



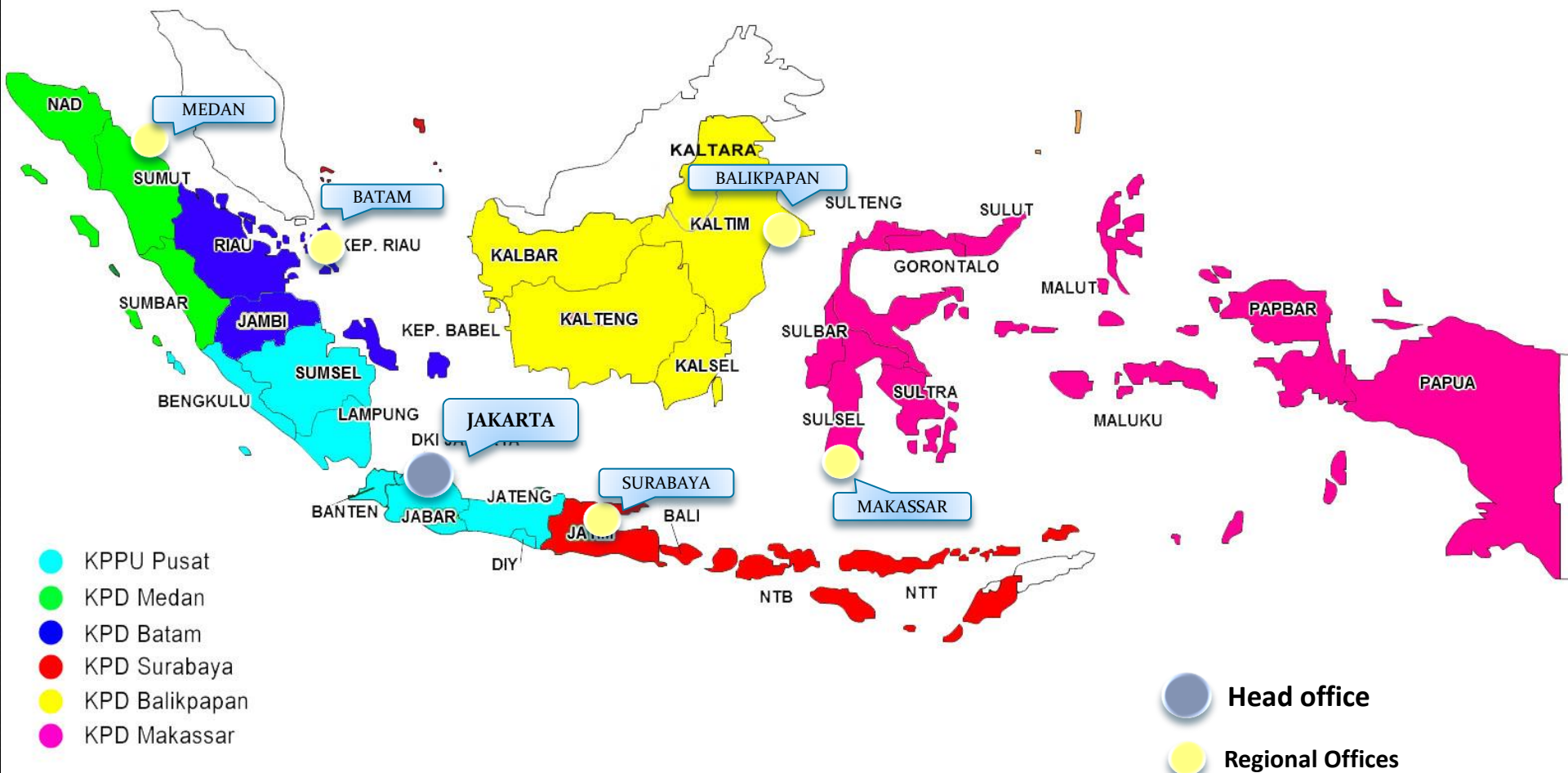
## THE INVESTIGATION OF Electrical Procurement and Distribution in Rural Areas (North Sumatera Province, Indonesia)

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# KPPU Head Office and Regional Offices



