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Harmonization of Funding for Government Cooperation With Small-Scale Public-Private Partnership

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Abstract

This study examines the relevance of the Ministry of National Development Planning (Bappenas) Regulation No. 7 of 2023 and Law No. 1 of 2022 in supporting the Small-Scale Public-Private Partnership (PPP) scheme. The urgency of this research lies in the need to improve existing regulations and ensure legal certainty for Small-Scale PPPs, as these regulations provide relevant frameworks for such schemes. The study aims to understand how regulatory harmonization can enhance regional fiscal capacity and facilitate project implementation. Utilizing a normative juridical method with legislative and conceptual approaches, the study finds that since 2015, only 6 out of 34 PPP projects involved local governments. The conclusion highlights the importance of simplifying regulations and adjusting project value requirements to increase regional participation and fiscal effectiveness. The study recommends regulatory adjustments to support more equitable and sustainable infrastructure development.
Keywords: *Law; Public-Private Partnership; Infrastructure.*

1. INTRODUCTION

In the latest regulation issued by Bappenas, Small Scale Public-Private Partnership (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 scope.[1] Small Scale PPP can be 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. The infrastructure that can be cooperated under the Perpres PPP is economic infrastructure and social infrastructure. 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 scheme.[2] 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 demand.[3]

[1] Joubert B Maramis, "Faktor Faktor Sukses Penerapan KPBU Sebagai Sumber Pembiayaan Infrastruktur: Suatu Kajian," *Jurnal Ilmiah Manajemen Bisnis Dan Inovasi Universitas Sam Ratulangi).* 5, no. 1 (2018).

[2] Maman Suhendra et al., "The Challenges and Opportunities of Small-Scale Public-Private Partnership Scheme to Finance Indonesia Local Street Lighting Equipment Projects: The Case of the Madiun Regency," *Ilomata International Journal of Management* 4, no. 4 (2023): 645–62.

[3] Iris Mahani, Rizal Z Tamin, and Rani G Pradoto, "Kajian Penerapan Kerjasama Pemerintah Daerah Badan Usaha (KPDBU) Dalam Penyelenggaraan Infrastruktur (Studi Kasus Proyek Penerangan Jalan Umum (PJU) Kota Bandung)," *Jurnal Teknik Sipil ITB*, 29, no. 3 (2022).

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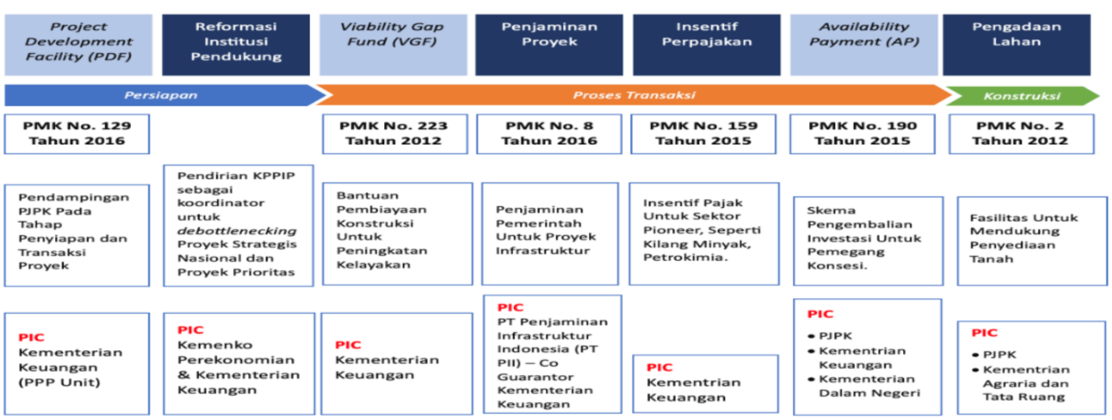
Currently, Small Scale PPP projects have only seen successful implementation in the electricity sector. However, several projects in other sectors have not succeeded. For example, in the health sector, a project at Zainal Abidin Hospital failed to reach its construction goals. Similarly, in the transportation sector, a road project in Medan did not progress as planned.

