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LEGAL STRENGTHENING THROUGH INFRASTUCTURE DEVELOPMENT FINANCING SUPPORT IN PUBLIC-PRIVATE PARTNERSHIP (PPP) SCHEME

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ABSTRACT

This study aims to comprehensively analyze the implementation and effectiveness of regulatory instruments designed to strengthen infrastructure financing through the Public-Private Partnership (PPP) scheme in Indonesia. PPP serves as a crucial mechanism to mobilize private sector participation in addressing the nation's infrastructure financing gap while improving the efficiency and quality of public service delivery. The research focuses on the regulatory framework introduced by Minister of Finance Regulation Number 68/2024, which marks a significant advancement in Indonesia's PPP governance by providing a more coherent and comprehensive legal foundation to accelerate sustainable and inclusive infrastructure development. The regulation emphasizes the optimization of government support mechanisms such as the pre-project development facility (Pre-PDF), project development facility (PDF), infrastructure guarantees, and feasibility support, all of which are essential in mitigating risks and enhancing project bankability. Employing a normative juridical method through statutory and conceptual approaches, this study examines the consistency between the regulation's normative design and its practical application while identifying strategic measures to strengthen its effectiveness. The findings indicate that Minister of Finance Regulation Number 68/2024 successfully addresses normative gaps found in previous frameworks, particularly Presidential Regulation No. 38 of 2015, which lacked clarity in project preparation, risk-sharing, and guarantee mechanisms. Moreover, the regulation enhances collaboration between the government and private sector, promotes innovative financing models, and reinforces transparency and governance standards within PPP arrangements. The study's key contribution lies in its comprehensive evaluation of how regulatory reform under Minister of Finance Regulation Number 68/2024 reshapes Indonesia's PPP ecosystem, offering actionable insights for policymakers to design more effective legal and institutional frameworks that promote sustainable infrastructure financing.

Introduction

Infrastructure development in Indonesia is critically important, as its implementation can stimulate economic growth, which is directly correlated with national social welfare. The presence of infrastructure in Indonesia must receive special attention, considering the country's high economic growth and the need to compete globally to achieve a higher classification than developing countries by 2025 (Amalia & Budhijanto, 2018). Infrastructure development can take several forms, generally categorized into physical and non-physical infrastructure. Physical infrastructure refers to tangible assets, typically buildings such as roads, bridges, ports, airports, transportation systems, energy facilities, clean water systems, and communication technology (Robert, 2005). Meanwhile, non-physical infrastructure comprises systems, services, and policies that support the functioning of society and the economy. This infrastructure is often referred to as soft infrastructure and emphasizes institutional aspects, human capacity, and technology such as education systems, health systems, laws, and other systems (Ramadani & Khumaidi, 2024).

Among the two types of infrastructure described above, physical infrastructure is often the main concern or focus, considering its development impact can be felt directly by the community. In connection with the importance of the existence of infrastructure development, the government has increased its attention, as reflected in the National Medium-Term Development Plan (hereinafter referred to as "RPJMN"). In the 2025-2029 RPJMN, the government increased support by 17.5% compared to the 2019-2024 RPJMN, with a total allocation of IDR 1,650 trillion (Elena, 2024). The increased support was made with the consideration that such substantial assistance could provide benefits to the economy, with an average contribution value of 5.6%-6.1% (Masitoh, 2024).

Although the financing support described above indicates that the government has budgeted a fairly large amount, in practice, it is not entirely used for infrastructure development. Infrastructure development requires enormous funding, and it is not feasible to rely solely on the RPJMN budget. To overcome these issues, the government divides the budget allocation into several components: 9.2-11% for investment financing, 8.3-8.9% financed by the government and state-owned enterprises (SOEs), and 80% sourced from private sector financing (Julaika, 2024). This composition highlights the significant role of private sector. Given this role, the reciprocity of various financing from the private sector must be acknowledged and supported with legal certainty regarding the return on investment, in accordance with the existing legal framework in Indonesia.

