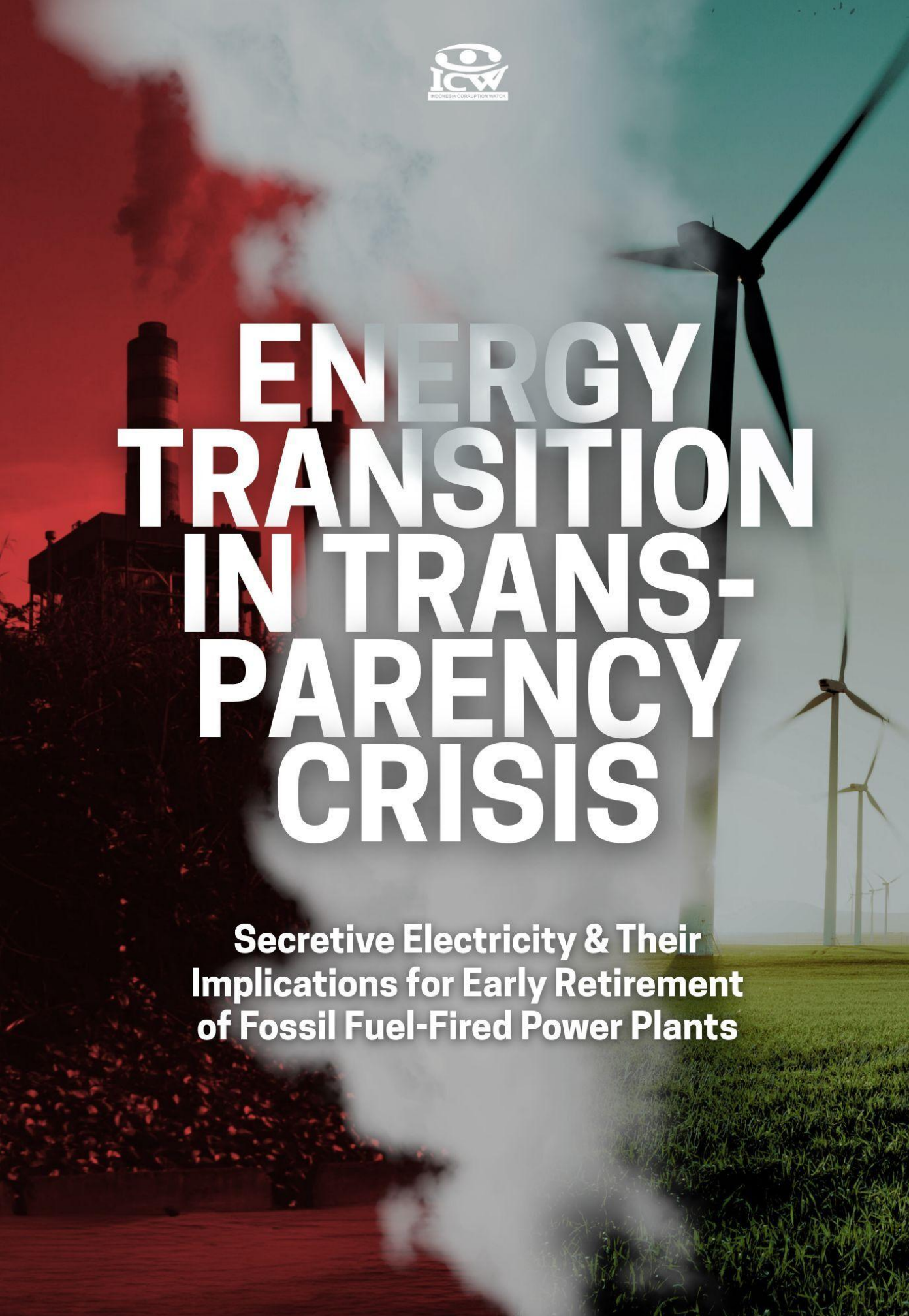




ENERGY TRANSITION IN TRANS- PARENCY CRISIS

**Secretive Electricity & Their
Implications for Early Retirement
of Fossil Fuel-Fired Power Plants**



#ClimateCorruption Series
Indonesia Corruption Watch
2025

Energy Transition in Transparency Crisis

Secretive Electricity Contracts and Their Implications
for Early Retirement of Fossil Fuel-Fired Power Plants

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Executive Summary

The Indonesian Government's announcement of the start of energy transition processes dates from at least 2021. But various challenges to implementation continue to crop up, one of which is the secretive nature of power purchase agreements (PPA). This report examines and analyzes the impact of the secretiveness of PPA and identifies statutory legal provisions which the Government should put in place to overcome the problems involved. This report has been written descriptively with an approach based on Indonesia's existing statutory provisions and a conceptual approach.

This report shows that transparency of PPA is important for efforts to implement early retirement of fossil fuel-fired power plants (FFPP) in a way that is fair, efficient and free from corruption. Lack of transparency risks creating conflicts of interest and magnifying asymmetry of information; it also opens the door for corruption in the selection of FFPP for early closure and in respect of financial compensation schemes. These factors can undermine the confidence of providers of funding and financial institutions and jeopardize meaningful public participation in decisions on energy transition.

To address these challenges this report recommends five strategic steps:

1. Revision of public information policy exemptions enjoyed by PPA to ensure that the details of contracts in their entirety cannot be hidden from the public .
2. Formulation of public information access standards for PPA, especially in respect of early retirement of FFPP.
3. Integration of the principle of transparency into the management of funding mechanisms, such as the Just Energy Transition Partnership (JETP) and the Just Transition Transaction (JTT).
4. Encourage public participation in the decision-making process on early retirement of FFPP, with assurances that access to adequate information will be facilitated.
5. Strengthening management of the National Electricity Authority (PT PLN) based on the principles of Good Corporate Governance (GCG) to enhance its credibility and efficiency.