One main reason for these failures is the limited budget capacity of regional governments, which often struggle to finance projects on the scale that the national government can support. Regional budgets simply don't have the same financial strength as national funding sources, making it difficult for these projects to move forward. This limited regional capacity contrasts sharply with conventional PPP projects, which have been more successful. In fact, these larger PPP projects, which are regulated under Presidential Regulation No. 38 of 2015, have seen success across nearly twenty-one different sectors. These sectors benefit from the broader financial and structural support available through national-level PPP initiatives, allowing for more consistent project completion and development.

According to APBD data, most regions in Indonesia, especially districts, have low fiscal capacity and rely heavily on regional transfers. Data from the Minister of Finance and the Supreme Audit Agency shows that only 10% of 451 districts are fiscally independent, with the remaining 90% categorized as dependent. This highlights the need to enhance government support, which includes fiscal contributions or other forms from officials, to strengthen PPPs. Feasibility support, on the other hand, specifically refers to financial backing for PPP projects, covering up to 49% of construction costs for certain national projects. The selection of risk allocation strategies involves determining how risk management responsibilities are shared between internal and external organizations. Figure 2 below provides further details on government and feasibility support.[4]

Figure 1. Government Support at each Stage of Public-Private Partnership



Source: Xioa-Hua Jin, 2019

[4] Margono Margono et al., "Keabsahan Pengenaan Pajak Karbon Dalam Peraturan Perpajakan," *Jurnal USM Law Review* 5, no. 2 (2022): 767, https://doi.org/10.26623/julr.v5i2.5918.

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Figure 1 outlines the stages of PPP projects in Indonesia—preparation, transaction, and construction highlighting key regulations, government roles, and financial mechanisms. The HKPD Law (No. 1 of 2022) creates opportunities for fiscally dependent regions to implement Small Scale PPPs using funding synergies. Within five years, regions must allocate at least 40% of APBK expenditure for infrastructure, supported by DTU and DAK.[5] Bappenas regulations also permit Small Scale PPP funding collaborations through DTU or DAK. Regulatory support is crucial[6], and further research is needed to align PPP regulations with the HKPD Law to enhance fiscal value and efficiency. Small Scale PPPs aim to accelerate infrastructure development, fostering economic growth and social well-being. Economic infrastructure promotes regional development, while social infrastructure, such as healthcare and education, improves human capital. Key policy implications include targeted government interventions in underdeveloped regions and investment in human capital to mitigate risks like project delays or cost overruns, as seen in the Biak Papua spaceport project.[7]

This study elucidates a novel concept that distinguishes itself from prior research, as it specifically focuses on the discussion of Small-Scale Public-Private Partnerships (KPBU), an area that has not been extensively examined in previous studies. While it references earlier works, like Dian Arsita's 2023 article on PPP and foreign investment for infrastructure, and Siti Mawar's study on legal harmonization, the focus here is distinct. Specifically, this study examines harmonizing PPP regulations with the HKPD Law to enhance fiscal capacity in Small-Scale PPP projects. By building on previous findings, it aims to promote efficient, equitable infrastructure development across regions by aligning projects with local needs and reducing administrative and financial barriers.

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 a library law study.[8] 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.[9] The use of normative juridical research 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

[5] Lesha Hardiyanti and Taupiqqurrahman Taupiqqurrahman, "Investor's Obligations in Default Dispute of Build Operate Transfer Agreement for Market Revitalisation" Jurnal Ius Constituendum 9, no. 1 (2024): 649–66 http://dx.doi.org/10.26623/jic.v9i1.8648.

[6] Yuki M. A. Wardhana et al., *Skema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*, ed. Yuki M. A. Wardhana, Hendro Nugroho, and Fandy Anggara Putra (Jakarta: IIGF Institute, PT Penjaminan Infrastruktur Indonesia, LPDP, Mata Garuda, 2023).

[7] Miftah Arifin, Wijayono Hadi Sukrisno, and Zaenal Arifin, "Land Procurement for Public Interest in Local Governments With Small Scale," *Jurnal USM Law Review* 4, no. 1 (2021): 458, https://doi.org/10.26623/julr.v4i1.3711.

