked to the PPP Regulation in Indonesia? How is regulatory harmonization in efforts to strengthen fiscal capacity in efforts to strengthen fiscal capacity in Small Scale PPP linked to the PPP Regulation and the HKPD Law?

2. METHOD

The research method used in order to examine the problems in this study uses a type of normative juridical research or in this case is a library law study. This research process is carried out by analyzing various pre-existing literature materials, so as to produce arguments that are able to answer predetermined problems.¹⁷ The use of normative juridical research

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² Unilateral Termina²⁶. 5 Then, PT Nolimax Jaya Could Not Fulfil Its."

¹³ Wardhana et al. ¹⁹ *Kema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*.

¹⁴ Amalia et al., "Analisis Dampak Ekonomi Dan Sosial Pembangunan Infrastruktur Di Indonesia."

¹⁵ (Maryaningsih et al., 2014).

¹⁶ Amalia, Naibaho, and Pratama, "A Systematic Review of the Interrelation of Administrative, Environmental, Social and Governance of Public-Private Partnerships (PPP) Spaceport Project in Biak, Papua, Indonesia."

¹⁷ Muhaimin, *Metode Penelitian Hukum*.

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methods here itself is the author's choice because in general it can be explained that arrangements regarding PPP are available, but harmonization with other regulations is needed so that the implementation of PPP can be carried out more optimally. In this study, two types of research approaches are used, where the first approach is a legislative approach that examines the problem based on Perbapennas Number 7 of 2023 and the HKPD Law and the second approach used in this study is a conceptual approach where the conceptions used are the concept of PPP, the concept of Small Scale PPP and the concept of Regulatory Harmonization.

3. RESULTS AND DISCUSSION

3.1 Implementation of Small Scale PPP in Indonesia in relation to PPP Regulations in Indonesia

The government has undertaken various initiatives to improve the integration of creative financing sources in financing infrastructure development in Indonesia. One significant effort is the implementation of the Public-Private Partnership (PPP) scheme, which began in 2015. This scheme aims to combine resources and expertise from the public and private sectors to accelerate the development of necessary infrastructure. According to the PPP Book Indonesia report published by Bappenas in 2023, a total of 34 projects have been successfully transacted through the PPP scheme since 2015 to date. Of these, 6 projects are under the authority of local governments. This data shows that local governments have not fully utilized the PPP scheme compared to the central government¹⁸.

There are many obstacles that hinder the interest of local governments in choosing to use the PPP scheme, including: complex document requirements, minimum project value that is considered too high, and the high cost of implementation. These constraints are a tough challenge for local governments, which generally have more limited resources compared to the central government¹⁹.

Currently, PPP schemes tend to be perceived as an alternative financing mechanism exclusive to large projects with a high level of complexity. This perception limits local governments' access to PPP schemes, which can actually be an effective solution for them. Therefore, there is an urgent need to simplify the PPP scheme to make it more accessible and implementable by local governments. One of the alternatives being considered is the Small Scale Public-Private Partnership (Small Scale PPP). The Small Scale PPP scheme is designed to be more flexible and adaptable for infrastructure projects with smaller scale and lower complexity²⁰. Thus, this scheme is expected to reduce the barriers currently faced by local governments. The implementation of Small Scale PPP will not only accelerate infrastructure development at the local level, but will also open up opportunities for more private companies to participate in projects that previously may not have been attractive to them due to the scale or value of the project being too small.

¹⁸ Wardhana et al., *Skema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*.

¹⁹ (Wardhana et al., 2023).

²⁰ Arifin, Sukrisno, and Arifin, "Land Procurement for Public Interest in Local Governments With Small Scale."

In addition, Small Scale PPP also provides an opportunity for local governments to develop capacity and experience in managing infrastructure projects through partnerships with the private sector. This can create a more conducive environment for investment and improve efficiency in the management of public resources. With this scheme, it is expected that local governments can be more active and play a significant role in infrastructure development that has a direct impact on the welfare of local communities²¹.