Acronyms and Abbreviations

ADB	Asian Development Bank
COD	Commercial Operation Date
COP 26	26th Conference of the Parties
EMR	Energy and Mineral Resources
FFPP	Fossil Fuel-fired Power Plant
FFS	Financial Feasibility Study
FoI	Public Information Disclosure (Freedom of Information)
FoIA	Freedom of Information Act (Indonesian Law No. 14 of 2008)
GCG	Good Corporate Governance
GMS	General Meeting of Shareholders
HR	Human Rights
IETF	Industrial Energy Transformation Fund
IPP	Independent Power Producer
JETP	Just Energy Transition Partnership
JTT	Just Transition Transaction
LGE	Local Government Enterprise
NAO	National Audit Office
NEMP	National Electricity Master Plan
NCHR	National Commission on Human Rights
OFD	Operational Feasibility Study
PFS	Project Feasibility Study
PLN	<i>Perusahaan Listrik Negara</i> (State Electricity Company)
PT	Pty Ltd
PPA	Power Purchase Agreement
SOE	State-Owned Enterprise

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Introduction

Electricity has become a vital component of everyday life. Almost all human activity depends on the availability of electricity, its uses ranging from home lighting to electronic equipment to industrial machinery. The need for electricity is not confined to human conveniences but plays a role in supporting various sectors of the economy, including transportation, communications, education, and healthcare services.

Indonesia's electricity supply remains highly dependent on fossil fuel-fired power plants (FFPP). In 2022 FFPP accounted for 29.57% of Indonesia's total power generation.¹ In 2023 they contributed 20,439.90 MW (28.01% of the total).² This pre-dominance of FFPP in power generation creates its own set of challenges for energy transition efforts.

Carbon emissions are one of the biggest contributors to climate change, which can broadly and significantly increase the earth's temperature.³ Increased concentration of gases such as carbon dioxide and carbon dioxide equivalents emitted by coal-fired FFPP have resulted in huge volumes of air pollution.⁴ FFPPs contribute not only to climate change, but also to environmental pollution and public health risks. For example, the *Indonesian Forum for the Environment* (WALHI) has found that quite serious health repercussions were discovered at FFPP Paiton, FFPP Pacitan,

¹PT PLN, "PLN Statistical Report 2022" (June 2023), p. iii. Accessed at <https://web.pln.co.id/statics/uploads/2023/05/Statistik-PLN-2022-Final-2.pdf> on February 12, 2025.

²PT PLN, "PLN Statistical Report 2023" (July 2024), p. iv. Accessed at <https://web.pln.co.id/statics/uploads/2024/07/Laporan-Statistik-2023-Ind.pdf> on October 17, 2024.

³Vikram Surya Husada and Iwan Erar Joesoef, "Legal Policy of the Indonesian Government to Achieve Net Zero Emissions" *Journal Research of Social Science, Economics, and Management* 2 (1) 2022, p. 129.

⁴Wahyu Eka Styawan, et al. , *Revisiting the Impact of Coal-Fired Power Plants in Three Regions: Paiton Coal-Fired Power Plant, Pacitan Coal-Fired Power Plant, and Cilacap Coal-Fired Power Plant* (WALHI Publisher: Central Java, 2022), p. 3.

and FFPP Cilacap.⁵ Negative effects on the environment and community health were also found in the areas around the FFPP Ropa,⁶ FFPP Tanjung Jati B power plant,⁷ and FFPP Nagan Raya 3 and 4.⁸

Presidential Regulation No. 98/2021 is a clear indication of the Government's commitment to reducing greenhouse gas emissions, as well as increasing climate resilience and reducing carbon emissions to achieve the targeted value of carbon in the economy.⁹ Indonesia's emissions reduction target is 26%, or 41% with international support. One way to reduce greenhouse gas emissions is to accelerate the early retirement of FFPP.¹⁰ Presidential Regulation No. 112/2022 was issued to underline the government's commitment to accelerating achievement of renewable energy targets by terminating FFPP operations by 2050.

But up to now (2025) at least, the Government has not enacted supporting regulations confirming the implementation of policies on early retirement of FFPP.¹¹ Furthermore, one of the challenges confronting the acceleration of early retirement of FFPP is the need to incur significant expenditure.¹² Retirement of FFPP before the end of their operational life necessitates the disposal of assets which still have value.¹³ In addition, compensation to

⁵ *Ibid* , pp. 133-134.

⁶Adrianus Mbele Nuwa, et al., "The Impact of the Construction of the Ropa PLTU on Sustainable Development in Keliwumbu Village, Maurole District, Ende Regency" *Journal of Development Economics* 6 no. 1 (2024), pp. 44-45.

⁷Bayu Aji Prakoso, et al., "Evaluation of the Impact of the Construction of the Tanjung Jati B Steam Power Plant (PLTU) in Tubanan Village, Kembang District, Jepara Regency" *Journal of Public Policy and Management Review* 5 no. 2 (2016), pp. 10-11.

⁸M. Yerza Ananda, et al., "Analysis of the Impact of Dust Exposure Due to the Construction of PLTU 3 and 4 Nagan Raya on Public Health in Suak Puntong Village, Nagan Raya Regency" *Jurmakemas* 1 no. 2 (2021) p. 37.

⁹Article 3, Presidential Regulation No. 98 of 2021 concerning the Implementation of Carbon Economic Value for the Achievement of Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development.

¹⁰Fatih Gama Abisono, "Under the Shadow of Climate Change: The Transformation of the Development State and the Energy Transition Agenda in Indonesia," *Politika* 15 no. 1 (2024), p. 105.

¹¹Irine Handika, et al. , " *Quo Vadis* Implementation of *Early Retirement* of Batu Bata PLTU in the Era of Prabowo Gibran's Government: Opportunities and Challenges" *Proceeding APHTN-HAN* 2 (1) (2024), pp. 268-269.

¹²Akbar Bagaskara, et al. , "Delivering Power Sector Transition in Indonesia: Costs, Benefits, and Implications of Intervening the 13.8GW Coal-fired Power Plants Project Pipeline of Indonesia's State-owned Utility" *Institute for Essential Services Reform* (2023), p. 7.

