

Study Relationship of Under Bid Price, Contract Termination, and Risk of Regional Loss

Nur Azani^{1*}, Akhmad Suraji², Taufika Ophiyandri³

^{1,2,3} Civil Engineering, Faculty of Engineering, Universitas Andalas, Indonesia

*Corresponding author, e-mail: nurazani72@gmail.com

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ABSTRACT

According to the Audit Reports of BPK Representative in West Sumatera Province with title “LHP on Compliance Audit of Regional Expenditures of West Sumatera Province for Fiscal Year of 2021”, and “LHP on Financial Statements Audit of West Sumatera Province for Fiscal Year of 2021” as well as the auction data from Electronic Procurement Portal (LPSE), it is known that there were 293 construction packages with tender procurement in West Sumatera Province during Fiscal Year of 2021. Of those 293 packages, there were 81 packages has caused public budget losses and potential budget losses with total amount of Rp1.935.987.094,02, lacks of revenue with total amount of Rp9.660.218.603,31, and there were 8 packages experienced contract termination. Of those 8 packages with contract termination, 5 packages were known to be under bid price or using bid price that was too low (less than 80% of the HPS Value). Termination of the contract has resulted in the work not being utilized for the community in a timely manner, the risk of quality degression of the abandoned work until the work is resumed, and the risk of public budget losses. This research was conducted by seeing and analyzing the bid price that is too low (under bid price) which has potential impact on contract termination and the risk of public budget losses as well as the relationship between bid price fixing issues and the causes of contract termination. This needs to be done so that the contract termination can be avoided and the results of construction works can be completed and utilized immediately. This study aims to find a causal relationship between under bid price issues and contract terminations and the risk of public budget losses through the causes that influence the occurrence of contract termination, starting from the determination of HPS and under bid price, the selection process, the preparation and the implementation of the works according to timeline. From this study, it can be concluded that under bid price has a lot of influences and is a trigger for contract termination which resulted in the risk of public budget losses. There needs to be a calculation of the real bid price by considering overhead expenses, potential increases in material and wage prices, other expenses, and unexpected expenses. In addition, the parties involved in the construction works should make a risk map in order to mitigate problems which occur during the contract implementation period. This research takes the study of water resources building construction projects. Thus, further research is still needed on the occurrence of contract termination in road and bridge construction projects.

Keywords: *Under Bid Price; Contract Termination; Risk of Public Budget Losses.*

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INTRODUCTION

In selecting a qualified provider of goods and services, a selection process is required, including an auction. Tendering is an activity aimed at selecting, obtaining, determining and appointing the most suitable company to carry out a work package. The tender process has several stages, starting from the announcement stage, registration, giving an explanation, submission, opening, and evaluating the bid documents (Prihatini et al., 2017).

At the auction stage, planning documents that have been reviewed by the Election Working Group will be displayed/announced on the Electronic Procurement Service (LPSE) portal as auction documents. Prospective providers of goods and services/contractors will bid on the construction work/project with varying bid values, including bids that are too low (less than 80% of the HPS value) or under bid price. The Selection Working Group then carries out an evaluation process, namely administrative evaluation, technical evaluation and price evaluation. Based on the Regulation of the Government Goods/Services Procurement Policy Institute Number 12 of 2021 concerning Guidelines for Implementing Government Goods/Services Procurement Through Providers in Price Evaluation - Price Fairness Evaluation, states that the Selection Working Group carries out an evaluation of price fairness if the bid price is lower than 80% HPS, with provision:

1. Examining and assessing the fairness of prices based on the latest information on bid prices and/or unit prices on the market;
2. Evaluate the reasons for unreasonable bid prices and/or product unit prices;
3. The unit price that is considered fair is used to calculate the offer price that is considered fair and justifiable;
4. The bid price is calculated based on the volume in the quantity/output list and price; and
5. If the bid price is lower than the evaluation/calculation results, the bid price is declared unreasonable and the price drops.

Many countries, including Indonesia, project owners generally use the lowest price system (low bid) in determining winners in construction project tenders. The contractors need to have a competitive bidding strategy to win project tenders. The contractor must be able to provide the lowest bid price for the HPS value but still get maximum profits. If the bid is too low (less than 80% of the HPS value) or the under bid price passes the evaluation and the bid is declared the winning tender, then the KPA/PPK determines a Letter of Appointment of Goods/Services Provider and the KPA/PPK together with the service provider/contractor signs contract/cooperation agreement for implementing construction projects. However, after the contract was signed and the construction process was carried out, several jobs with under bid prices ended with the contract being terminated.