[8] Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Gresik: Unigres Press, 2023).

[9] Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

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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 Public Private Partnership (PPP) policy in Indonesia, particularly regarding Small Scale PPP, plays a crucial role in the sustainable and inclusive development of infrastructure. Small Scale PPP focuses on small-scale projects, contributing to meeting the infrastructure needs of regions that are often overlooked by large investments. The history of PPP in Indonesia began in 1998 when the government started seeking ways to improve the efficiency and effectiveness of infrastructure development through collaboration with the private sector. PPP projects have proven to be an innovative solution for building and managing infrastructure, with various successful examples in the transportation, energy, and clean water sectors. According to data from the Ministry of Public Works and Public Housing (PUPR), by 2023, there have been approximately 85 PPP projects implemented, with a total investment value exceeding IDR 200 trillion. Of these, small-scale projects account for around 30% and continue to show an increase in adoption by local governments. This statistic illustrates the importance of Small Scale PPP in expanding access and improving the quality of infrastructure at the local level.

The urgency of implementing Small Scale PPP is increasingly pressing, given that many regions still face significant challenges in funding and managing infrastructure projects. Through this model, it is expected that local government involvement can increase, not only in providing funding but also in the management and maintenance of infrastructure, thereby creating a mutually beneficial collaboration between the government and the private sector. Small Scale Public Private Partnerships (PPP) offer numerous benefits, particularly for local governments and communities. One of the primary advantages is the reduction of financial burdens, as these partnerships enable local authorities to leverage private sector investment, thus alleviating the strain on public budgets. Additionally, Small Scale PPPs streamline project management and administrative processes, allowing for quicker implementation of essential infrastructure projects. This model also enhances access to innovative technologies and expertise from the private sector, leading to improved service delivery and operational efficiency. Furthermore, by involving local communities in the planning and execution of projects, Small Scale PPPs foster greater public participation and ownership, ultimately contributing to sustainable development and improved quality of life for residents.

Based on the importance of Small Scale PPP the government has undertaken various initiatives to improve the integration of creative funding sources in financing infrastructure development in Indonesia. One significant effort is the implementation of the Public-Private Partnership (PPP)

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scheme, which began in 2015.[10] This scheme aims to combine resources and expertise from the public and private sectors to accelerate the development of necessary infrastructure.[11] 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 government.[12]

Local governments face numerous obstacles that limit their interest in using the PPP scheme. One major challenge is the complex documentation requirements. PPP projects often involve a significant amount of paperwork, including feasibility studies, legal agreements, risk assessments, and detailed financial planning. These processes can be overwhelming for local governments, especially those with limited administrative capacity and technical expertise. Another barrier is the high minimum project value often required for PPPs. Many local governments manage smaller-scale projects that don't meet these thresholds, making it difficult for them to qualify for PPP arrangements. This restricts their ability to engage in infrastructure development under the PPP model, even when it could potentially benefit their communities. The high cost of implementation also poses a significant hurdle. PPP projects require substantial financial resources for preparation, procurement, and long-term management. Local governments, which typically have more constrained budgets compared to the central government, may struggle to cover these costs. Additionally, the need for external consultants and legal advisors to navigate PPP contracts adds to the financial burden. These constraints make it challenging for local governments to utilize the PPP scheme, limiting their ability to pursue infrastructure projects through this method.

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 complexity.[13] 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

[10] Clara Sahasti Astuti, "Analisis Kerjasama Build Operate Transfer (Bot) Pemerintah Dengan Badan Usaha Dalam Pembangunan Infrastruktur Di Indonesia," *Kertha Semaya: Journal Ilmu Hukum* 10, no. 8 (2022): 1816, https://doi.org/10.24843/ks.2022.v10.i08.p09.

[11] Eliza Bhakti Amelia, "Faktor-Faktor Kritis Penentu Kesuksesan Kerja Sama Pemerintah Dengan Badan Usaha (KPBU) Sektor Air Minum," *Jurnal Litbang: Media Informasi Penelitian, Pengembangan Dan IPTEK* 19, no. 1 (2023): 57–72, https://doi.org/10.33658/jl.v19i1.317.