¹³Yose Rizal Damuri, et al. , "Risks and Challenges of the Just Energy Transition Partnership (JETP) Indonesia" *Center for Strategic International Studies & Tenggara Strategies* (2023), p. 54.

owners and investors is required to cover potential losses of income resulting from early closure of the plants.¹⁴

In addition, steps need to be taken to ensure stability of electricity supply by transferring electricity generation capacity from fossil fuels to renewable energy sources.¹⁵ Because of the exorbitant costs involved in early retirement of FFPP, transparency is essential at every step of the way. A concomitant of such elevated levels of expenditure is the potential for corruption to occur. Examples of such corruption could be non-transparent tenders or direct appointments without tenders creating opportunities for bribery, trading in influence (influence peddling) in the funding process and questionable asset management in the wake of early plant retirement.¹⁶

One venture which is currently underway is a trial early retirement for FFPP Cirebon-1. The Indonesian Government has made it known that it is currently finalizing an early FFPP retirement package, involving participation of the Asian Development Bank (ADB) in the provision of financial support.¹⁷ Concurrently, in a project called the Indonesia Energy Transition Facility (IETF) 2025-2030, Indonesia is collaborating with the French Government and the European Union to accelerate transition to sustainable energy.¹⁸ The immensity of the funding involved in these ventures demands joint oversight to prevent corruption, misuse of funds, and other risks. It follows that transparency and public accountability are required, along with public scrutiny of processes involved.

One transparency measure needed now is disclosure of power purchase agreements (PPA) between the State Electricity Authority (PLN) and private producers. PLN's procedures for procurement of electricity are considered

¹⁴Akbar Bagaskara, *et al.*, "Delivering Power Sector Transition in Indonesia: Costs, Benefits, and Implications of Intervening the 13.8GW Coal-fired Power Plants Project Pipeline of Indonesia's State-owned Utility" *Institute for Essential Services Reform* (2023), p. 8.

¹⁵Hilma Meilani, "Energy Transition Mechanism and Acceleration of Indonesia's Energy Transition" *Research Center of the Indonesian House of Representatives Expertise Agency* (2009), p. 22.

¹⁶Mumu Muhajir, *et al.*, "Preventing Corruption in the Early Retirement Scheme of Steam Power Plants in Indonesia" *Transparency International Indonesia* (2023), p. 67.

¹⁷Happy Fajrian, "RI and ADB Finalize Early Retirement Package for 660MW Coal-Fired Power Plant," Katadata. Accessed at <https://katadata.co.id/ekonomi-hijau/investasi-hijau/6637486718c75/ri-dan-adb-finalisasi-paket-pensiun-dini-pltu-berkapasitas-660-mw>, on February 20, 2025.

¹⁸Indonesia Window, "Indonesia receives 14.7 million euros from France, EU for energy transition program", accessed at <https://indonesiawindow.com/en/the-indonesia-energy-transition-facility/#:~:text=The%2014.7%2Dmillion%2Deuro%20technical,with%20AFD%20and%20the%20EU%2C> on February 20, 2025.

to be insufficiently transparent.¹⁹ PPAs serve as the basis upon which each party operates in the buying and selling of electricity and thus ultimately they have an impact on the public's electricity requirements. This policy research paper will, accordingly, discuss the link between the acceleration of early retirement of FFPP and the transparency of PPA, and address the necessity of having public scrutiny of both the acceleration of early retirement of FFPP and of the transparency of PPA.

Nature of the problem

Considering the above, there are 2 (two) aspects of the issues to be addressed in this paper:

1. What is the relationship between acceleration of early retirement of FFPP and the need for transparent PPA? and
2. Why is there a need for public scrutiny of both accelerated early retirement of FFPP and the transparency of PPA?

Objectives

The authors of this policy paper had at least 2 (two) objectives:

- 1 To provide an analysis of the relationship between accelerated early retirement of FFPP and the transparency of PPA; and
- 2 To provide an analysis of the need for public scrutiny of both the accelerated early retirement of FFPP and the transparency of PPA.

Methodology

This policy paper is a normative research study which uses written material as its primary source. It employs a statute approach and includes a review of the following statutory laws and regulations:

- a. Law No. 30/2009 re Electricity;
- b. Law No. 14/2008 re Public Information Disclosure (Freedom of Information);
- c. Minister of Energy and Mineral Resources Regulation No. 10/2017 re the Essential Elements of Electricity Purchase Agreements;

¹⁹Alin Halimatussadiah, *et al.* „The country of perpetual potential: Why is it so difficult to procure renewable energy in Indonesia?" *Renewable and Sustainable Energy Reviews* 201 (2024), p. 7.

- d. PT PLN Board of Directors Decision No. 501.K/DIR/2012 re Service, Disclosure and Openness of Public Information within PLN;
- e. Other statutory provisions governing agreements on buying and selling electricity and on public disclosure of information.

A conceptual approach is used to analyze the above two aspects of the issues being addressed in this paper. That approach employs the principles of Freedom of Information and public scrutiny in identifying solutions for problem areas which crop up within statutory provisions. Accordingly, this policy paper utilizes secondary data in the form of legislation and written commentaries on agreements on buying and selling power and the transparency of processes involved. That data is then analyzed using qualitative methods which focus on interpreting the issues outlined in the description of the problem.

Scope

The scope or purview of this policy paper includes (i) the transparency of PPA as a means of accelerating the early retirement of FFPP and (ii) the issue of public oversight (scrutiny) as a means of authenticating mechanisms for accelerating early retirement of FFPP. Thus, the paper does not deal with the National Electricity Master Plan (NEMP) which allows for possible additions to the current number of FFPP. More specifically, the paper focuses on the PPA between the State Electricity Authority (PLN) and those Independent Power Producers (IPPs) who own and manage coal-fired FFPP.

This policy paper was compiled between January to May 2025. Thus, any policy changes occurring since that time do not fall within the purview of the paper's analysis.