At the end of 2021, there were 8 (eight) construction jobs that ended in contract termination. Of the 8 (eight) jobs, 5 (five) of the work packages are contracted jobs using bid values that are too low (less than 80% of the HPS value), namely:

1. DPRD Office Fence Rehabilitation Project with a contract value of IDR 1,485,121,673.68 or 74.29% of the HPS of IDR 1,999,188,855.38;
2. Seawall Construction Project and Air Manis Beach Safety Buildings with a contract value of IDR 1,029,611,913.00 or 74.89% of the HPS of IDR 1,374,821,140.00;
3. Irrigation Network Rehabilitation Project D.I. Sungai Aro with a contract value of IDR 1,086,468,337.68 or 76.10% of the HPS of IDR 1,427,682,456.20;

4. Development of Batang Pulau River Infrastructure with a contract value of IDR 1,731,247,839.78 or 77.48% of the HPS of IDR 2,234,495,615.00; and
5. Development of Batang Lumpo River Infrastructure with a contract value of IDR 1,688,543,986.28 or 75.72% of the HPS of IDR 2,230,041,836.00.

The report also revealed that termination of the work contract resulted in the work not being able to be utilized for the benefit of the community on time, the risk of decreasing the quality of the work which was abandoned until the work was resumed, and risk of public budget losses.

This research aims to find a causal relationship between the problem of under bid price and contract termination and risk of public budget losses. The benefit of this research is to provide readers with an overview of the relationship between under bid price and contract termination and its impact on the risk of public budget losses. The author limits this research to construction work within the West Sumatra Provincial Government for the 2021 Fiscal Year.

METHOD

This research using the contract data and interviews.

Construction project contract data

Construction project contract data was obtained from West Sumatra Province LPSE which contains budget ceiling, HPS, contract value, company/contractor name, and evaluation process. Apart from that, other contract data was also obtained from the user and Audit Reports of BPK Representative in West Sumatra Province regarding the implementation period, final progress, payment for work, and the value of the return of the down payment as well as the implementation guarantee which is risk of public budget losses.

Interview

The interview technique was carried out using several questions which were then copied in the form of an interview transcript. Interviews are a data collection technique by conducting verbal questions and answers assisted by voice recording media. In simple terms, it can be said that an interview is an event or process of interaction between the interviewer and the source of information or the person being interviewed through direct communication (Muri Yusuf, 2014).

The technique of conducting interviews can be carried out systematically or unstructured, which is also called unstructured or semi-structured (Rachmawati, 2007). What is meant by systematic is that interviews are conducted by the researcher first compiling an interview guide instrument. It is called unstructured, so the researcher conducts interviews directly without first preparing an interview guide instrument (Iryana and Kawasati, 1990).

After the contract data is collected and the regional loss risk value is obtained, an interview will then be conducted. The results of the interviews will be analyzed using qualitative content analysis methods. In the *Qualitative Research Data Analysis Book (2021)* it is stated that content analysis as a tool or technique in research can be replicated and help conclude a collection of texts (Drisko & Maschi, 2016). Interview answers will be interpreted and concluded to obtain the main issues in determining the bid price and their relationship to the causes of contract termination and risk of public budget losses.

Next, the informants will be asked to provide a value regarding how under bid price will impact the contract termination and the reasons for giving the value. These values will refer to the indicators as shown in the following table.

Table 1. Indicator Value of the Influence of Under Bid Price on Contract Termination

Value	Indicator
1	No effect at all
2	Very inconsequential
3	No effect
4	Little effect
5	Quite influential
6	Influential
7	Lots of influence
8	Very influential
9	Significant influence
10	100% Influential

Next, validation is carried out to confirm back to the informant the results of the analysis and the reasons for assigning indicator values to the influence of under bid price on contract termination. If the informant agrees, then the information that has been received and analyzed will be used as a conclusion in finding a causal relationship between under bid price, contract termination, and risk of public budget losses, as well as recommendations. Apart from validating with informants, the results of the analysis will also be validated with parties who are competent in the field of state financial audit to confirm the relationship between under bid prices, contract termination and risk of public budget losses.