From the perspective of Indonesia's legal framework, the implementation of PPP is governed by Presidential Regulation Number 38 of 2015 concerning Infrastructure Provision through PPP (hereinafter referred to as "Presidential Regulation No. 38/2015") (Maulana, 2021), along with derivative regulations such as Regulation of the Minister of National Development Planning/Head of the National Development Planning Agency of the Republic of Indonesia Number 7 of 2023 concerning Implementation of Government and Business Entity Cooperation in Infrastructure Provision (hereinafter referred to as "MNDP Regulation No. 7/2023"). These regulations currently serve as the primary legal basis for the PP implementation and continue to guide its operation (Putri & Rochmani, 2020).

The implementation of PPP under the existing legal framework has resulted in notable outcomes. In 2023, PPP contributed to 191 infrastructure development projects with a total project value IDR of 1,366 trillion as stated in the PPP balance sheet.

The number of infrastructure projects successfully realized through the public-private partnership (PPP) scheme shows that this scheme has a real contribution in accelerating infrastructure development in Indonesia. This reflects the ability of PPP to answer the needs of accelerated development, which often cannot be fully met by the government budget alone. Given its significant role, PPP is not merely an alternative but a strategic solution to the challenges of funding and efficiency in infrastructure provision. However, to ensure the sustainability and success of PPP implementation, more comprehensive and detailed regulatory arrangements are required beyond the current framework. These regulations must be designed to provide legal certainty, protection, and justice for all parties involved both government and business entities in order to create mutually beneficial cooperation while supporting national development goals.

The urgency of regulating protection more comprehensively arises from the legal point of view, particularly related to return on investment, where lacunae in the norms in Presidential Regulation No. 38/2015. One such gap can be found in Article 13, paragraph (5), which states that further arrangements regarding service availability payments (a method for returning investment to business entities) will be regulated by the minister responsible for finance and state assets and/or the minister responsible for domestic governance. In addition, the lacuna of the norm in question are evident in Article 16, paragraph (2), which stipulates that the form and procedure for providing feasibility support will be further regulated by the minister. A similar void exists in Article 17, paragraph (7), which explains that the provisions regarding the form, procedure, and mechanism of the government guarantee will be regulated by the minister responsible for finance and state assets (Tania, 2023). These issues related to PPP must be resolved immediately, considering that its implementation can enhance economic and social benefits. PPP also expands development opportunities that connect regions (Parikesit et al., 2024).

The regulatory framework governing infrastructure financing under the PPP scheme in Indonesia has been established through a series of comprehensive regulations, reflecting the government's commitment to promoting private sector participation in infrastructure development. However, in light of evolving investment dynamics and practical challenges, there remains a need to update and refine certain aspects particularly those related to legal certainty and the mechanisms for investment return to business entities. Specific attention is warranted for payment structures and feasibility support mechanisms, where regulatory clarity and operational coherence would enhance investor confidence and reinforce the predictability necessary for sustainable, long-term engagement.

While previous regulatory instruments, such as Minister of Finance Regulation No. 223/PMK.011/2012 and its amendment, No. 170/PMK.08/2018, attempted to offer guidance on feasibility support for PPP projects, they fell short of providing comprehensive solutions to the increasingly complex needs of PPP implementation. These earlier regulations have struggled to keep pace with the evolving dynamics of public-private cooperation as formalized in Presidential Regulation No. 38 of 2015, resulting in ongoing legal ambiguity and operational fragmentation. Consequently, a more integrated and updated legal approach became necessary.

This research highlights the issuance of Minister of Finance Regulation No. 68 of 2024 (hereinafter referred to as “MoF Regulation No. 68/2024”) as a critical and timely development in the regulatory landscape. As a newly enacted instrument, MoF Regulation No. 68/2024 introduces a significant legal update that specifically targets the longstanding voids in PPP regulation—most notably those concerning return on investment mechanisms and the scope of government support. The novelty of this study lies in its in-depth legal analysis of this new regulation, offering the first comprehensive academic assessment of MoF Regulation No. 68/2024 in the context of its effectiveness in resolving legacy regulatory weaknesses. By focusing on the interplay between the new regulation and existing legal structures, the study contributes original insights into how Indonesia’s PPP framework is being restructured to meet current policy and market demands.

