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The Principle of Legal Certainty in the Implementation of Projects Funded by the State Budget (APBN): Reformulating an Adaptive Contract Model and Digital Governance for Public Procurement in Indonesia

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ABSTRACT

The implementation of government projects funded by the State Revenue and Expenditure Budget (*APBN*) faces ongoing challenges related to legal uncertainty, particularly in public construction contracts affected by price fluctuations, complex project risks, and suboptimal dispute resolution mechanisms. Despite existing regulatory frameworks, the principle of legal certainty—a fundamental pillar of public administration—remains inconsistently realized in government procurement practices. This research employs a normative juridical method with statutory and conceptual approaches to formulate an adaptive contract model and digital governance framework responsive to the dynamic nature of state construction projects. The findings demonstrate the necessity of reformulating contract models through three key mechanisms: price adjustment clauses based on standardized indices, proportional risk distribution between contracting parties, and dispute boards as preventive instruments. Furthermore, integrating digital systems—including the Electronic Procurement System (*SPSE*), e-monitoring platforms, and smart legal dashboards—significantly strengthens data-driven legal certainty and enhances procurement transparency. Based on these findings, this research recommends regulatory updates and the design of adaptive construction contracts to support accountability, efficiency, and public trust in implementing national strategic projects.

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INTRODUCTION

In the implementation of national development, the State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara*, APBN) functions as the main fiscal instrument supporting various strategic government programs, including infrastructure construction projects (Rahmaningsih & Satrya, 2025; Syamsurijal, 2019). As a form of fiscal authority, every project funded through the APBN must adhere to the principles of good governance, in which the principle of legal certainty serves as one of the core pillars (Hua, 2025; Sanchez-Graells, 2022). This principle requires that all procurement processes and project implementations operate under clear, consistent, enforceable, and predictable legal norms for all related parties (Sitompul et al., 2024; Utami et al., 2024). However, in practice, the principle of legal certainty often encounters technical dynamics, administrative obstacles, and fiscal policy changes that create tension between normative expectations and field implementation (Sanchez-Graells, 2024). These conditions pose challenges in drafting fair and operationally applicable construction contracts, while ensuring project execution remains free

from potential deviations or legal disputes (Asshiddiqie, 2014; Frisyudha et al., 2021; Ni'am et al., 2025).

The relevance of this discussion is further heightened by the increase in the infrastructure budget portion in the 2024 State Budget, which reached IDR 392 trillion (Ministry of Finance of the Republic of Indonesia, 2024). Several reports from the Audit Board of the Republic of Indonesia (*Badan Pemeriksa Keuangan*, BPK) still highlight recurring issues in APBN-funded projects, such as discrepancies in work volume, implementation delays, and incomplete contractual documents. Administrative errors not only cause fiscal consequences but also reduce public trust in the accountability of government spending. More critically, the BPK reported that state losses from APBN-funded projects in 2023 alone amounted to IDR 8.75 trillion, with 4,327 findings related to procurement irregularities (BPK, 2023). These figures underscore persistent systemic problems—including discrepancies in work volume, implementation delays, and incomplete contractual documents—that not only generate fiscal consequences but also erode public trust in government spending accountability. Meanwhile, the electronic procurement policy (e-procurement) through the Electronic Procurement System (*Sistem Pengadaan Secara Elektronik*, SPSE) has shown significant progress, yet it remains unmatched by adaptive contract models capable of accommodating price fluctuations, project risks, and preventive dispute-resolution mechanisms.

The fundamental problem underlying this study lies in the gap between *das sein* (legal reality) and *das sollen* (the law as it should be). Normatively, Presidential Regulation No. 16 of 2018, as amended by Presidential Regulation No. 12 of 2021, provides an adequate legal basis for government goods and services procurement. Empirically, however, APBN-funded construction projects still face various issues, such as multiple interpretations of contract clauses, differing perceptions in implementing contract changes (*variation orders*), and non-transparent administrative sanction enforcement. These conditions create legal uncertainty for both service providers and government users.

Based on these persistent challenges, this research addresses the following central questions: (1) How is the principle of legal certainty currently implemented in APBN-funded construction projects within Indonesia's regulatory framework? (2) What are the primary juridical and practical obstacles undermining legal certainty in public procurement contracts? (3) How can an adaptive contract model integrated with digital governance mechanisms strengthen legal certainty in state-funded project implementation?