Overview

Electricity Procurement Principles and Policies

Electricity procurement by PLN is quite different from the procurement of other government goods and services more generally. Statutory provisions on electrical power are laid down in Law No. 30/2009 re Electricity, some parts of which were amended in Law No. 6/2023 re Job Creation. Statutory authority over electrical power is fully vested in the State, with the execution of that authority being carried out by both the central Government and local governments in the regions.²⁰

In its endeavours to furnish supplies of electricity, the central Government delegates responsibility to State-owned enterprises (SOEs) and Local Government-owned Enterprises (LGEs). Within that framework, PLN is the one and only company handling all aspects of electricity in Indonesia. That said, the national Government, through the Ministry of Energy and Mineral Resources (MEMR), has the authority to enact regulations and policies with which PLN must comply.²¹ The MEMR Ministry also has responsibility for oversight of PLN's performance.²²

Electricity procurement at PLN is classified as special procurement.²³ This special procurement is carried out by business entities known as Independent Power Producers (IPPs). Any purchase of electricity must comply with the Electricity Supply Business Plan, a Project Feasibility Study

²⁰Article 3, Law No. 30 of 2009 concerning Electricity as amended by Law No. 6 of 2023 concerning Job Creation (State Gazette of the Republic of Indonesia 2009 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 5052).

²¹Article 14, Presidential Regulation No. 97 of 2021 concerning the Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia 2021 Number 244).

²²Article 14, Presidential Regulation No. 97 of 2021 concerning the Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia 2021 Number 244).

²³Number 1.12.5, Regulation of the Board of Directors of PT PLN (Persero) No. 0022/P/DIR/2020 concerning Guidelines for Procurement of Goods/Services of PT PLN (Persero).

(PFS), as well as Operational and Financial Feasibility Studies (OFS and FFS).²⁴

The stages of electricity purchase are stipulated in PLN Board of Directors Regulation No. 0018.P/DIR/2023 re PLN's Strategic Policy for Procurement of Goods/Services. Furthermore, purchasing electricity from IPPs is regulated in PLN Implementing Regulation No. 0012E/DIR/2023 re Standards for Procedures for Procurement of Other Goods/Services. It is evident from these two regulations that the steps involved in electricity procurement from IPPs are broadly as follows:



Chart 1. The general flow of steps involved in electricity procurement by IPPs.

As part of its responsibility as regulator and policy maker, the EMR Ministry issued Ministerial Regulation No. 10/2017 re the Key Elements of Electricity Purchase Agreements, which serves as the legal basis for purchase of electricity by PLN from IPPs as sellers. As laid down in Regulation 10/2017, the provisions contained in PPA must as a minimum cover:²⁵

- a. The term of the PPA;
- b. Rights and obligations of sellers and buyers;
- c. Risk allocation;
- d. Project implementation guarantees;
- e. Commissioning and Commercial Operation Date (COD);
- f. Fuel supply;
- g. Transactions;
- h. Control of systems operations;
- i. Penalties on a plant's performance;
- j. Termination of the PPA;
- k. Transfer of rights;
- l. Stipulations on adjustment of price;
- m. Dispute resolution; and
- n. *Force majeure*.

²⁴Number 5.2.1, Regulation of the Board of Directors of PT PLN (Persero) No. 0022/P/DIR/2020 concerning Guidelines for Procurement of Goods/Services of PT PLN (Persero).

²⁵Article 3, Regulation of the Minister of Energy and Mineral Resources No. 10 of 2017 concerning Principles in Electricity Sales and Purchase Agreements.

Principles of Good Corporate Governance, Transparency, and Public Availability of Information

Good Corporate Governance (GCG) refers to a set of principles which define relationships between parties within a company and parties outside a company, in accordance with their respective rights and responsibilities.²⁶ GCG is a system that regulates, manages, and controls a company in such a way that it provides value-added outcomes for all stakeholders.²⁷ It consists of four basic principles: transparency, fairness, accountability and responsibility.²⁸ As GCG has developed, there have been at least three additions to its principles, namely social awareness, discipline, and independence.²⁹

The Ministry of State-Owned Enterprises regulates GCG by way of Minister of State-Owned Enterprises Regulation No. PER-2/MBU/03/2023 re Guidelines for Governance and Significant Corporate Activities of State-Owned Enterprises. Article 3 paragraph (2) of this Regulation states that the principles of GCG include:

- a. **Transparency**, namely openness in carrying out decision-making processes and openness in disclosing material and relevant information regarding the company;
- b. **Accountability**, namely clarity of functions, implementation of functions and accountability within components of a company/public corporation, ensuring that management is carried out effectively;
- c. **Accountability**, namely compliance in company management with statutory provisions and healthy corporate principles;
- d. **Independence**, namely the situation of a company managed professionally without conflicts of interest or influence/pressures from any party which are not in accord with statutory provisions of law and healthy corporate principles; and
- e. **Fairness**, namely justice and equality in fulfilling stakeholder rights arising from agreements and statutory provisions.

²⁶Eko Sudarmanto, et al ., *Good Corporate Governance* (Yayasan Kita Menulis: Medan, 2021), p. 3.

²⁷Adika Reyhan Daffa and Eliada Herwiyanti, "Literature Review of *Good Corporate Governance* (GCG) Principles in Indonesian State-Owned Enterprises" *Economics and Digital Business Review* 4 no. 2 (2023), p. 218.

²⁸Emel Burak, et al ., "Effect of Corporate Governance Principles on Business Performance" *Australian Journal of Business and Management Research* 5 no. 7 (2016), p. 10.

²⁹ *Ibid.*

The principle of transparency is an essential element of GCG, because it serves as a foundation for stakeholders to conduct business while providing information which is clear, accurate, accessible, understandable, and able to be held to account.³⁰ This principle is closely related to the principle of public availability of information (Freedom of Information), which is substantive, relevant and openly available in the decision-making process.³¹ When implemented effectively, this principle essentially encourages companies to comply with all regulatory provisions, thereby avoiding abuse of power³².