[12] Wardhana et al., *Skema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*.

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

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projects that previously may not have been attractive to them due to the scale or value of the project being too small.[14]

In addition, the Small Scale PPP mechanism presents a valuable opportunity for local governments to build capacity and gain experience in managing infrastructure projects through collaborative partnerships with the private sector. By engaging with private entities, local governments can access a wealth of expertise and innovative practices that can enhance their operational capabilities and project management skills. This collaboration not only fosters a more conducive environment for investment but also improves the overall efficiency in the management of public resources. As local governments become more adept at navigating the complexities of infrastructure projects, they can facilitate better planning, implementation, and monitoring processes, leading to more successful outcomes. Furthermore, the active involvement of local governments in the Small Scale PPP scheme enables them to play a significant role in infrastructure development initiatives that directly impact the welfare of local communities.[15] This proactive approach not only enhances the quality of public services but also promotes sustainable economic growth, ultimately contributing to improved living standards and greater community resilience. By leveraging the strengths of both public and private sectors, Small Scale PPPs can significantly empower local governments and drive transformative changes in infrastructure development.[16]

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

[14] Dora Kusumastuti and Ade Sathya Sanathana Ishwara, "Kedudukan Hukum Memorandum of Understanding (MOU) Digital: Implikasi Dan Orientasi Dalam Perspektif Hukum Inklusif," *Jurnal Ius Constituendum* 8, no. 3 (2023): 494, https://doi.org/10.26623/jic.v8i3.7492.

[15] National Center for Privatization, "Small Scale PPPs," *NCP Research Paper*, no. September 2019 (2019).

[16] Kourosh Shafi, "Investors' Evaluation Criteria in Equity Crowdfunding," *Small Business Economics* 56, no. 1 (2021): 3–37, https://doi.org/10.1007/s11187-019-00227-9.

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addition, local governments can only use the Small Scale PPP mechanism if the implementation of the PPP meets a maximum period of 10 years.[17]

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.[18] 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 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.[19] 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)[20], and port development projects.[21]

[17] Kurdi Kurdi and Cut Zulfahnur Syafitri, "Analisis Pelaksanaan KPBU Skala Kecil Dengan Perspektif Manajemen Perubahan Sektor Publik," *UNES Law Review* 6, no. 4 (2024): 12093–101.

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

[19] Mochamad Rifki Maulana, "Pemahaman Dan Pembelajaran Tahap Perencanaan Dan Penyiapan Pembangunan Infrastruktur Di Indonesia Melalui Skema Kerja Sama Pemerintah Dan Badan Dalam Penyediaan Infrastruktur (KPBU)," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 5, no. 1 (2021), https://doi.org/10.58258/jisip.v5i1.1646.

[20] Sri Bagus Guritno, "Analisis Kerjasama Build Operate Transfer (Bot) Pemerintah Dengan Badan Usaha Dalam Pembangunan Infrastruktur Di Indonesia" (Jakarta, 2023).

[21] Wardhana et al., *Skema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*.

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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 payment. The second method to provide profit and return of capital in Public Private Partnership is through the availability payment scheme.[22] 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.[23] Some simple projects use availability payment recovery schemes because there is no specific tariff charge for PJU services.[24] 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 is appropriate, the Financial Services Agency can promptly initiate the procurement of the Implementing Business Entity to optimize time and streamline the project. The procurement can be conducted through either an auction or direct appointment, depending on the project's needs. In the auction method, there are two approaches: a one-stage auction or a combination of pre-qualification and a one-stage auction. The one-stage auction allows all qualified bidders to participate in a single phase, expediting the selection process. Alternatively, the pre-qualification and one-stage auction approach involves an initial screening of potential bidders to ensure only the most qualified entities advance to the final bidding stage, which can improve the quality of the bids but may take more time. Both methods provide flexibility, ensuring the procurement process aligns with the specific demands and complexities of Small Scale PPP projects.

