

# IMPLEMENTATION OF TRIPARTITE TURNKEY CONTRACT ON CONSTRUCTION AND FINANCING OF 500 kV TRANSMISSION PROJECT IN SUMATRA (Package 1 & 2)

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## Abstract

The Sumatra 500 kV Transmission Project package 1 & 2 is a National Strategic Project (PSN) which will later become part of the ASEAN Grid Connection after being fully connected. As a high-value PSN project involving BUMN (Stated Owned Company), it is necessary to handle the financial aspects of Nations Capital Participation (PMN) to have a maximum economic impact while maintaining the implementation of Good Corporate Governance (GCG). In power construction projects, EPC contract standards have been widely used. In the condition that the contractor must finance the implementation of the construction work until it is completed first before getting payment from the Project Owner, turnkey contracts are also widely known. By accommodating various requirements desired by various interested parties to achieve the project objectives, the involvement of a third party from the banking element is required, so it is referred to as a tripartite turnkey contract. The results of this study show that the implementation of the tripartite turnkey contract in the construction and financing of the Sumatra 500 kV transmission project (packages 1 and 2) has met various aspects of the parties' expectations for the fulfillment of the balance of rights and obligations, as well as the risks of each party, as a recommendation for stakeholders regarding the implementation of the tripartite turnkey contract in future infrastructure projects.

**Keywords:** *turnkey contract, EPC, tripartite, construction and financing, infrastucture project*

## Abstrak

Proyek Transmisi Sumatra 500 kV paket 1 & 2 adalah Proyek Strategis Nasional (PSN) yang nantinya akan menjadi bagian dari Koneksi Jaringan ASEAN setelah sepenuhnya terhubung. Sebagai proyek PSN bernilai tinggi yang melibatkan BUMN, perlu penanganan aspek keuangan Penyertaan Modal Negara (PMN) untuk memiliki dampak ekonomi maksimal sambil menjaga pelaksanaan Tata Kelola Perusahaan yang Baik (GCG). Dalam proyek konstruksi listrik, standar kontrak EPC telah banyak digunakan. Dalam kondisi bahwa kontraktor harus membiayai pelaksanaan pekerjaan konstruksi sampai selesai terlebih dahulu sebelum menerima pembayaran dari Pemilik Proyek, kontrak turnkey juga banyak dikenal. Dengan mengakomodasi berbagai persyaratan yang diinginkan oleh berbagai pihak yang berkepentingan untuk mencapai tujuan proyek, keterlibatan pihak ketiga dari elemen perbankan diperlukan, sehingga disebut sebagai kontrak turnkey tripartit. Hasil studi ini menunjukkan bahwa pelaksanaan kontrak turnkey tripartit dalam konstruksi dan pembiayaan proyek transmisi 500 kV Sumatra (paket 1 dan 2) telah memenuhi berbagai aspek harapan pihak terkait untuk pemenuhan keseimbangan hak dan kewajiban, serta risiko masing-masing pihak, sebagai rekomendasi bagi para pemangku kepentingan mengenai pelaksanaan kontrak turnkey tripartit dalam proyek infrastruktur di masa depan.

**Kata kunci:** *kontrak turnkey, EPC, tripartit, konstruksi dan pembiayaan, proyek*

## **INTRODUCTION**

Turnkey contracts are a type of construction contract that is quite often used in infrastructure projects. In this type of contract, the contractor must first finance the implementation of the project until it is completed.

In the 500 kV Sumatra Transmission Project packages 1 and 2 in the form of EPC (Engineering Procurement Construction), PT PLN (Persero) as the project owner wants a contractor who is not only fully responsible for the completion of the project, but also has financing capabilities (Wibowo & Wiguna, 2021). Through project financing, the contractor must be responsible for financing the project until completion before receiving payment, while also bearing the risk in the event of cost overruns or delays (Zhao et al., 2020).

To avoid the risk of payment, the turnkey contract implemented uses a tripartite pattern, which in addition to involving the project owner and contractor, also involves the banking syndicate as the financier. With this tripartite scheme, without eliminating the essence of the turnkey contract, payments can be made directly by the bank based on the progress of the work, so that the contractor's cash flow can be well maintained (Wiharti et al., 2022).