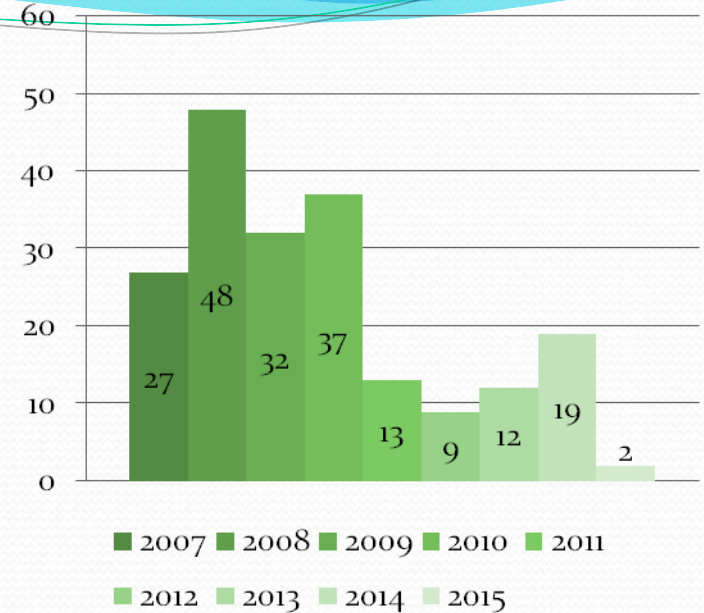
# General overview

- Indonesia is the largest economy in Southeast Asia and one of the emerging market economies of the world.
- Indonesia is the sixteenth largest economy in the world by nominal GDP
- Prices of a range of basic goods including, rice, and electricity plays a significant role in Indonesia market economy
- The increasement of economic development in Indonesia, impact to the increasement of goods and services government tender.
- The unfair tender process may impact in government and society loss, such as :
  - 1) Higher price
  - 2) Lower quality product
  - 3) Market barrier for potential business
  - 4) High cost economy

# BRIEF STATISTICS

## enforcement

- KPPU conducted 84 (eighty-four) case investigations and 33 (thirty-three) hearing proceeding (examination) only in 2015.
- 80% of the case is related to bid rigging (tender conspiracy)
- Issued 199 decisions for the past nine years.
- KPPU won most of the objected cases at DC (57%) and SC (73%).
- Collected fines to State Budget in 2015 only: IDR 15 billion. In total, liabilities from affirmed competition cases reach IDR 262 billion, where 80% (IDR 210 billion) of it has been collected.



	District Court		Supreme Court	
	Objection	Cassation	Re-cassation	
Win	74 cases	80 cases	5 cases	
Lose	55 cases	30 cases	-	

# Object Investigation

electrical procurement and distribution in rural area of North Sumatera (tender package of HUTM, HUTR and Distribution Transformer by the State Electricity Company), Unit Electricity Construction for Rural Area in North Sumatera, Fiscal Year 2013

**Note :**

- 35 work packages of obyek investigation
- Total value is Rp 96.024588 billion .

# Parties being INVESTIGATED

## Bidders

10 COMPANIES



Company A, B, C, D, E, F,  
G, H, I, J

## Manufactures

7 electrical  
manufactures



Company K, L, M, N, O, P,  
& Q

## Other Parties

Committing Officer Procurement  
of Goods / Services of State  
Electricity Company, Unit  
Electricity Construction for Rural  
Area in North Sumatera

Working Group for Procurement of Goods /  
Services PT . PLN ( Persero ) Unit  
Construction Contractors Electrical Work  
Unit Lisesd Sumatera in 2013

Mr. BS  
(Chairman of Working Group)

Mr. RS  
Chairman of Electrical Contractor  
Assosiation in North Sumatera

# Alegation Violation

## **Article 22 of Law No. 5, 1999**

"Businesses are prohibited from conspiring with others to arrange and or determine the winner of the tender so may result in unfair business competition "

## **Explanation of Article 22 of Law No. 5, 1999**

" Tender is an offer asking price to buy up a job to hold the goods , or to provide services. "

# Scope of Works

In implementing the Work Package for Rural Electricity Distribution Development bidders carry on two jobs :

- 1. To Provide the entire electricity Material and Distribution Equipment**, namely Pole Steel Pole Concrete Prestressed , Isolator Milestone / Tumpu , Isolator Renteng / Pull , Fuser Fuse Cut Out , Isolation Catcher Lightning / Lightning Arrester , Distribution Transformer , conduction Aluminium Mixed ( AAAC ) , Cable Pilin Air , Cross Arm UNP , Cross Arm Brace , transformers and LVC Stand Mini .
- 2. To Provide Construction Services** such as construction installation of HUTM , HUTR and Transformator electricity through a distribution network.