Several previous studies have highlighted legal issues in procurement and construction dispute resolution. Triwijaya, Sami'an, and Hardjomuljadi (2025), for instance, emphasize the weaknesses in implementing *force majeure* clauses in state-owned enterprise contracts, which often open opportunities for disputes. Sitompul (2022) also highlighted weak accountability in the implementation of the e-procurement system. However, to date, studies specifically examining how the principle of legal certainty can be reformulated through an adaptive contract model integrated with digital procurement governance remain limited. This gap becomes the focus and novelty value of the present study.

This study aims to analyze juridically and normatively the existence of the principle of legal certainty within the regulatory framework governing procurement and the implementation of construction projects funded by the State Budget (APBN), identify various empirical problems in the implementation of government construction contracts based on case

studies and audit findings, and formulate an adaptive contract model along with digital governance mechanisms capable of strengthening legal certainty in the execution of state-funded projects.

Through this approach, the study is expected to contribute both theoretically and practically to the development of administrative law, particularly in the context of public procurement in Indonesia. The benefits of this research are twofold. Academically, it offers conceptual innovation by integrating legal principles with modern contract design in the implementation of government projects. Practically, the findings are expected to provide actionable recommendations for Ministries/Institutions, the National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*, LKPP), and procurement practitioners in preventing disputes, improving fiscal efficiency, and realizing transparent, fair, and accountable government spending.

METHOD

This study employed a juridical-normative legal research method to examine positive legal norms and their application in practice. This approach was selected to analyze the regulatory framework governing state budget construction projects and its alignment with the principles of legal certainty in public contracts. The research thus reviewed both the substance of applicable laws and the effectiveness of their implementation in state construction project management. It applied conceptual and statutory regulatory approaches: the former to explore legal theories and doctrines on legal certainty and adaptive contract models, and the latter to systematically examine provisions on government procurement, construction services, *e-procurement* systems, and digital governance policies (Soekanto, 2010).

The study relied on secondary data, including primary legal materials (laws, presidential regulations, and ministerial regulations), secondary legal materials (academic books, scientific journals, prior research, and relevant publications), and tertiary legal materials (legal dictionaries, encyclopedias, and supporting references). State Administrative Court (*Pengadilan Tata Usaha Negara*, PTUN) decisions and Audit Board (*Badan Pemeriksa Keuangan*, BPK) reports provided empirical foundations for evaluating contract implementation in government projects.

Data were analyzed qualitatively using a deductive approach, starting from general legal principles to assess APBN project practices. Content analysis systematically examined PTUN decisions and BPK reports by: (1) identifying recurring legal issues and patterns; (2) categorizing findings by themes such as contractual inconsistencies, price adjustment disputes, and procedural violations; (3) extracting key legal arguments and judicial reasoning; and (4) cross-referencing audit findings with regulatory requirements. Statutory, systematic, and teleological interpretations, along with comparisons between legal theory and administrative practice, yielded academically valid and practically relevant findings for policy formulation and public construction contract governance improvements.

RESULTS AND DISCUSSION

Implementation of the Principle of Legal Certainty in State Budget Projects

The principle of legal certainty is one of the main pillars in the implementation of government projects, including construction projects funded by the State Budget (APBN).

Normatively, this principle is regulated through Presidential Regulation No. 16 of 2018 concerning Government Procurement of Goods/Services, as amended by Presidential Regulation No. 12 of 2021. These regulations provide a legal basis that affirms the principles of transparency, efficiency, effectiveness, and accountability at every stage of procurement, all of which are directly related to the realization of legal certainty (LKPP, 2021).

Concrete manifestations of the implementation of legal certainty include the standardization of provider selection documents, uniform contract formats, and provisions concerning contract amendments and dispute resolution. However, inspection results from the Audit Board of Indonesia (BPK, 2023) still show recurring findings such as overpayments, discrepancies in work volumes, and delays in project completion. This indicates that although the normative framework is available, its implementation in the field has not fully ensured legal certainty for all parties involved. Thus, the formal legal principles have not been completely internalized in contractual practices involving Commitment-Making Officials (PPK), service providers, and project supervisors.

Implementation Challenges: Inconsistency, Price Changes, and Sanctions

The implementation of legal certainty in APBN-funded projects faces several practical challenges arising from gaps between legal norms and actual conditions in the field. First, contractual inconsistencies often result from limited initial technical designs (Detail Engineering Design/DED) and work specifications, which lead to changes in work volumes (variation orders). Clauses related to work changes are frequently interpreted differently by parties, creating legal uncertainty in determining additional or reduced work, especially when not supported by adequate technical justification.