This research explores the proposition of legal concepts from various perspectives, with a legal approach as an instrument to achieve business goals. Tripartite turnkey contracts will better accommodate various business and legal interests to achieve contractual fairness, because currently, a flexible and adaptive form of contract is needed with business developments.

The conceptual framework regarding tripartite turnkey contracts to accommodate project financing is carried out with an approach that focuses on fundamental concepts that outline the relationship and role of each party in the tripartite turnkey contract, which consists of the project owner, the turnkey contractor, and the financing institution as a third party.

The conceptual framework is used to understand the legal complexity of tripartite turnkey contracts, which also include the provisions of project financing, with the following concepts:

1. The project owner wants the concept of project financing in project

- financing, with payment at the end of the project on a turnkey basis.
2. The concept of the contract uses a turnkey contract, because the construction work will be financed first by the contractor using equity and debt, which will be paid at the time of handover (turnkey) with a guarantee of payment in the form of the project itself (project financing).
  3. The concept of an EPC contract is also used in accordance with the scope of construction work in the form of a 500 kV transmission network.
  4. The existence of the scope of financing requires modifications to the concept of EPC/turnkey contracts to become tripartite turnkey contracts.

The framework of a theoretical approach to tripartite turnkey contracts, using legal and financial concepts, along with relevant theories, discusses turnkey contracts and tripartite relationships to understand the roles and responsibilities assumed by each party in a project financing scheme.

Some of the theoretical foundations used as theoretical frameworks include: contract theory including about tripartite in contract law, project management theory which also includes risk management, and financial theory in the context of project financing.

## RESEARCH METHODS

The flow of thought used is depicted in the form of a flow-chart as follows:

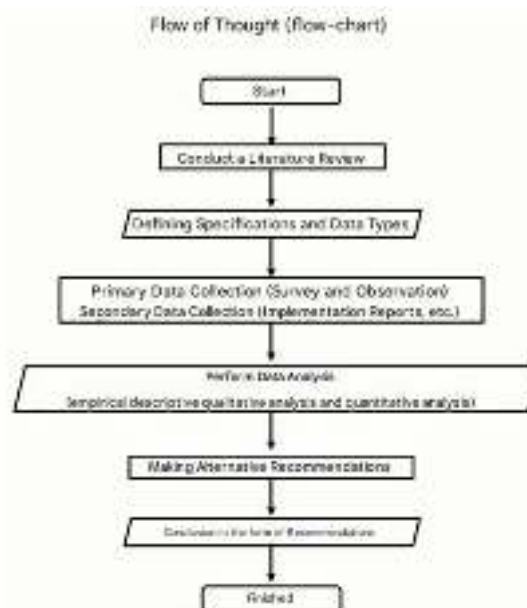


Figure 1. Flow-chart Flow of Thought

The research method used is a non-doctrinal method, which approaches the problem through an empirical juridical method, by studying the application of tripartite turnkey contracts in the construction and financing of the 500 kV Sumatra transmission project, along with its real impact on each party, as well as on the achievement of project targets. This empirical juridical approach focuses on the empirical aspects or facts that occur related to the application of tripartite turnkey contracts, which aims to study how the contract law is applied and functions in actual reality, as well as understand its effect on each party on the application of the law.

The research approach is by using field data or direct observation, by presenting a picture of the real reality, as well as problems that may arise in its implementation. The type of research used is normative with a case approach. The case used as the object of research is a tripartite turnkey contract used in the construction and financing of the 500 kV Sumatra transmission project packages 1 and 2. Acting as the project owner in the contract is PT PLN (Persero), as a contractor of PT Waskita Karya (Persero) Tbk, and as a bank in the form of a banking syndicate led by PT. BRI (Persero), Tbk.

As a source of primary legal materials, applicable regulations and international standards are widely used as references, consisting of laws related to construction and its derivatives, law on Project Financing and its derivatives, Civil Code (KUHPerdata), *FIDIC*, *ISO*.

Meanwhile, as a secondary source of law, it comes from scientific journals, as well as related books. Meanwhile, tertiary legal sources come from relevant dictionaries, as well as various other sources of information.

The use of primary data, as commonly used in empirical legal research, was obtained through in-depth interviews with the stakeholders involved, as well as direct observation of the construction and financing process of the 500 kV Sumatra transmission project (packages 1 and 2), to obtain concrete facts that occurred. Secondary data includes legal and financial documents, books, scientific journals, contractual documents and project reports, which are the basis of the researcher in order to answer the problems and objectives of his research.