As part of transparency, Freedom of Information (including public disclosure of government information) plays a crucial role. Freedom of Information in this sense is a fundamental element of a democratic state based on the rule of law,³³ because Freedom of Information can provide the public with the opportunity to express views on public policy which ultimately impact upon the public itself.

Freedom of Information is currently regulated by Law No. 14/2008 re Public Information Disclosure. This law provides government institutions with benchmarks on the public disclosure of government information. Public institutions are defined as executive, legislative, judicial, and other agencies which have governance of the state as their basic purpose and role and which are partly or fully funded by the national State budget or local government budgets. The benchmarks also apply to non-governmental organizations which are partially or wholly funded by the national state budget or local government budgets, public donations and/or foreign sources.³⁴

Subsequent to law No. 14/2008, the Central Information Commission put in place derivative regulations on what information should be made available to the public. One such regulation is Central Information Commission Regulation No. 1/2021 re Public Information Service Standards. As laid down in Article 3 paragraph (2) of that Regulation, public agencies are divided into State public agencies and non-State public agencies. The former include:

- a. Legislative agencies;
- b. Executive agencies;

³⁰Eko Sudarmanto, *et al.*, *Op.Cit.* . 8.

³¹ *Ibid.*

³² *Ibid*, 26.

³³Hanina Nafisa Azka and Fatma Ulfatun Najicha, "Implementation of Public Information Disclosure as an Effort to Realize Transparent and Accountable Government" *Citizenship Journal* 6 no. 1 (2022), p. 600.

³⁴Article 1 paragraph 3, Law No. 14/2008 re Public Information Disclosure.

- c. Judicial institutions;
- d. Other agencies which have administration of the State as their main function and duty and which are partly or fully funded by the State budget or local government budgets ; and
- e. State-owned Enterprises (SOEs), Local Government-owned Enterprises (LGEs), and/or other State-owned business entities.

Article 11 of the Public Information Disclosure Act stipulates that public agencies shall make information publicly available at all times, but in particular on agreements between public agencies and third parties. These public agencies include State-owned Enterprises (SOEs). The primary purpose of such public information disclosure is to vouch for the accountability and credibility of public agencies via provision of information, particularly in respect of the public interest.³⁵

Principles of Internal and External Oversight

Following amendments of the State-Owned Enterprises (SOE) Act enshrined in Law No. 1/2025, oversight of SOEs is now to be carried out by a Board of Commissioners or an SOE Oversight Board. The new SOE Act has no mechanism for public oversight of SOE business operations. Oversight of SOEs is conducted internally (through the Internal Oversight System) and externally (by several state institutions).

Previously, SOEs could be audited by the National Audit Office (NAO) under provisions of Article 71 paragraph (2) of Law No. 19/2003. In the new SOEs Act, however, restrictions are placed on external oversight of SOEs by the NAO. The differences within Article 71 of the new law and that of the previous law are evident from the following:

³⁵Adika Reyhan Daffa and Eliada Herwiyanti, "Literature Review of Good Corporate Governance (GCG) Principles in Indonesian State-Owned Enterprises" *Economics and Digital Business Review* 4 no. 2 (2023), p. 221.

Article 71	Law No. 19/2003	Law No. 1/2025
Para (1)	The audit of a company's financial reports shall be carried out by external auditors appointed by a General Meeting of Shareholders (GMS) in case of <i>Persero</i> enterprises or by the Minister for <i>Perum</i> enterprises	The audit of a company's annual financial reports shall be carried out by a public accountant appointed by a General Meeting of Shareholders (GMS) for <i>Persero</i> enterprises or by the Minister for <i>Perum</i> enterprises
Para (2)	The National Audit Office shall have the authority to conduct audits of SOEs in accordance with statutory provisions.	The National Audit Office shall have the authority to conduct audits for specific purposes in respect of SOEs in accordance with statutory provisions.
Para (3)	-	Conduct of audits for specific purposes, as intended in paragraph (2), shall only be permitted at the request of the institutional unit of the Indonesian House of Representatives responsible for SOEs .
Para (4)	-	Conduct of audits for specific purposes, as intended in paragraph (2), shall be in accord with statutory provisions.

Table 1. Comparison of scrutiny under new and previous SOE legislation.

a. Public Information Disclosure Law

Despite the impression of privatization of SOEs given by the new SOE Act, SOEs are nonetheless still bound by the provisions of the Public Information Disclosure Act. For example, Article 14 of the Act states that certain information shall be required to be provided publicly by SOEs and

other State-owned business entities. The new SOE Act neither eliminates nor dilutes the substance of those provisions of the Public Information Disclosure Act.

b. Audits by State Audit Office

Public oversight (scrutiny) is a crucial element in ensuring that the State is accountable and no public agency benefiting from State funding should be exempt from such scrutiny.³⁶ Public scrutiny has become one of the elements of the GCG framework as it has evolved, and aims to prevent all forms of fraud and to ensure that SOEs serve to benefit the community and the State.

Current mechanisms for oversight of SOEs involve both internal and external oversight. State institutions such as the Indonesian Government Ombudsman,³⁷ for example, have the authority to scrutinize SOEs. Other State institutions like the Ministry of SOEs also exercise oversight of SOEs, including by way of putting policies in place and ensuring SOEs implement GCG.³⁸

³⁶Irfan Setiawan and Ayu Widowati Johannes, *Government Supervision in Theory and Practice Review* (Rtujuh Media Printing: Bandung, 2024), p. 7.

³⁷Article 1 of Law No. 37 of 2008 concerning the Ombudsman of the Republic of Indonesia.

³⁸Article 6 of Presidential Regulation No. 179 of 2024 concerning the Ministry of State-Owned Enterprises.