The explanation of PPP itself is mentioned in Article 1 Point 6 of the Regulation of the Minister of National Development Planning / Head of the National Development Planning Agency of the Republic of Indonesia Number 7 of 2023 concerning the Implementation of Government and Business Entity Cooperation in Infrastructure Provision (Permen Bappenas No. 7 of 2023). Based on this article, it is explained that Small Scale PPP is a PPP project that provides economic benefits to the community with a relatively simple structure and/or scope. Based on article 85 paragraph 1, it can be seen that small-scale PPP can only be carried out on infrastructure that meets the criteria as stipulated, including: First, on a simple infrastructure provision plan/scope. The explanation of the simple scope relates to the low complexity of the project, the number of stakeholder involvement, such as consisting of only 1 PJPK, consisting of 1 (one) Infrastructure sector, and does not include projects across Infrastructure sectors, the service environment is not cross-authority or cross-regional. The second criterion that must be met in order to apply SMALL SCALE PPP is that Small Scale PPP is carried out as a planned technical solution using proven technology and/or that has been applied to similar projects. The third criterion is that it can only be applied to projects that do not require feasibility support as evidenced by, among others, the fiscal capacity of the PJPK to implement the project. In addition, local governments can only use the Small Scale PPP mechanism if the implementation of the PPP meets a maximum period of 10 years.

Based on the rules regarding the criteria for determining SMALL SCALE PPP, it can be concluded that these criteria are cumulative and not alternative. This means that the application of Small Scale PPP can only be done if all of the criteria must be met and not just one of them. Based on article 85 paragraph 3, it can be explained that the determination of whether or not the criteria are met is based on an analysis of the fulfillment of the criteria. The analysis of the fulfillment of these criteria is conducted by the minister, head of institution, regional head, or director of a state-owned enterprise (BUMN) during the preliminary study of Small Scale PPP initiated by the government. Alternatively, it is carried out by the minister, head of institution, regional head, or director of a BUMN in the approval process to continue based on the submission of a letter of intent and supporting documents from the Business Entity for a Small Scale PPP initiated by the Business Entity. In Appendix I of Bappenas Ministerial Regulation Number 7 of 2023, the illustrative criteria for applying Small Scale PPP are outlined, using drinking water infrastructure as an example. The criteria include a simple project scope, which may involve activities such as the operation, maintenance, and asset management handover of the water supply system, or the design and

²¹ (Wardhana et al., 2023).

construction for the development and delivery of portable water supply systems. Additionally, the project must have an investment value of Rp 49,000,000,000.00 (forty-nine billion rupiah), and the technology involved should be a drinking water treatment plant.

Small-scale PPP can be used mainly for projects that use the *user charge* method of returning investment. *User charge* refers to a company investing funds for infrastructure development with the expectation of earning revenue from the users of the infrastructure. This means that if the infrastructure that has been built is used by the community and they pay for its use, these payments will be used to finance operations, maintenance of the infrastructure if needed, as well as a return on the investment that has been made by the company or private party.²³ The existence of user charges in infrastructure development itself is a term that is commonly used, especially in this case the use of the term is used in infrastructure development whose implementation is very complex and also has a large impact on society when it is completed, as in this case it is used in dam projects along with power plants, development of Drinking Water Supply Systems (SPAM), and port development projects.²³

However, it is not necessary to use a return on investment method in the form of a user charge for the reasons set out in the analysis and included in the inception study. Availability payment²⁴. The second method to provide profit and return of capital in Public Private Partnership is through the availability payment scheme.⁴⁵ In this mechanism, the government pays the business entity based on the availability of infrastructure and services provided, rather than the number of users utilizing the infrastructure (Patu & Akhmadi, 2024).²⁵ Some simple projects use availability payment recovery schemes because there is no specific tariff charge for PJU services.²⁶ For example, in the Public Street Lighting (PJU) project.