Primary data collection is carried out by means of in-depth interviews and

direct observation, while secondary data collection methods are carried out by literature review and documentary study, related to the implementation of tripartite turnkey contracts and project financing in the implementation of electrical infrastructure projects that are the object of research.

Data analysis is carried out simultaneously quantitative and qualitative by supporting each other. Qualitative analysis is empirical descriptive to describe and understand certain phenomena or conditions, based on empirical data obtained based on in-depth interviews and direct observation as primary data. The researcher presents a detailed description of the situation as it is to provide a clear and comprehensive picture of the formulation of the problem that is the object of the research.

The specification of the research to be carried out is in the form of descriptive research by describing and describing the characteristics or conditions of the research object in the form of the implementation of the tripartite turnkey contract in detail to provide a complete picture in accordance with the realization that occurred during the implementation of the construction and financing of the 500 kV Sumatra transmission project.

## RESULTS AND DISCUSSION

Through the study of the tripartite turnkey contract that occurred, the Relationship Chart of the Parties can be described as follows:

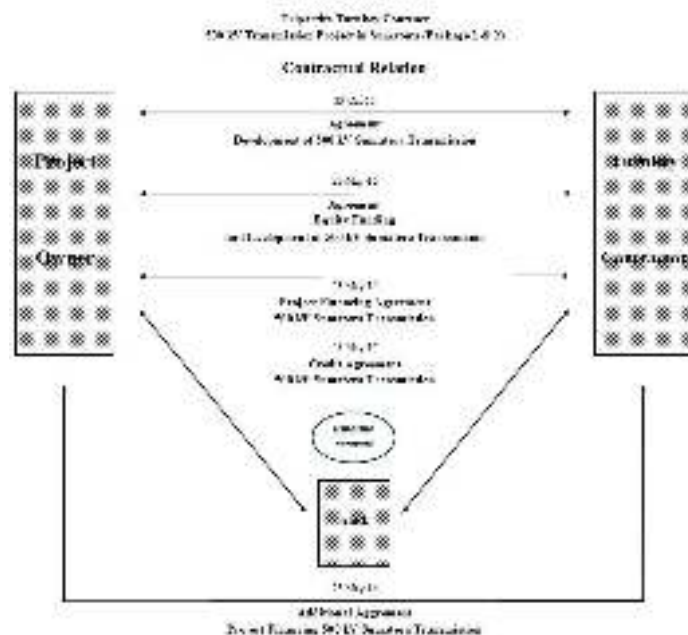


Figure 2. Tripartite Turnkey Contracts

The results of the study show that the implementation of tripartite turnkey contracts has provided positive benefits, including the following:

1. Project Owner (PLN): The Tasker is not burdened with debt during the implementation of the project, so that the Tasker's financial bookkeeping remains in an unencumbered condition due to the implementation of the project. When the project has been completed and handed over from the contractor, the Tasker begins to be calculated to owe a third party with investment credit interest and guarantees in the form of a completed 500 kV Sumatra transmission network.
2. Contractor (WSKT): During the implementation of the project, the contractor receives funding from the bank as a construction working capital credit, which is disbursed according to the progress of the implementation of work in the field approved by the Assignor. Although the credit is obtained with a guarantee in the form of a corporate guarantee from the contractor, with a tripartite turnkey contract, the interest will be transferred to the obligation of the Assignor after the project is completed and handed over.
3. Banking (BRI syndicate): Banks can provide funding with competitive interest, and interest fees can be placed in their portions in accordance with applicable regulations.
4. The overall benefit for the interests of the state, the implementation of this contract has encouraged minimal interest expenses. If you do not use a tripartite turnkey contract, then each party will charge an interest rate according to the risk profile of each company, which will overall provide a significant increase in project costs.
5. Some of the limitations that arise in the implementation of this tripartite turnkey contract are as follows:
6. There are various contracts, ranging from tripartite contracts as umbrella contracts, which in their description require several contracts between parties that are not related to other parties. The process of drafting the entire contract took quite a long time.
7. All companies involved as the controlling party of each party, need to receive support from the Government as the party that will receive the benefits as well as the overall risks.