Analysis

Transparency of Power Purchase Agreements as an Accelerator for Early Retirement of Fossil Fuel-Powered Power Plants

Protection of human rights requires strong determination on the part of the government, including by way of extension of the State's reach into business enterprises. The document United Nations Guiding Principles on Business and Human Rights declares that several principles apply to development of global standards on how governments and businesses should interact to protect human rights.³⁹ These guiding principles are also set out in Indonesian National Commission on Human Rights statement of Standard Norms and Regulations Number 13 re Business and Human Rights.

One responsibility mandated for businesses in showing regard for human rights is information transparency (Freedom of Information), which requires businesses "to know and to show". Such information transparency does not necessarily entail disclosing all information held by a business. The key point to stress in this regard is that information made public must be sufficient to enable an evaluation of a business's follow-up action on relevant human rights issues.⁴⁰

The basis on which PLN draws up its PPA is a procurement process specifically spelt out in PLN Board of Directors Regulation No. 0018.P/DIR/2023 re PLN's Strategic Policy for Procurement of Goods/Services. This Regulation classifies electricity purchases as special procurements. Consequently, the whole procurement process, from the

³⁹United Nations, "Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy Framework" *United Nations Human Rights Office of the High Commissioner* (2011), p. 6.

⁴⁰National Commission on Human Rights, "Standard Norms and Regulations Number 13 concerning Business and Human Rights" (2018), p. 22.

planning stage up to (but not limited to) signature of contracts must comply with procurement principles reflected in Good Corporate Governance (GCG).

PLN Board of Directors Regulation No. 0018.P/DIR/2023 also emphasizes that PLN agreements or contracts must comply with statutory provisions as well as GCG and the principle of due care and caution in business decision-making.⁴¹ Consequently, the provisions of the Public Information Disclosure Act (FoIA for short) also apply to the procurement of goods/services overseen by PLN. FoIA states that what is intended by "Public Agencies" are executive, legislative, judicial, and other institutions which have administration of the State as their principal function and purpose and which are partially or fully funded by the public purse in the national State Budget or local government budget; also intended are non-governmental organizations in so far as they are partially or fully funded by the national state budget, local government budget or community and/or foreign donations.⁴²

Following the enactment of Law No. 1/2025 re SOEs, which amended Law No. 19/2023, Article 1A paragraph (2) of the new law provides that the principles of GCG include, *inter alia*, transparency. An explanatory note on Article 1A paragraph (2) explains:

"What is meant by the "principle of transparency" is openness in the discharge of decision-making processes and openness in disclosing material and relevant information about the company involved in accordance with statutory provisions and/or provisions on disclosure of information in the company's articles of association."

Given the import of Article 1A paragraph (2), SOEs are clearly still bound by and subject to provisions of FoIA. Equally SOEs, as public enterprises, are obliged to proffer and grant public access to public information within their keeping. As an effort to achieve information transparency, PLN proceeds in accord with PLN Board of Directors Decree No. 501.K/DIR/2012 re Services, Disclosure and Openness of Public Information within PLN.

Openness and transparency are crucial aspects of GCG, because they are fundamental to the marketplace's trust in a company, in this case PLN. Public ventures subject to FoIA⁴³ are obligated to disclose information, an obligation that applies equally to PLN, subject as it is to FoIA's information disclosure regime. In accordance with Article 11 of FoIA, PLN, as a public

⁴¹Chapter V, Regulation of the Board of Directors of PT PLN No. 0018.P/DIR/2023 concerning Strategic Policy for Procurement of Goods/Services of PT PLN.

⁴²Article 1 number 3, Law No. 14 of 2008 concerning Public Information Disclosure.

⁴³Alin Halimatussadiah, *Op.Cit.*, 8.

agency, is obligated to provide public information, including on agreements into which it enters with third parties.

In addition, based on Information Commission Regulation No. 1/2021 re Public Information Service Standards, information on procurement of goods and services is one type of public information which must be publicized (Article 14 paragraph (2) i.) The public information referred to Article 14 paragraph (2) i is spelt out later in the Regulation (in Article 15, paragraph (9)) as including signed contract documents along with any amendments to them which do not contain protected information.

Contracts or agreements⁴⁴ were included within protected information under the terms of the document Consequence Test Sheet No. 01/UK/DIK/PPIDPLN/2024 dated July 9, 2024, although it did not specifically mention that agreements to buy and sell electricity were protected information. So it is that some information in PLN's PPA is withheld and cannot be accessed by the public. It is nonetheless important that some information in PPA be made known both to the public and interested stakeholders so that early retirement of fossil fuel-fired power stations (FFPP) can be speeded up

In the Consequence Test Sheet referred above, the rationale for excluding information is based on Article 17 letter b of the Public Information Disclosure Act, which stipulates that public information protected from disclosure shall include information which, if disclosed and released, could jeopardize protection of intellectual property rights or occasion unfair business competition. Thus, that article of the FoIA provides for two prerequisites for protection from release, namely protection of intellectual property rights and protection from unhealthy business competition.

The terms of Article 3 of Minister of Energy and Mineral Resources Regulation No. 10/2017 mandate provisions which a PPA should contain as a minimum. Based on this Regulation, provisions on intellectual property can be included in a PPA. But, if a PPA has provisions on intellectual property rights, that information can be blacked out or suppressed in accordance with statutory regulations. That said, the existence of provisions on intellectual property in a PPA does not of itself mean that all information in the PPA is protected. It follows that arguments for protection of intellectual property information can only be used selectively in respect of certain sections of a PPA, not its entirety.

Article 3 of Minister of Energy and Mineral Resources Regulation No. 10/2017 mandates provisions which a PPA should contain as a minimum. Among these prescribed provisions, information identified as important to be disclosed includes:

⁴⁴No. 156 Determination of Information and Documentation Management Officer Number 01/DIK/PPIDPLN/2024 concerning Classification of Excluded Information in 2024.

No.	Provision	Reason
1.	The term of the PPA	To know how long a private company will produce electricity
2.	Rights and obligations of buyers and sellers	To know the rights and obligations of buyers and sellers, especially in respect of discharge of the contract
3.	Termination of a PPA	To know and be able to investigate when a FFPP might cease operating and what costs would be involved in early retirement of the FFPP concerned.
4.	Dispute resolution	To know what procedures to follow in the event of a dispute that could arise in energy transition processes.