In the event that based on the analysis it has been determined that the Small Scale PPP mechanism can be used, the Financial Services Agency can immediately carry out the Procurement of the Implementing Business Entity for time optimization. The method that can be carried out in the procurement of the Implementing Business Entity can be through auction or direct appointment. In the auction method, it can be done with a one-stage auction or an auction with a combination of pre-qualification and one-stage auction.

Departing from these various explanations, it can actually be explained that in the implementation of Small Scale PPP, in terms of existing regulations, the existing rules have explained the implementation mechanism which is quite coherent and complete, but these arrangements still require additional arrangements so that the implementation of Small Scale PPP can be carried out more optimally.

²² Maulana, "Pemahaman Dan Pembelajaran Tahap Perencanaan Dan Penyiapan Pembangunan Infrastruktur Di Indonesia Melalui Skema Kerja Sama Pemerintah Dan Badan Dalam Penyediaan Infrastruktur (KPBU)."

²³ Wardhana et al., 2023).

²⁴ Kurdi, "Implementation Of Public-Private Partnership Of Lhok Guci Project Viewed From The Perspective Of Investment Law And Financing Law."

²⁵ (Patu & Akhmadi, 2021).

²⁶ (Wardhana et al., 2023).

3.2 Regulatory Harmonization in Efforts to Strengthen Fiscal Capacity in Small Scale PPP in Relation to the PPP Regulation and the HKPD Law

The implementation of development, in this case, especially infrastructure development in Indonesia, certainly requires economic capacity in order to ensure that the implementation of development can actually be carried out and can be completed so that later it can finally be utilized by the people of Indonesia. The urgency of the need for economic strength as explained itself in its implementation is known as fiscal capacity. If interpreted, what is meant by fiscal capacity here is to refer to the ability of the government, both the central government and local governments, to collect and use various financial resources effectively in order to meet various state expenditure needs, which in this case the expenditure itself is aimed at providing public services, ensuring the implementation of administrative functions and ensuring the availability of costs that will be used in order to finance development, both physical infrastructure and social infrastructure development.

The existence of fiscal capacity has various components that greatly affect the existence of fiscal capacity itself, where the better the components of fiscal capacity, the stronger the fiscal capacity will be, which of course will ultimately have an impact on the fiscal ability to finance various community needs and including financing infrastructure development needs. The components of fiscal capacity are as follows:

1. Income component

State revenue is the most important thing when talking about fiscal capacity. In this case, there are several things that can become state revenues that greatly affect fiscal capacity, which consist of Regional Original Revenue, Balance Funds, and also other revenues. The first income that has a considerable influence on fiscal capacity is Regional Original Income (PAD), which can be interpreted as income whose sources come directly and purely from regions such as local taxes, local levies, the results of the management of separated regional assets and other legitimate regional original income. The second revenue that affects revenue is the Balance Fund, which means that the balance fund here is a fund whose source comes from the APBN Revenue which is allocated to the regions in the context of implementing the principle of decentralization in government, the existence of this Balance Fund itself in its implementation is realized in the form of the General Allocation Fund (DAU), the Special Allocation Fund (DAK), and the Revenue Sharing Fund (DBH). Meanwhile, the last income that can be obtained by the government in this case is such as income sourced from grants, emergency funds to other income received by the government and in this case the source of this income does not come from regional income or balancing funds.

The existence of the revenue component here itself is a component that has a very large impact on fiscal capacity, which in this case means that the greater the fiscal revenue component, the greater the economic resilience in terms of implementing the fulfillment of community needs, one of which in this case is the implementation of infrastructure

²⁴ Nazikha and Rahmawati, "Pengaruh Desentralisasi Fiskal, Kapasitas Fiskal Daerah, Dan Elastisitas Fiskal Terhadap Pertumbuhan Inklusif Indonesia."

²⁸ (Saparmah et al., 2022).

development, which of course in its implementation requires large costs and of course the need for large funds requires fiscal capacity or the need for considerable economic stability.