Thus, the added value of this research stems from its focus on a previously unexamined regulation, bringing new perspectives to the legal scholarship on infrastructure financing and PPP governance in Indonesia. The study not only maps out the potential of MoF Regulation No. 68/2024 to fill normative gaps but also evaluates its coherence with broader policy objectives such as sustainable development, fiscal responsibility, and enhanced private sector engagement. In doing so, it moves beyond a descriptive approach to offer normative and practical recommendations that support regulatory improvement and institutional learning.

Accordingly, the core objective of this research is to assess the legal impact of MoF Regulation No. 68/2024 in strengthening the normative foundations of PPP implementation in Indonesia. Specifically, it seeks to answer two interrelated research questions: First*, w*hat is the contribution of legal strengthening, as embodied in MoF Regulation No. 68 of 2024, in supporting infrastructure development financing through the PPP scheme in Indonesia? Second, what are the legal and practical challenges, as well as opportunities, associated with the implementation of this regulation in ensuring investment return certainty for business entities? Through this inquiry, the study aims to enrich both academic discourse and policymaking by providing a critical analysis of the evolving legal framework, emphasizing how MoF

Regulation No. 68/2024 represents a strategic shift toward more effective and sustainable PPP regulation in Indonesia.

Literature Review

Public-private partnership (PPP) has emerged as a strategic instrument for infrastructure development across both developed and developing countries. It enables governments to leverage the capital, expertise, and efficiency of the private sector to deliver infrastructure and public services. In Indonesia, the PPP model has become increasingly central to the national infrastructure agenda, especially in addressing the significant financing gap in public infrastructure investment (World Bank, 2018; Bappenas, 2020). The Government of Indonesia formally supports PPP through regulatory instruments such as Presidential Regulation No. 38/2015 on PPP in Infrastructure Provision, which outlines the framework for project preparation, procurement, and risk sharing.

Internationally, PPP has been widely studied in various contexts. Grimsey and Lewis (2004) underline the critical role of proper risk allocation and transparent procurement processes, while Yescombe (2017) emphasizes the importance of financial structuring and legal certainty for long-term infrastructure investment. Similarly, Hodge and Greve (2007) argue that the success of PPP lies not only in financial innovation but also in robust institutional frameworks, legal enforceability, and governance mechanisms.

The legal foundation and regulatory environment are essential in shaping investor confidence in PPP schemes. Studies by OECD (2012) and Asian Development Bank (ADB, 2019) point out that a strong legal and institutional framework can significantly reduce transaction costs, clarify risk allocation, and enhance transparency. In the Indonesian context, however, regulatory complexity, lack of legal harmonization between central and regional governments, and limited institutional capacity remain key challenges (Manullang, 2024). These limitations often result in delays in project implementation and difficulties in enforcing PPP contracts. From the broader legal perspective, the transformation and challenges of Islamic law in Indonesia also highlight the dynamics of legal pluralism that may affect regulatory harmonization (Siroj et al., 2023).

Contract theory offers a useful lens in PPP discourse, focusing on how clearly defined rights, obligations, and enforcement mechanisms influence project outcomes (Hart, 2003). Complementarily, collaboration theory highlights the importance of trust, stakeholder engagement, and mutual accountability in fostering successful PPP relationships (Emerson et al., 2012). Both theories underscore the significance of legal clarity and institutional support in managing PPP risks and promoting sustainable partnerships.

From a financing perspective, PPP facilitates a range of financial models such as build-operate-transfer (BOT), design-build-finance-operate (DBFO), and availability payment schemes, tailored to suit different risk profiles and project types. The literature reveals that financing barriers, especially in developing countries, are often tied to perceived regulatory risks, weak credit enhancement instruments, and underdeveloped capital markets (Yescombe, 2017). Consequently, public financial support through viability gap funding (VGF), government guarantees, and blended finance mechanisms becomes necessary to attract private investment (Ministry of Finance Indonesia, 2021).