8. The contractor must be in a very healthy financial condition, to be able to mitigate great financial risks.

## **CONCLUSION**

Several conclusions can be formulated from the results of the existing discussion, as follows:

1. The tripartite turnkey contract implemented in the Sumatra 500 kV Transmission Project Package 1 & 2, has been able to meet the expectations of the parties who signed the contract.
2. If the contract is carried out without involving the bank as a third party, the Contractor will charge an interest burden on the construction working capital loan whose value is greater than the value of the investment credit, which in the end will be a burden on the state as a whole.

The results of this study are recommended for the development of the construction industry in supporting infrastructure development in Indonesia, by providing a variety of more comprehensive studies, to implement various types of contract modifications, which are tailored to the needs of the Government and business people who will always grow.

## **REFERENCE**

- Haryono, Sony., Susanty, Betty., Toyfur, Mona F. (2022). Analisis risiko kontrak pada proyek transmisi di Indonesia. *Teknisia*, Vol. 27, No. 02, pp. 083-094.
- Wiharti, W., Winanda, L A R., Munasih, M., & Wijayaningtyas, M. (2022, June 25). Percepatan Penyelesaian Proyek Menggunakan Metode Fast-Track (Studi Kasus: Proyek Gedung Serbaguna PLBN Entikong Kalimantan Barat). , 6(1), 16-16. <https://doi.org/10.19184/jrsl.v6i1.31286>
- 500 kV Transmission of Sumatera Project Reports, PT. Waskita Karya, Tbk. Civil Code (KUHPerdata).
- Law No. 2 of 2017 concerning Construction Services,
- Law No. 11 of 2020 concerning Job Creation (Omnibus Law),
- Law No. 19 of 2003 concerning State-Owned Enterprises (BUMN),
- Law No. 32 of 2009 concerning Environmental Protection and Management, Government Regulation on AMDAL.

Government Regulation No. 22 of 2020 concerning Implementation Regulations of Law No. 2 of 2017 concerning Construction Services,

Government Regulation No. 56 of 2018 concerning Infrastructure Financing Through Government Cooperation with Business Entities (PPP),

Presidential Regulation No. 16 of 2018 concerning Procurement of Government Goods/Services (and its amendments),

Presidential Regulation No. 38 of 2015 concerning Government Cooperation with Business Entities in the Provision of Infrastructure,

Presidential Regulation No. 66 of 2020 concerning Infrastructure Financing,

Presidential Regulation No. 71 of 2012 concerning the Implementation of Land Acquisition for Development for the Public Interest (and its amendments).

Minister of PUPR No. 7 of 2019 concerning Standards and Guidelines for the Procurement of Construction Services Through Providers,

Minister of PUPR Regulation No. 14 of 2020 concerning Standards and Guidelines for the Procurement of Design and Build Integrated Construction Work (Design and Build).

OJK Regulations related to Capital Markets and Banking.

FIDIC Silver Book (Conditions of Contract for EPC/Turnkey Projects),

FIDIC Gold Book (Conditions of Contract for Design, Build and Operate Projects).

<https://doi.org/10.1051/e3sconf/202018501011>

PMK No. 260/PMK.08/2016 concerning the Provision of Infrastructure Financing through the Government Investment Financing Scheme,

Zhao, Z., Meng, Q., & Pang, N. (2020, January 1). Research on Construction Risk Evaluation of EPC Project of Transmission and Distribution Engineering Based on Design Enterprise. *EDP Sciences*, 185, 01011-01011.

PMK No. 129/PMK.08/2020 concerning Infrastructure Financing by Public Service Agencies (BLU),

Novitasari, F., Drestalita, N C., & Maryati, S. (2020, November 1). The impacts of infrastructure development on economic growth (case study: DKI Jakarta, Banten Province and West Java Province). *IOP Publishing*, 592(1), 012017-012017. <https://doi.org/10.1088/1755-1315/592/1/012017>

Wibowo, A T., & Wiguna, I P A. (2021, October 15). Analysis Effect on Readiness to the Implementation of Performance Based Contract (PBC) in PT Pelabuhan Indonesia III (Persero). *Lembaga Penelitian dan Pengabdian kepada Masyarakat (LP2M)*, 0(6), 290-290. <https://doi.org/10.12962/j23546026.y2020i6.11112>