2. Components of Budget Management

Fiscal capacity in its utilization is not only influenced by fiscal revenues but in its implementation requires maximum budget management in order to ensure that fiscal capacity can actually be utilized to the fullest. The budget management component here itself can be done in several ways, such as the *first* is expenditure efficiency, where expenditure efficiency here is closely related to the ability of the government to utilize available financial resources in the most efficient and effective way, avoiding waste and corruption.²⁹

The *second* component of budget management that can be done in connection with the utilization of financial resources in this case is related to the government's ability to plan the budget appropriately and also realistically so that later funds contained in fiscal capacity can be allocated in accordance with priority sectors. With the implementation of planning and budgeting, the potential for fiscal failure or fiscal financing can be suppressed so that the problem of fulfilling funds in meeting the needs of the community can be truly minimized so that the needs of the community can be truly met. Budget management in relation to fiscal capacity here can actually be explained simply that budget management relates to the ability to manage government debt wisely, including loans from international institutions and bond issuance to other sources related to fiscal capacity.

The existence of fiscal capacity as described above is certainly very influential on the implementation of infrastructure development with the Public Private Partnership (PPP) scheme because in its implementation PPP is closely related to fiscal risk. The stronger the fiscal capacity, the greater the potential for resolving fiscal risks contained in PPP. In other words, the existence of a strong fiscal capacity can minimize and even overcome the potential failure of development with the PPP scheme as a result of fiscal risk. Fiscal risk in the implementation of infrastructure development with the PPP scheme itself in this case can be interpreted as something that can cause fiscal pressure on the State Budget (APBN). This fiscal risk can come from various sources, including the risk of basic macroeconomic assumptions, state revenue risk, state expenditure risk, financing risk, and certain fiscal risks. as for this case itself, the fiscal risks associated with the implementation of infrastructure development with the PPP scheme consist of the following:

1. Basic Macroeconomic Assumption Risk

The risk of basic macroeconomic assumptions in this case itself refers to the risk whose origin is derived from unexpected changes in the macroeconomy such as changes in inflation, changes in economic growth to an increase in interest rates and the existence of these changes will certainly have a significant impact on state revenues and also state spending so that the existence of these burdens can certainly also have an impact on the potential success of infrastructure development with PPP schemes.³⁰ In this case, it can be explained that the implementation of PPP which requires considerable funds certainly

²⁹ Limpele, Rotinsulu, and Rorong, "Pengaruh Pengeluaran Pemerintah Daerah Terhadap Pertumbuhan Ekonomi Daerah Serta Dampaknya Terhadap Kapasitas Fiskal Provinsi Sulawesi Utara."

³⁰ (Manihuruk et al., 2024).

requires macroeconomic stability considering that with the occurrence of several changes as contained in the macroeconomy, the funds needed in the implementation of infrastructure development with the PPP scheme can change and this can also have an impact on the potential failure of infrastructure development which in this case is carried out with the PPP scheme.

The existence of macroeconomic instability which is one of the fiscal risks in the implementation of infrastructure development with the PPP scheme is a serious problem considering that this instability certainly affects the state's ability to provide guarantees in the implementation of development with the PPP scheme considering that in the implementation of development with the PPP scheme the government often provides guarantees for PPP projects, which can pose a fiscal risk if the project suffers losses or fails. This guarantee can be in the form of a guarantee of guarantee claims that have been paid by taking into account the time value of money.

2. State Revenue Risk

This risk includes the possibility of a decline in state revenues generated from taxes, royalties and other income. This can be caused by various factors, such as a decline in economic activity or changes in fiscal policy. For example, when there is a decline in economic activity, companies and individuals may experience a decrease in income, which in turn may reduce the amount of taxes that the government can collect. In addition, fiscal policy changes, such as a reduction in tax rates or the provision of tax incentives, while aimed at stimulating economic growth, may result in a decline in state revenue in the short term. This decline in state revenue can have a significant impact on the government's ability to finance public programs and essential services, such as education, health, and infrastructure. For example, if state revenues from taxes and royalties are reduced, the government may have to reduce the budget for vital social programs, which could have a negative impact on people's welfare. Moreover, a decrease in revenue may also force the government to increase public debt to cover the budget deficit, which may lead to a higher debt burden in the future.