Second, price fluctuations—due to increased material and energy costs such as steel, asphalt, and fuel—often hinder project continuity. Price adjustment procedures are not uniform across ministries or institutions, leading to policy inconsistencies. January (2024) notes that many PPKs struggle to formulate adjustment calculations due to the absence of a standardized national construction cost index. Yanuar (2024) notes that many PPKs struggle to formulate adjustment calculations due to the absence of a standardized national construction cost index, resulting in protracted negotiations and payment delays that disrupt project timelines.

Third, the implementation of administrative sanctions—such as contract termination or blacklisting—has not always been based on proportional and legally valid evidence. In several cases, the State Administrative Court (PTUN) annulled blacklisting decisions due to violations of the *audi et alteram partem* principle (the right to defense), indicating the need for transparent and procedurally correct sanction imposition (Triwijaya et al., 2025).

Reformulating an Adaptive Contract Model

To address these problems, a reformulation of APBN contract design is required so that it becomes more adaptive to field dynamics without compromising legal certainty. An adaptive contract is a contractual framework that provides flexibility for the parties to adjust to external changes, while still being grounded in clear and binding legal norms.

Several legal instruments that can be incorporated into adaptive contract models include:

1. Risk-sharing clauses, ensuring proportional risk allocation between users and providers—especially for price risks, administrative delays, and land availability.

2. Price adjustment mechanisms, based on a standardized national construction cost index with uniform formulas across agencies, ensuring fairness and predictability.
3. Dispute Avoidance and Resolution Board (DARB), a non-litigation mechanism that prevents dispute escalation during contract implementation (Waisapi, 2024).

These innovations are expected not only to strengthen legal certainty but also to reduce transactional costs arising from prolonged disputes and renegotiations. Thus, adaptive contracts can balance flexibility, certainty, and efficiency.

Digitalization of Contract Law: SPSE, E-Monitoring, and Smart Dashboard

Digitalization initiatives through the Electronic Procurement System (SPSE) and e-monitoring provide new opportunities for strengthening legal certainty based on technology. Integrated digital systems function as legal and administrative control tools that help monitor contract implementation in a transparent and accountable manner.

Potential applications include:

- Contract compliance evaluation, enabling system-based verification between tender documents, contracts, and regulatory requirements.
- Early deviation detection, through dashboards that automatically flag progress delays, volume discrepancies, or indications of overpayment.
- Public transparency, allowing access to project progress, addendums, and payment history in real time.

The Smart Legal Dashboard concept proposed by Amalia et al. (2023) is a strategic innovation because it integrates contractual data, legal regulations, audit findings, and project status into a single digital platform. With such a system, legal decision-making becomes more data-driven, transparent, and accurate.

Case Studies of 2020–2025 State Projects

Several case studies from 2020–2025 illustrate the urgency of adopting adaptive contracts and digital governance in APBN projects.

- The Trans-Sumatra Toll Road Project (2021) faced claims related to delayed payments due to the absence of an agreed fuel price adjustment index.
- A Central Sulawesi dam project (BPK IHPS II, 2023) revealed overpayments caused by discrepancies between measured and contracted work volumes.
- An administrative dispute in a vertical housing project (2022) in Jakarta resulted in the annulment of a provider blacklisting due to procedural violations.

These cases emphasize that APBN regulatory frameworks must be adaptive yet precise, integrating legal certainty principles with digital governance as objective supervisory tools. With such an approach, national strategic projects can be implemented more efficiently, transparently, and fairly.

CONCLUSION

The analysis reveals that the principle of legal certainty in APBN-funded government projects remains constrained by inconsistencies between normative regulations and field practices, particularly in risk allocation, price fluctuations, and contract interpretations, despite procurement framework improvements. This study proposes an adaptive contract model with

price adjustment clauses, proportional risk-sharing, and dispute boards, alongside digital governance via SPSE, e-monitoring, and smart dashboards, to enhance transparency and data-driven resolutions. Essential policy steps include cross-agency harmonization, standardized adaptive contracts, HR capacity building in adaptive contracting, and national digital dashboards for real-time oversight. Future research could empirically test these adaptive models through longitudinal case studies of APBN projects post-implementation to validate their long-term impact on dispute reduction and fiscal efficiency.

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