In terms of providing Material and Distribution Equipment, the Tender Committee defined requirement as follow:

1. Support letter from the Manufacturer or Distributor
2. Established consortium / partnership among certain bidders and manufacturer, with specific term that forbide the manufacturer to provide support letter to another bidders outside the consortium.
3. Bidders that could not fullfil the requirement will be disqualified from the tender process.



# The Market Structure of Material Distribution Provider

No	Material	Number of Manufacture in Indonesia (national level)	Number of Manufacture in Sumatera
1	Steel columns	10	Only Company L located in Sumatera
2	prestressed concrete pole	17	3 companies located in North Sumatera
3	isolator milestone fulcrum	2	2 (Comp.K & M)
4	Isolator pull	2	2 (Comp. K & O)
5	Fuse Cut Out	2	Only Comp. S which has reported type test
6	Lighting Arrester	2	Only Comp. S which has reported type test
7	Distribution transformer	12	0
8	Electricity Conductor (AAAC)	25	0
9	Air standed cable	25	0

- The bidders had to provide the entire material in one package.
- The consortium specific term
- Market structure of material provider is duopoly / oligopoly



These conditions limited the number of providers that could meet the requirements

# Chronological Setting Tender

## BEFORE THE IMPLEMENTATION OF TENDER

1



## RESULT OF THE MEETING :

1. The List of winner candidate, the fake competitor and manufacturers on every package
  2. The manufacturer's name on the list based on the proposal of the winning candidates and tenderers
  3. Dividing tasks among the parties in order to win the tender
  4. The deal grants for the tender committee  
1.5 % , 3 % P2K , tactical funds 0.5 % and 0.5 % by the funds control a potential winner .
1. Appoint several business representatives to deal with all requests by the manufacturer of consortium

**First Meeting: among 9 parties including Associations, bidders and relevant parties**

# Chronological Setting Tender

## BEFORE IMPLEMENTATION OF TENDER

2



### The Meeting Result:

1. Some of the bidders and manufacturer disobey the result of 1st Meeting
2. Re-arrange the list of tender winner

**Second Meeting: between Bidders and Manufactures's related to Support Letter from Manufacturer**

# Conspiracy Behaviour

## 1. official Comittment Maker

Make requirements regarding Certificate Type Test, that could not be fulfilled by bidders, in order to held the re- auction

## 2. Mr. BS / bidder

- Conducted meetings among bidders before tender process
- Set the Consortium Format

## 3. Mr. RS/ Bidder

- Coordinated bidders that will enter the tender
- Become a coordinator to make the list of potential tender winner
- Arrange support letter from manufacturer for Consortium

## 4. Manufacturer

- Involved in the support letter and Consortium coordination
- Discriminative conduct in providing support letter and Consortium

## 5. Bidder Group of Mr. RS

- Act as a fake competitor
- Deterred other bidder that were not include in Mr. RS group
- Cooperative conduct among the group in form of:
  1. Coordinated support letter from manufacturer
  2. Coordinated the issuance of offering letter and bank guaratee letter
  3. Similarity of typing errors in member's tender documents
  4. Similarity in Metadata and IP address (e-procurement system)
  5. Coordinated and compiled the list recapitulation of price and quantity of products

## 6. Working Group

1. Creating requirements limit the number of bidders and eliminate competition
2. Graduated participants who do not meet the requirements of the KSO (consortium) and completeness brochure
3. Did not clarify the authenticity of the KSO (cnsortium)