In addition, a decrease in state revenue can also affect the overall stability of the economy. For example, if the government does not have enough funds to stabilize the economy during a crisis, it may worsen the recession or prolong the economic recovery period. A decline in revenue can also affect investor and market confidence, which may result in a decline in investment and slower economic growth and this certainly also have an impact on the potential completion of infrastructure development carried out under the public-private partnership scheme. Therefore, it is important for the government to consider these risks in designing and implementing economic and fiscal policies. The government needs to adopt a balanced strategy to ensure that the fiscal policy implemented not only stimulates economic growth, but also maintains the stability of state revenues. This may include diversifying revenue sources, improving tax collection efficiency, as well as prudent public debt management. Thus, the government can reduce the risk of a decrease in

³¹ (Hidayati et al., 2023).

state revenue and ensure that they have sufficient resources to finance programs that are important for development and public welfare so that later business entities in infrastructure development with PPP schemes can feel safe to collaborate because the government is able to guarantee the risk of state revenue in the implementation of infrastructure development with PPP schemes, especially in this case is Small Scale PPP.

3. Financing Risk

Financing risk is a fiscal risk whose existence is very often seen in the implementation of development with the PPP scheme. The existence of financing risk itself in implementation is generally realized in the form of an increase in project financing costs, such as interest costs and guarantee costs, caused by various things such as changes in financial market conditions or in this case a change or increase in interest rates. The price changes themselves in their implementation are often known as contingencies, in which case the government is often responsible for contingent liabilities, namely liabilities that arise because of risks that cannot be avoided or precisely estimated. This can be in the form of financial obligations that are due to infrastructure risks in PPP projects. Instability in financial market conditions can lead to significant fluctuations in interest rates, which in turn can increase the cost of borrowing for PPP projects. When interest rates rise, the interest costs to be paid by the business entities involved in the project will also increase, thereby increasing the total cost of the project. In this scenario, the government may need to intervene to bear some of the additional burden to maintain the financial viability of the project.³²

In addition, financing risk can also materialize in the form of changes in the terms and conditions of loans offered by financial institutions. For example, financial institutions may increase collateral requirements or request additional guarantees as protection against increased risks. This can increase the financial burden for the business entities involved in the PPP project, which in turn can affect the sustainability and completion of the project. In the face of these contingency risks, the government has a great responsibility to ensure that these risks are properly managed. One way to manage these risks is to adopt a comprehensive risk mitigation policy. The government needs to conduct careful planning and consider various market scenarios to anticipate potential increases in financing costs. In addition, the government also needs to build a strong mechanism to address contingent liabilities, such as by reserving special funds or establishing a risk management body that can respond quickly to changes in market conditions. Financing risks in PPP schemes also requires close cooperation between the government and the private sector. Both parties need to work together to identify potential risks and develop strategies to address them. The government can play a role by providing support in the form of guarantees or financial incentives to reduce the burden borne by business entities. On the other hand, enterprises need to ensure that they have effective risk management strategies and maintain their financial flexibility to deal with changing market conditions.³³

³² Haryadi, Rokhmawati, and Indrawati, "Analisis Value for Money Pada Evaluasi Kelayakan Investasi Infrastruktur Publik Kerjasama Pemerintah Badan Usaha Sistem Penyediaan Air Minum Kota Pekanbaru (Kpbu Spam K19 Pekanbaru)."

³³ Putri et al., "Implementasi Metode Project Development Routemap Pada Proyek KPBU Di Indonesia."

Various fiscal risks that are certainly related to fiscal capacity here are certainly a serious problem considering that the existence of fiscal risks as described above can potentially disrupt fiscal capacity and with the dependence of fiscal capacity, the impact that can occur can be very crucial. In this case, with the existence of fiscal problems caused by fiscal risks and lack of fiscal capacity strength, what can happen is the failure of the implementation of infrastructure development in the regions, especially regional infrastructure development with PPP schemes. To overcome the above problems themselves can be resolved by drafting a regulation that can be used as a benchmark in solving problems that occur in relation to fiscal strength. One way to solve the existing problems is by harmonizing or combining existing PPP regulations with other regulations.