RESULTS AND DISCUSSION

Based on the data obtained, the results of the analysis and discussion regarding the problems and relationship between under bid price, contract termination and risk of public budget losses will be explained as follows:

Under Bid Price Construction Project that is Late and Ends with Termination of the Contract In 2021, the West Sumatra Provincial Government carried out 293 work packages procurement of construction work goods and services. 108 packages or 36.86% of them were contracted work with under bid prices. Furthermore, in the construction implementation process until the end of 2021, there were delays in completing work and contract termination at 20 packages or 18.52% late with late fines imposed and 5 packages or 4.63% end with contract termination. Besides that, there were another 3 packages project without under bid price which terminates the contract. The project with contract termination described in table 2 below.

Table 2. Construction Project with Contract Termination

No.	Project Name	Contract Value (Rp)	HPS (Rp)	% of HPS
1	DPRD Office Fence Rehabilitation Project	1,485,121,673.68	1,999,188,855.38	74.29
2	Seawall Construction Project and Air Manis Beach Safety Buildings	1,029,611,913.00	1,374,821,140.00	74.89
3	Irrigation Network Rehabilitation Project D.I. Sungai Aro	1,086,468,337.68	1,427,682,456.20	76.10

No.	Project Name	Contract Value (Rp)	HPS (Rp)	% of HPS
4	Development of Batang Pulau River Infrastructure	1,731,247,839.78	2,234,495,615.00	77.48
5	Development of Batang Lumbo River Infrastructure	1,688,543,986.28	2,230,041,836.00	75.72
6	Construction of the West Sumatra Cultural Building (Continued)	31,073,000,000.00	38,835,682,367.42	80.01
7	Development of Batang Aia Katiak River Infrastructure	658,844,000.61	823,554,065.40	80.00
8	Construction of the Provincial Regional Health Laboratory Building	8,023,410,169.33	9,258,820,228.82	86.66

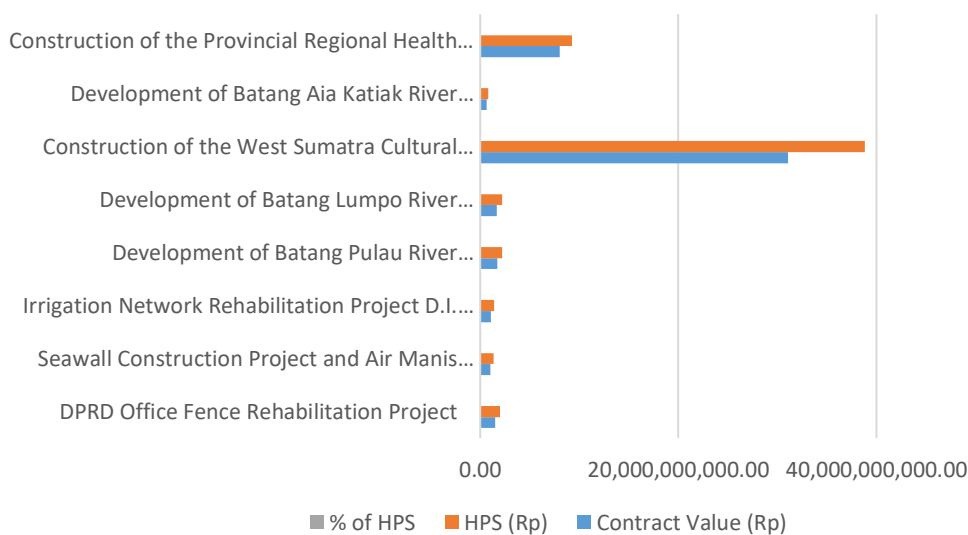


Figure 1. Construction Project with Contract Termination

As a result of terminating the contract, there is a risk of public budget losses which are certain to be in the form of refund of down payments and disbursement of performance guarantees. The risk of this loss will be a regional loss if the down payment and performance guarantee cannot be disbursed due to unlawful acts, such as fake guarantees or the application process for disbursing the guarantee is late so that the guarantor cannot cash the guarantee.

Contract Implementation and Contract Termination

Based on the results of interviews, there are many causes for contract termination, ranging from the contractor's lack of competence, inadequate/chaotic project management, and unstable company cash flow. From the results of the interviews, it is known that there are main causes and derivative causes of contract termination. The main cause is a direct cause that is related to the determination of the offer price, while the derivative cause is an indirect cause that is related to the determination of the offer price but contributes to the termination of the contract.

The main cause of contract termination is the calculation and determination of bid prices that are not based on real prices. Real prices are the cost of materials and wages after adding equipment (if any), overhead, other costs and estimated unexpected costs. Meanwhile, the derivative causes of contract termination are further explained as follows.