# The Work Package and Parties Involved on the Tender Conspiracy

No	Nama Paket	Pihak Bersekongkol	Pabrikan terlibat
<b>TAHAP I</b>			
1	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Binjai ( <b>Paket-01 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Vicpa</b></li> <li>• CV. Sauli Jaya</li> <li>• CV. UT Rahman</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Citra Mahasurya</li> <li>• PT. KSI</li> </ul>
2	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Binjai ( <b>Paket-02 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Vicpa</b></li> <li>• CV. Sauli Jaya</li> <li>• CV. UT Rahman</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Citra Mahasurya</li> <li>• PT. KSI</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
3	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Pematang Siantar ( <b>Paket-03 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Esha Sigma Pratama</b></li> <li>• PT. Enam Enam Group</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
4	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Pematang Siantar ( <b>Paket-04 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Sauli Jaya</b></li> <li>• CV. Vicpa</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo</li> <li>• PT. Twink Indonesia</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
5	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-06 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Global Menara Berdikari</b></li> <li>• PT. Bahtera Mayori</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
6	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-07 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Sauli Jaya</b></li> <li>• CV. Karya Leo Engineering</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. KSI</li> <li>• PT. Tiga Pilar Sakato</li> </ul>

# Evidences

<b>Evidence</b>	<b>Article 22</b>
<b>Witness Testimony</b>	√
<b>Expert Testimony</b>	√
<b>Letters/ documents</b>	√
<b>Hints</b>	√
Information from the business	-

# The Work Package and Parties Involved on the Tender Conspiracy

No	Nama Paket	Pihak Bersekongkol	Pabrikan terlibat
7	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-08 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Vicpa</b></li> <li>• CV. Karya Leo Engineering</li> <li>• CV. Sauli Jaya</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Citra Mahasurya</li> <li>• PT. KSI</li> </ul>
8	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-09 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Vicpa</b></li> <li>• CV. Sauli Jaya</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
9	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga ( <b>Paket-11 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>CV. UT Rahman</b></li> <li>• CV. Vicpa</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
10	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga ( <b>Paket-12 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Enam-Enam Group</b></li> <li>• PT. Esha Sigma Pratama</li> <li>• PT. Bahtera Mayori</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> </ul>
11	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Padang Sidempuan ( <b>Paket-13 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Bahtera Mayori</b></li> <li>• PT. Boyke Putra</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
12	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Nias ( <b>Paket-17 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Boyke Putra</b></li> <li>• PT. Global Menara Berdikari</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Citra Mahasurya</li> </ul>
13	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Nias ( <b>Paket-18 Lelang Ulang 2</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Boyke Putra</b></li> <li>• PT. Global Menara Berdikari</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>

# The Work Package and Parties Involved on the Tender Conspiracy

No	Nama Paket	Pihak Bersekongkol	Pabrikan terlibat
14	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Nias (Paket-19 Lelang Ulang 2)	<ul style="list-style-type: none"> <li>• CV. Tri Jaya Teknik</li> <li>• CV. Fariqi</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
15	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga (Paket-22 Lelang Ulang 2)	<ul style="list-style-type: none"> <li>• PT. Enam Enam Group</li> <li>• PT. Esha Sigma Pratama</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
16	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga (Paket-23 Lelang Ulang 2)	<ul style="list-style-type: none"> <li>• PT. Esha Sigma Pratama</li> <li>• PT. Enam Enam Group</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
<b>TAHAP II</b>			
17	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Binjai (Paket-25 Lelang Ulang 1)	<ul style="list-style-type: none"> <li>• PT. Esha Sigma Pratama</li> <li>• PT. Enam Enam Group</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
18	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Pematang Siantar (Paket-26 Lelang Ulang 1)	<ul style="list-style-type: none"> <li>• CV. Sauli Jaya</li> <li>• CV. Vicpa</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo Prima</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
19	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Pematang Siantar (Paket-27 Lelang Ulang 1)	<ul style="list-style-type: none"> <li>• CV. Vicpa</li> <li>• CV. Sauli Jaya</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo Prima</li> <li>• PT. Twink Indonesia</li> <li>• PT. Mega Kharisma Makmur</li> </ul>