The merger of regulations here itself can be done by combining regional PPP or Small-Scale PPP regulations with the Law that discusses the finances of the central government and local governments. By departing from the general conception of the merger, the regulations that can be harmonized are the Regulation of the Minister of National Development Planning/Head of the National Development Planning Agency Number 7 of 2023 concerning the Implementation of Government and Business Entity Cooperation in the provision of Infrastructure (hereinafter referred to as Perbapennas Number 7 of 2023) with Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (hereinafter referred to as the HKPD Law).

Perbapennas Number 7 of 2023 can be used as the main basis for harmonization because it is in this Perbapennas that Small Scale PPP carried out in the regions is regulated especially in this case as stipulated in Article 86. Meanwhile, the HKPD Law can be used as the basis for harmonization in regulating the implementation of small-scale PPPs because the HKPD Law regulates the fundamentals or basis for the implementation of the regional and central economies, where these arrangements start from revenue to regional or central budget expenditures so that in simple terms the HKPD Law can be explained to have regulated various rights regarding the regional and central economies in order to maintain stability and ensure economic growth by utilizing synergies between financial relations between the government and local governments.

The form of harmonization that can be done between the two regulations is by combining the two existing rules in the two different types of legal products so that later a rule is obtained that comprehensively discusses the implementation of Small Scale PPP. The form of implementation that can be done in this case is to add regional financial management rules in the HKPD Law to support the implementation of Article 85 of Perbapennas Number 7 of 2023. The addition of these rules can be done by adding regional financial management rules so that regional finances can be used in part to maintain the fiscal capacity of Small Scale PPP implementation.

The implementation of harmonization as described above can occur by implementing regional financial management both from the management of local taxes, DAK to DAU with the aim of managing these funds to be able to support the implementation of Small Scale PPP in the context of infrastructure development. With such harmonization, it can certainly

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improve efficiency and effectiveness in regional financial management, which in turn will improve the quality of public services and community welfare.

In addition to adding regulations to the HKPD Law, harmonization of the two regulations can also be done by specifically regulating regional financial management in the Appendix to Perbappenas Number 7 of 2023, especially the attachment as stipulated in Article 86 of the Perbappenas. Regional financial management in this case must be one of the components that must be considered in the planning stage of Small Scale PPP implementation. With the implementation of harmonization between the Small Scale PPP regulation and the HKPD Law, the government can certainly improve the quality of financial management for the successful implementation of infrastructure development with the Small Scale PPP scheme. In addition, with the implementation of the harmonization, it can also increase fiscal capacity. The increase in fiscal capacity can occur considering that with the certainty of rules regarding regional financial management in order to succeed the implementation of PPP, the fiscal capacity for the implementation of Small Scale PPP can be better guaranteed and with the guaranteed fiscal capacity that results in the harmonization of PPP rules and the HKPD Law can be referred to as an effort to increase fiscal capacity.

4. CONCLUSION

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The implementation of Public Private Partnership (PPP) in Indonesia has shown significant results since its implementation in 2015, with 34 projects successfully transacted, including 6 projects under the authority of local governments. Nonetheless, local governments are still less optimally utilizing the PPP scheme than the central government. The main obstacles faced include complicated document requirements, high minimum project value, and large implementation costs. To overcome these obstacles, local governments need simpler PPP schemes, such as Small Scale PPP. Small Scale PPP, in accordance with the Minister of PPN/Head of Bappenas Regulation No. 7 Year 2023, is expected to be a solution for infrastructure projects with simple scope and proven technology. Harmonization between the PPP Regulation and the HKPD Law is also needed to strengthen fiscal capacity and support the implementation of Small Scale PPP, so as to increase efficiency and effectiveness in regional financial management and improve the quality of public services and community welfare.

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