1. The main cause

Both in building construction project and water construction project, the main cause is that contractors do not calculate bid prices based on real prices. The contractor is inaccurate in calculating the bid price which should consist of material prices, wage prices, equipment (if any), overhead, and estimates of unexpected costs.

2. The derivative causes

Derived causes of contract termination originating from providers of goods and services/contractors are problems:

- a. Not considering the risk of price increases and the risk of unexpected field conditions.
- b. The director is not cooperative. The absence of the director during the contract implementation process.
- c. Borrow from the company. The director is only a name and does not understand the technicalities of the work, while the personnel in the field act directly like company leaders and are responsible for technical problems during the work. This has an impact on the contractor's internal communication which does not run smoothly.
- d. The company's financial condition is unstable. With several problems arising during implementation, the contractor's capabilities are needed, especially in terms of availability of funds. Companies with poor financial management will have an impact on cash flow management being stuck and accelerating contract termination.
- e. Field inspections and mutual check at zero condition were not carried out and did not take into account the distance of the work location.
- f. Project management is inadequate/chaotic. This can be seen from the duties and functions of directors and field executors not running as they should and/or overlapping. Apart from that, the contractor's logistics function is also not running optimally in controlling material availability.
- g. The competency of field implementers and workforce is inadequate/unprofessional/not in accordance with what is offered.

Meanwhile, the derivative causes of contract termination originating from other or besides the provider of goods and services/contractor itself are:

- a. Regulations and policies that are not yet binding on offers with under bid prices.
- b. The price fairness evaluation process carried out by the Selection Working Group, namely that the understanding of each Selection Working Group is different, there are no tools that are integrated with LPSE so that every under bid price is ensured to be clarified, and the SIKAP application has not been taken into consideration in selecting the winner.
- c. Not all districts/cities have licensed quarries, which affects the availability and price of materials if the work location is far from the quarry.
- d. Changes in job design.
- e. Less control by KPA/PPK and PPTK, namely that proof of prices is not clarified in writing, does not confirm which vendors will work with contractors, and not careful in ensuring that the personnel offered are those in the field.
- f. Unpredictable natural or weather factors, such as high intensity rain, floods, high tides, low tides, etc.
- g. Community intervention at work locations.

In addition, the characteristics of the causes of contract termination between building construction project and water construction project are also different. In building construction project, contract termination is influenced by the fabrication which is the partner providing

goods/services. Meanwhile, weather factors do not have much influence on building construction project.

It's different with water construction project. Weather factors greatly influence the continuity of work. When the water level rises, floods, high tides and low tides, it will affect the work and risked of being damaged and having to be repaired again. Besides that, quarries also greatly influence water construction project. The closer quarry and more available materials at the quarry will be improve the construction work.

Causality Relationship Between Under Bid Price, Contract Termination, and Risk of Public Budget Losses

Based on the causes of contract termination that have been found, there is a causal relationship between the under bid price and the contract termination. The main factor causing contract termination is the provider of goods/services does not calculate the bid price based on real prices, this condition make the risk of contract termination increase. The inaccurate bid price calculation make the higher risk of contract termination. This will be exacerbated by derivative causes that arise after the contractor realizes there was an error in calculating the bid price when the construction project was already underway.

To ensure a relationship between under bid price and contract termination based on the causes that have been found, researchers use an indicator value approach to describe the magnitude of the influence can be quantified. Based on the opinion of the informants, the influence of the under bid price on contract termination is 6.38 or "Influential – Lots of Influence" (calculated from 13 informants who gave opinions).

From the causes of contract termination and the relationship between under bid price and contract termination, there are factors that indicate the risk of public budget losses, namely:

1. The emergence of regional expenditure that is greater than it should be;
2. Contractors do not complete the work; and
3. Contractors as the third party has not carried out its obligation to hand over assets to the state/region.

CONCLUSION

Based on the results of the analysis and discussion regarding the causal relationship between under bid price, contract termination, and risk of public budget losses by finding the factors that cause contract termination from under bid price construction project, it can be concluded as follows:

1. Under bid price has a lot of influence. It will be a trigger for contract termination which results in risk of public budget losses.
2. Contractors should calculate real bid prices by considering overhead, potential increases in material prices and wages, other costs, and unexpected costs.
3. To avoid contract termination, project users/owners and contractors should create a risk map in order to mitigate the problems that occur during the contract implementation period.

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