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 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

[22] Kurdi, "Implementation Of Public-Private Partnership Of Lhok Guci Project Viewed From The Perspective Of Investment Law And Financing Law," *Jurnal Hukum Sehasen* 10, no. 1 (2024): 247–54.
[23] Andi Syafirah Putri Abdi Patu and Muhammad Heru Akhmadi, "Evaluasi Penyiapan Proyek Kerjasama Pemerintah Dengan Badan Usaha (KPBU) Kereta Api Makassar-Parepare," *Jurnal Kebijakan Pembangunan* 16, no. 2 (2021): 221–35.
[24] Wardhana et al., *Skema Pembiayaan Kreatif Dan Inovatif Untuk Pembangunan Infrastruktur*.

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social infrastructure development.[25]

Fiscal capacity is shaped by various components that collectively determine its strength and effectiveness. The better these elements function, the more robust the overall fiscal capacity becomes. A strong fiscal capacity enhances a government's ability to finance essential community needs, such as education, healthcare, public safety, and critical infrastructure development for economic growth. The interplay of these components creates a favorable environment for attracting investment, optimizing resource allocation, and ensuring efficient use of public funds. Additionally, improved fiscal capacity can enhance credit ratings, reducing borrowing costs and expanding financial options for local governments. Understanding these components is essential for policymakers aiming to strengthen fiscal capacity and meet community needs effectively. The key components of fiscal capacity are as follows:

Firstly, fiscal capacity has an impact to the state revenue, 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 consists 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.[26]

The revenue component plays a critical role in determining fiscal capacity, significantly influencing a government's ability to respond to economic challenges and fulfill community needs. Essentially, the greater the fiscal revenue component, the stronger the economic resilience, particularly regarding the implementation of essential services and infrastructure development. Infrastructure projects are inherently capital-intensive, requiring substantial financial resources to ensure their success. These projects are vital for enhancing the quality of life in communities, as they include critical areas such as transportation, healthcare, and education. Consequently, the need for large funding to support infrastructure development

[25] Resi Salma Nazikha and Farida Rahmawati, "Pengaruh Desentralisasi Fiskal, Kapasitas Fiskal Daerah, Dan Elastisitas Fiskal Terhadap Pertumbuhan Inklusif Indonesia," *Jurnal Ekonomi, Bisnis Dan Pendidikan (JEBP)* 1, no. 2 (2021): 120–34.

[26] Saparman Saparman, Syapsan Syapsan, and Dahlan Tampubolon, "Pengaruh Belanja Barang Dan Jasa, Belanja Modal Dan Pertumbuhan Ekonomi Terhadap Kapasitas Fiskal Kabupaten Dan Kota Di Provinsi Riau Tahun 2011-2020," *Eqien-Jurnal Ekonomi Dan Bisnis* 9, no. 1 (2022): 70–78.

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necessitates a solid fiscal capacity, which is directly tied to the stability and growth of economic revenues. Without adequate revenue streams, local governments may struggle to finance these essential projects, hindering their ability to meet the demands of their constituents. Therefore, strengthening fiscal revenues is paramount for enhancing overall economic stability and ensuring that local governments can effectively address the pressing infrastructure needs of their communities.

Secondly 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.[27] 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 like basic macroeconomic assumption risk, State Revenue Risk and Financing Risk.

Basic Macroeconomic Assumption Risk can be explained that the risk of basic macroeconomic

[27] Jacelin Joice Limpele, Debby Ch Rotinsulu, and Ita Pingkan Fasnie Rorong, “Pengaruh Pengeluaran Pemerintah Daerah Terhadap Pertumbuhan Ekonomi Daerah Serta Dampaknya Terhadap Kapasitas Fiskal Provinsi Sulawesi Utara,” *Jurnal Pembangunan Ekonomi Dan Keuangan Daerah* 22, no. 1 (2021): 84–99.