Table 2. Information which needs to be disclosed in the context of early retirement of a FFPP and public scrutiny.

In addition to protecting intellectual property rights, Article 17 letter b of the Public Information Disclosure Act (FoIA) also regulates non-disclosure of information based on protection against unhealthy business competition. But a PPA with a certain degree of transparency can in fact promote healthy business competition, given that information contained in such a PPA is publicly available, a situation resulting from a healthy agreement negotiation process.⁴⁵ Transparent market mechanisms and a competitive marketplace can also instill confidence in financiers/investors.⁴⁶

Secretively concluded agreements have negative consequences, giving rise to uncertainty and increased risks which can impede investment or funding in renewable energy. Such a situation creates information asymmetry, potential conflicts of interest, high transaction costs, uncompetitive pricing, and often results in poor service quality.⁴⁷

Properly managed disclosure of PPA information is fundamental for the encouragement of competitive tenders, which ultimately result in efficient

⁴⁵Mohamed Rali Badissy, et al., "The Case for Transparency in Power Project Contracts: A proposal for the creation of global disclosure standards and PPA Watch", *Energy for Growth Hub and Center for Global Development* (2021), p. 6.

⁴⁶Aki Kachi, et al., "Financing Coal Phase-Out: Public Development banks' role in the early retirement of coal plants" *NewClimate Institute and Institute for Climate Economics* (2024), p. 48.

⁴⁷Bharat Gangwani, et al., "The Just Transition Transaction (JTT) in Southeast Asia: Application to Indonesia, Vietnam, and the Philippines" *Singapore Green Finance Center* (2022), p. 9.

and transparent funding and compensation.⁴⁸ Transparency also helps expose existing information gaps, thereby reassuring investors and making early retirement of fossil fuel-fired power plants more effective.

Public Scrutiny of Efforts to Accelerate Early Retirement of Fossil Fuel-Fired Power Plants

The acceleration of early retirement of FFPP has been officially on the government's agenda since 2021, as was evident at *the 26th Conference of the Parties* (COP26) in Glasgow.⁴⁹ At the conference, Indonesia, along with other member countries, agreed to accelerate the development, implementation, and dissemination of technologies to reduce the use of coal and other fossil fuels by way of just transition processes. Among the initiatives taken as follow up to COP26 was establishment of the Just Energy Transition Partnership (JETP), which provides funding for the early retirement of FFPP.⁵⁰

There are several well-known early retirement schemes for FFPP. These include voluntary closure, obligatory closure and mandatory closure. Voluntary closure involves the unforced shut down of a FFPP by its owner before the FFPP contract term expires – a scheme which can also involve third parties in respect of financing.⁵¹ Obligatory closure results from a general change in government policy aimed at reducing FFPP plant capacity. Mandatory closure entails forcing early retirement on FFPP which do not meet requirements, by way of setting early retirement targets and selecting certain FFPP for early retirement.⁵²

In implementing these schemes for early retirement of FFPP, independent power producers (IPPs) can collaborate with third parties such as the Just Transition Transaction (JTT) which is funded by developed countries.⁵³ Indonesia is considered suitable for taking part in JTT in Southeast Asia because its situation has several characteristics which are almost the same as those of South Africa, including a high level of dependence on coal and a

⁴⁸Sugandha Srivastav and Michael Zaehringer, "The economics of coal phaseouts: auctions as a novel policy instrument for the energy transition" *Climate Policy* 24 no. 6 (2024), p. 757.

⁴⁹Decision 1/CMA.3 (FCCC/PA/CMA/2021/10/Add.1), dated March 8, 2022.

⁵⁰JETP Indonesia, "Comprehensive Investment and Policy Plan 2023" (2023), p. 50.

⁵¹Mumu Muhajir, *et al.*, *Op.Cit* 49.

⁵² *Ibid.*

⁵³Bharat Gangwani, *et al.*, *Op.Cit* 3.

power generation system dominated by State-owned companies.⁵⁴ The JTT itself can coordinate with regional players in Southeast Asia, such as the Asian Development Bank (ADB).

The ADB is a multilateral financial institution established to provide financial support for economic and social development in the countries of Asia and the Pacific. One impediment to ADB efforts to encourage energy transition is the low level of transparency in power purchase agreements (PPA), particularly those involving coal. The secretive nature of PPA makes it difficult to assess assets, financial obligations and the structure of incentives within PPA,⁵⁵ a situation which impedes just and efficient early retirement of FFPPs.⁵⁶ To address this issue, the ADB has designed a technical assistance program to enhance transparency in the electricity sector, including guidelines for transparency of PPA which cover fossil fuel-based power plants.⁵⁷

The lack of transparency in PPA increases the risk of corruption, particularly in respect of processes involved in early retirement of FFPP. The possibilities for corruption include selection of FFPP, management of their assets, the grant of preferential treatment and the reaching of agreement on compensation.⁵⁸ Given such distinct possibilities for corruption, public participation both in terms of inputs and public scrutiny is essential.⁵⁹

Public participation/involvement in issues relating to climate change is also explicitly addressed in the Paris Agreement. This involvement includes public awareness, public participation and public access to information.⁶⁰ A just energy transition requires public participation and information transparency, particularly in the context of the need for just decision-making procedures. An approach to participation which amounts to consultation only without clear information being provided cannot be judged to be procedurally just.⁶¹ Reflective and inclusive energy policy

⁵⁴ *Ibid*, 11.

⁵⁵Melissa Brown and Grant Hauber, "ADB Backs Coal Power Retirement in Southeast Asia: New Program Targets the Rights Issues, But More Solutions May Be Needed" *Institute for Energy Economics and Financial Analysis* (2021), p. 6.

⁵⁶ *Ibid*, 16-17.

⁵⁷Bharat Gangwani, *et al.* , *Op.Cit*, 15.