The success of PPP is also linked to transparency and accountability mechanisms. As observed in global studies (World Bank, 2020), access to project information, public oversight, and anti-corruption safeguards are critical to reducing information asymmetry and ensuring public trust. In Indonesia, although strides have been made in public disclosure requirements, challenges persist in project monitoring and community engagement. Social and environmental impacts are further dimensions that influence PPP viability. While PPP projects can improve access to essential services—such as transportation, energy, water, and healthcare—they must also be designed to be inclusive and responsive to marginalized populations. Recent studies recommend embedding social impact assessments (SIAs) and environmental and social safeguards into the legal and regulatory frameworks of PPP (ADB, 2020; Manullang, 2024).

Comparative insights from countries such as the UK, India, and South Korea show the importance of aligning legal reform with infrastructure planning. For instance, India's PPP framework evolved with the introduction of model concession agreements, clear dispute resolution mechanisms, and dedicated PPP cells at various levels of government. These innovations underline the role of legal and institutional reforms in overcoming the bottlenecks that often hamper PPP projects in emerging economies.

Despite the growing body of research, a notable gap remains in the literature concerning the effectiveness of legal instruments and financial support mechanisms in the implementation phase of PPP projects in Indonesia. While regulatory frameworks exist, empirical evidence on how legal provisions—such as government guarantees, land acquisition regulations, and dispute resolution mechanisms—are operationalized remains limited. There is also a lack of comprehensive analysis on the interplay between legal certainty and financing innovation within PPP schemes.This research aims to fill this gap by examining how the Minister of Finance Regulation and other legal instruments support infrastructure development financing within the PPP framework, and how such legal tools can be strengthened to enhance project bankability, transparency, and social inclusion in the Indonesian context.

Methodology

The methodology employed in this study is based on a juridical-normative approach. This method is deemed highly suitable given the nature of the research problem, which centers on evaluating legal frameworks and regulations pertinent to infrastructure development under the PPP scheme, particularly in relation to securing investment returns for private entities. The choice of this approach stems from the recognition of normative gaps concerning investment returns within Indonesia's PPP regulatory framework. By employing this method, the study seeks to systematically explore, analyze, and assess the prevailing legal provisions to address these normative deficiencies effectively. The approach relies on an in-depth analysis of secondary data, encompassing primary, secondary, and tertiary legal materials (Benuf & Azhar, 2020). This comprehensive analysis facilitates a nuanced understanding of the norms and principles underpinning the PPP scheme and provides a robust foundation for developing policy recommendations aimed at enhancing legal clarity, investor confidence, and the sustainability of PPP-driven infrastructure initiatives.

The research was also conducted by adopting several approaches that were specifically selected to support a comprehensive and focused analysis. The first approach is the legislative approach, which focuses on various relevant and applicable regulations related to PPP practices, namely Law No. 21 of 2013 concerning Spatial Planning, Presidential Regulations, ESG guidelines, and other related regulations (Amalia et al., 2023)

The study additionally employed a legislative approach, which centers on an exhaustive examination of pertinent and prevailing regulations associated with Public-Private Partnership (PPP) practices. This method encompasses a detailed analysis of Law No. 21 of 2013 concerning Spatial Planning, Presidential Regulations, Environmental, Social, and Governance (ESG) guidelines, alongside other relevant statutory instruments (Amalia et al., 2023). By focusing on these regulations, the researchers sought to obtain a comprehensive review of the topic. (Rakhmawati et al., 2019). This focus aims to understand the existing legal framework, including regulations governing PPP schemes and infrastructure financing support. This approach is important to identify how these regulations are implemented and evaluate their effectiveness in achieving the expected objectives.

In addition, a conceptual approach was chosen to provide a strong theoretical foundation in the analysis. In this case, the concepts used include the concept of law, the concept of infrastructure, and the concept of PPP. These concepts help to deepen the understanding of the principles underlying the PPP scheme, its relation to infrastructure development, and how the legal framework can support its implementation. By combining these two approaches, the research not only focuses on normative aspects but also considers relevant conceptual dimensions, resulting in a more thorough analysis that can serve as a foundation for future policy recommendations.