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assumptions in this case refers to the risk whose origin is derived from unexpected changes in the macro economy 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.[28] In this case, it can be explained that the implementation of PPP which requires considerable funds certainly 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.[29]

Different from Basic Macroeconomic Assumption Risk, there are other risks that could happen such as 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

[28] Frido Evindey Manihuruk et al., "Pengaruh Faktor-Faktor Ekonomi Makro Terhadap Stabilitas Perbankan Di Indonesia," *Akuntansi* 3, no. 2 (2024): 55–68.

[29] Cholis Hidayati et al., "Analisis Tingkat Kemandirian Keuangan Pemerintah Desa Cupak Melalui Value For Money," *Journal of Innovation Research and Knowledge* 3, no. 6 (2023): 1193–1200.

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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 will 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 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.

The last risk that could happen in Small Scale PPP is 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 arise 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.[30]

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

[30] Ananda Haryadi, Andewi Rokhmawati, and Novita Indrawati, "Analisis Value for Money Pada Evaluasi Kelayakan Investasi Infrastruktur Publik Kerjasama Pemerintah Badan Usaha Sistem Penyediaan Air Minum Kota Pekanbaru (Kpbu Spam Kota Pekanbaru)," *Jurnal Daya Saing* 8, no. 3 (2022): 369–83.

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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.[31]

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 on 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. 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).

Perbappenas 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

[31] Nadya Putri et al., "Implementasi Metode Project Development Routemap Pada Proyek KPBU Di Indonesia," *Journal of Infrastructure Policy and Management (JIPM)* 5, no. 1 (2022): 1–14.

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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.[32] 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 previously described, can effectively occur through the enhancement of regional financial management, encompassing the management of local taxes, Special Allocation Funds (DAK), and General Allocation Funds (DAU). This approach aims to ensure that these funds are strategically managed to support the implementation of small-scale PPP initiatives within the framework of infrastructure development. By harmonizing financial management practices across these various funding sources, local governments can better allocate resources, streamline processes, and optimize funding distribution for infrastructure projects. Such harmonization not only improves the efficiency and effectiveness of regional financial management but also facilitates greater accountability and transparency in the use of public funds.[33] Ultimately, these improvements contribute to a higher quality of public services, ensuring that infrastructure projects are completed on time and within budget, thereby enhancing community welfare. As a result, residents will benefit from improved access to essential services, better transportation systems, and enhanced overall living conditions, fostering sustainable regional development.[34]

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 Perbapennas. 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 HKP 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,

[32] Simona Grossi, "Rethinking the Harmonization of Jurisdictional Rules," *Tul. L. Rev.* 86 (2011): 623.

[33] Caroline Dewi, "Small Scale PPP Dalam Mewujudkan Pembangunan Di Daerah" (Perkumpulan Ahli Profesional KPBU Indonesia, 2023).

[34] Aripov Oybek Abdullaevich and Kholmirzaev Ulug'bek Abdulazizovich, "The Importance of Infrastructure in Facilitating the Business Environment," *Journal of Survey in Fisheries Sciences* 10, no. 2S (2023): 3695–3702.

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with the implementation of 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 in 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

The implementation of Public-Private Partnerships (PPP) in Indonesia has yielded significant outcomes since its inception in 2015, with 34 projects successfully transacted, including six projects overseen by local governments. However, local governments have not optimally utilized the PPP scheme compared to the central government. Key challenges impeding local governments include complex documentation requirements, high minimum project values, and substantial implementation costs. To address these challenges, there is a pressing need for more accessible PPP frameworks, such as Small-Scale PPPs. As delineated in the Minister of PPN/Head of Bappenas Regulation No. 7 of 2023, Small-Scale PPPs are anticipated to provide viable solutions for infrastructure projects characterized by simple scopes and proven technologies. This study elucidates a novel concept that distinguishes itself from prior research by specifically focusing on the discourse surrounding Small-Scale Public-Private Partnerships (KPBU), an area that has been insufficiently explored in the existing literature. Furthermore, it underscores the necessity for harmonization between the PPP regulations and the HKPD Law to enhance fiscal capacity and bolster the implementation of Small-Scale PPPs. This harmonization is vital for improving efficiency and effectiveness in regional financial management, ultimately contributing to the enhancement of public service quality and community welfare.

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