⁵⁸Mumu Muhajir, *et al.* , *Op.Cit*, 65.

⁵⁹ *Ibid*, 61-62.

⁶⁰Article 12, Paris Agreement 2016.

⁶¹Ivana Suboticki, *et al.* , "Fostering justice through engagement: A literature review of public engagement in energy transitions" *Energy Research & Social Justice* 99 (2023), p. 2.

models tend to be more open to public scrutiny because they involve the public in deliberation, evaluation, and decision-making processes.⁶²

This public involvement is not only necessary to ensure the sustainability of the social and environmental effects of energy projects, but also to address the potential for abuse of power by stakeholders.⁶³ Power itself is always a gateway for corruption.⁶⁴ The risks of corruption in energy transition processes include the involvement of various implementing entities and key stakeholders and the potential for misappropriation of funds.⁶⁵ Although the Electricity Sector Act, which is the legal basis of electricity management, does not provide for public participation and scrutiny, nevertheless from the perspective of providing services to the public in the electricity sector,⁶⁶ the government is obliged to involve the public in external oversight mechanisms.⁶⁷

To play its role of public scrutiny, the public needs to be cognizant of certain information. Due to the lack of transparent information on PPA, the public is unable to monitor the manner of operation of these public services. This is especially true in the case of a FFPP designated for closure. In such a case the public has a right to information about levels of expenditure to be incurred, as well as (but not limited to) information about a replacement power plant in their area. It follows that information transparency and public scrutiny – for example via public hearings, access to PPA, public grievance forums and the like – are important for ensuring that energy transition processes are just and accountable. Transparency of PPA can also help engage the public in monitoring the implementation of very costly early retirement of FFPP.

⁶²Jörg Radtke and Ortwin Renn, “Participation in Energy Transitions: A Comparison of Policy Styles” *Energy Research & Social Science* 118 (2024), p. 5.

⁶³Marco De Nigris and Fransesca Giuliano, “The Role of Organized Civil Society in the Implementation of the Renewable Energy Transition and Renewable Energy Communities: Qualitative Assessment” *Energies* 16 no. 4122 (2023), p. 16.

⁶⁴HM Arsyad Sanusi, “The Relationship between Corruption and Power” *Constitutional Journal* 6 no. 2 (2009), p. 81.

⁶⁵Transparency International Indonesia, “Promoting the Urgency of Strengthening Transparency & Accountability in Electricity Planning in Indonesia” *Transparency International* (2024), p. 7.

⁶⁶Article 5 paragraph (3) of Law No. 25 of 2009 concerning Public Services (State Gazette of the Republic of Indonesia 2009 Number 112, Supplement to the State Gazette of the Republic of Indonesia Number 5038).

⁶⁷Article 35 paragraph (3) of Law No. 25 of 2009 concerning Public Services (State Gazette of the Republic of Indonesia 2009 Number 112, Supplement to the State Gazette of the Republic of Indonesia Number 5038).

Conclusions & Recommendations

Conclusions

Two conclusions can be drawn from the forgoing presentation. First, power purchase agreements (PPA) concluded by PLN and independent power producers (IPPs) must be based on the principles of Good Corporate Governance (GCG), as well as principles of transparency and freedom of information mandated in the Public Information Disclosure Act (FolA). As a public agency, PLN has an obligation to provide the public with information. The Consequence Test Sheet which protects the content of an agreement on the grounds of safeguarding intellectual property rights and preventing unhealthy business competition should not automatically apply to all information contained in the agreement concerned. In fact, transparency of PPA can enhance healthy business competition, reduce investment risks and encourage effective and efficient early retirement of fossil fuel-fired power plants (FFPP).

Second, accelerating early retirement of FFPP exemplifies Indonesia's commitment to just energy transition processes, a commitment that has been trumpeted since COP26. This commitment is also reinforced through funding schemes such as the Just Energy Transition Partnership (JETP). Several schemes exist for early retirement of FFPP which can involve funding from both government and third parties. But the transition process is seriously challenged by PPA transparency issues. The lack of openly available information on PPA is not only impeding risk assessment and funding efficiency; it is also increasing the risk of corruption. To ensure just and accountable energy transition processes, freedom of information and meaningful public participation are needed. Transparency of PPA is a crucial element needed to support public scrutiny, to build trust and to foster just energy transition processes free of conflicts of interest.

Recommendations

Based on these conclusions, we make 5 (five) recommendations to PLN and the Government:

- 1. Revised Consequence Test Sheet for PPA*
PLN should review the impact of Consequence Test Sheets, which exempt the entire content of PPA from release to the public. Information in PPA which is not exempt should be available to the public in accordance with Article 11 of the Public Information Disclosure Act and Information Commission Regulation No.1/ 2021.
- 2. Preparation of Transparency Standards Applicable to PPA*
The government, through the Ministry of Energy and Mineral Resources in collaboration with PLN, should develop special information disclosure guidelines for PPA, particularly in respect of early retirement of FFPP. These standards should stipulate minimum levels of information which must be disclosed to the public and clearly specify information exempt from release.
- 3. Integration of Transparency Principles in Funding*
In the implementation of programs such as the *Just Energy Transition Partnership* (JETP) and the *Just Transition Transaction* (JTT), the principles of transparency and public access to information must be prerequisites for funding and reporting. In their evaluation of these programs, the Government and donor agencies could use the presence of PPA transparency as an indicator of good program management.
- 4. Encouraging Public Participation in Energy Transition Processes*
The government and PLN must provide meaningful public participation in decision-making on early retirement of FFPP, encompassing all stages: specifically planning, selection, and impact evaluation. Public involvement must be based on access to comprehensive information.
- 5. Strengthening Corporate Governance at PLN*
As a State-owned enterprise, PLN must deepen its commitment to the principle of transparency in accordance with Good Corporate Governance practices, given that information disclosure can strengthen the confidence of investors and financiers and contribute to the cost-effectiveness of early retirement of FFPP.

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