# The Work Package and Parties Involved on the Tender Conspiracy

No	Nama Paket	Pihak Bersekongkol	Pabrikan terlibat
20	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Pematang Siantar ( <b>Paket-28 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Boyke Putra</b></li> <li>• PT. Bahtera Mayori</li> <li>• PT. Global Menara Berdikari</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Trafoindo Prima</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> <li>• PT. Mega Kharisma Makmur</li> </ul>
21	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-29 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Global Menara Berdikari</b></li> <li>• PT. Bahtera Mayori</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
22	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Rantau Prapat ( <b>Paket-30 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>CV. Sauli Jaya</b></li> <li>• CV. Vicpa</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
23	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga ( <b>Paket-31 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Esha Sigma Pratama</b></li> <li>• PT. Enam Enam Group</li> <li>• PT. Global Menara Berdikari</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
24	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Nias ( <b>Paket-32 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Global Menara Berdikari</b></li> <li>• PT. Bahtera Mayori</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
25	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga ( <b>Paket-33 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Bahtera Mayori</b></li> <li>• PT. Esha Sigma Pratama</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>

# The Work Package and Parties Involved on the Tender Conspiracy

No	Nama Paket	Pihak Bersekongkol	Pabrikan terlibat
26	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Padang Sidempuan ( <b>Paket-35 Lelang Ulang 1</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Bahtera Mayori</b></li> <li>• PT. Esha Sigma Pratama</li> <li>• PT. Enam Enam Group</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>
<b>TAHAP III</b>			
27	Pembangunan HUTM, HUTR dan Trafo Distribusi Area Sibolga ( <b>Paket-36</b> )	<ul style="list-style-type: none"> <li>• <b>PT. Enam Enam Group</b></li> <li>• PT. Esha Sigma Pratama</li> <li>• PT. Global Menara Berdikari</li> </ul>	<ul style="list-style-type: none"> <li>• PT. Sinarindo</li> <li>• PT. Citra Mahasurya</li> <li>• PT. Twink Indonesia</li> <li>• PT. Tiga Pilar Sakato</li> </ul>

## NOTE:

- The name of bidder in bold were appointed as the tender winner
- On work package number 07 and 08, CV. Karya Leo Engineering was acted as fake competitor without permission from its Director
- PT. KSI was still involved on the 1st re-auction process for work package number 01,02, 07, 08 but it was not involved on the further process.
- From 32 work package of HUTM, HUTR and Distribution Transformation tender, the group of Mr. RS successfully coordinated and won 27 work package
- The investigation team found out that there were changes on the tender winner list that previously obtained, with the actual tender winner. The investigation team alleged that Mr. RS and his group had updated the winner list.

# Conclusion & Recommendation

Based on the facts and analysis of the alleged violation, the Investigator Team concludes: there are violations of article 22 of Law No. 5 of 1999 in electrical procurement and distribution in rural area of North Sumatera (tender package of HUTM, HUTR and Distribution Transformer by the State Electricity Company), Fiscal Year 2013

The violation were conducted by 20 reported parties that consist of:

- 10 Bidders
- 7 Manufacturers
- 1 person (Mr. RS)
- 2 tender committee , namely:
  - i. Committing Officer Procurement of Goods / Services of State Electricity Company, Unit Electricity Construction for Rural Area in North Sumatera
  - ii. Chairman of Working Group for Procurement of Goods / Services of State Electricity Company, Unit Electricity Construction for Rural Area in North Sumatera

# Recommendation by Commission Assembly

The Commission Assembly gave recommendation to the Director -General of Electricity , Ministry of Energy and Mineral Resources , Republic of Indonesia as follow :

1. To give administrative sanctions to the procurement officer of Goods / Services of State Electricity Company , Unit Electricity Construction for Rural Area in North Sumatera and to Mr . BS as Chairman of Working Group for Procurement of Goods / Services of State Electricity Company, Unit Electricity Construction for Rural Area in North Sumatera,
2. recommend to the Director –General of Electricity, Ministry of Energy and Mineral Resources, Republic of Indonesia, to conducted the tender by considering the certified human resources availability and rational workload distribution, so that the composition of future Tender Committee will be consist of competent member in related technical matters

## Sanction & Fines

The Commission imposed fine to the reported parties with vary amount, from 48 million IDR to 5,6 billion IDR (409.357 USD). The fines should be paid to the State Treasury as business deposit income of competition infringement fines.