Finding and Discussion

Contribution of Legal Strengthening in Supporting Infrastructure Development Financing through PPP Scheme Based on Minister of Finance Regulation

Legal strengthening can be interpreted as a structured and systematic mechanism aimed at improving and also updating the existing legal system so that it becomes more aligned with societal needs, contemporary developments, and evolving legal principles. The implementation of legal strengthening includes various aspects of change, ranging from substance (legal material), structure (institutions that implement the law), to legal culture (public awareness and behavior toward the law). All of these are directed at overcoming weaknesses or dysfunctions in the legal system that may hinder the achievement of justice, legal certainty, and legal benefits for the community (Ansori, 2017). Through legal strengthening, the law is expected to become an effective tool for solving social problems, promoting clean and transparent government, and encouraging sustainable development. Viewed from its implementation, legal strengthening can be divided into several types, each with its own characteristics. The types of legal strengthening in this case are as follows:

Legal Substance Strengthening

Legal substance strengthening refers to the renewal of the content and materials contained in legal products such as laws, regulations, and legal policies. By undertaking legal substance strengthening, existing legal products can be adjusted to remain relevant to current conditions. With legal strengthening, various weaknesses contained in legal products can be resolved or corrected (Disemadi & Jaya, 2021).

Legal Structure Strengthening

Legal structure strengthening involves changes to institutions that play a role in carrying out legal functions, such as the courts, prosecutors, police, and other government bodies responsible for law enforcement (Setiawan, 2021).

Legal Culture Strengthening

Legal culture strengthening is considered one of the most challenging forms of legal development. Its success tends to be visibe only over time, as it focuses on changing attitudes, behaviors, and legal awareness among the public and law enforcement officials. Unlike legal products, the subjects of this transformation are individuals with reason and agency, making the process inherently complex (Satura et al., 2024).

Legal Process Strengthening

Another dimension of legal strengthening pertains to process enhancement, which involves refining or modernizing of procedural mechanisms within the legal system. This form of legal development seeks to establish a legal process that is more efficient, transparent, and responsive to societal needs (Putri et al., 2024). Legal processes encompass a broad spectrum of activities, ranging from investigation and prosecution to judicial proceedings and the execution of judgments. Enhancements may include the digitization of court procedures, simplification of legal formalities, or the promotion of alternative dispute resolution mechanisms such as mediation and arbitration (Putri et al., 2024).

However, in the specific context of ensuring return on investment (ROI) for private entities engaged in infrastructure development under the PPP scheme, substantive legal strengthening is of greater urgency. This is due to the persistent normative vacuum, particularly concerning provisions on feasibility support that continues to hinder legal certainty for investors. The regulatory gap is especially evident in Presidential Regulation No. 38/2015, which, despite establishing a foundational framework for PPP implementation, fails to provide comprehensive guidance on the return of investment to business entities.

The newly issued MoF Regulation No. 68/2024 serves as a critical instrument of substantive legal strengthening. This regulation addresses the normative deficiencies in Presidental Regulation No. 38/2015 by elaborating and clarifying key provisions, including Article 13 paragraph (5), Article 16 paragraph (2), and Article 17 paragraph (7), which relate to government support mechanisms—particularly fiscal support and the structure of infrastructure financing. By articulating these provisions more clearly, MoF

Regulation No. 68/2024 contributes to reducing legal uncertainty and enhancing investor confidence, thereby reinforcing the legal foundation for effective PPP implementation in Indonesia.

MoF Regulation No. 68/2024 can be regarded as a derivative regulation that operationalizes the supporting mechanisms mandated by Presidential Regulation No. 38/2015, particularly in several key areas. First, it addresses the issue of risk sharing between the government and business entities (Amelia, 2023). Second, it elaborates on the provision of government support as stipulated in Article 13 of Presidential Regulation No. 38/2015. Third, it regulates the return on investment for business entities through various mechanisms, including the availability payment scheme, as referenced in Articles 12 and 13 (Kurdi, 2024) Furthermore, MoF Regulation No. 68/2024 consolidates provisions on infrastructure financing support that were previously scattered across multiple regulations, thereby enhancing legal certainty for PPP stakeholders regarding the procedures, forms, and limits of government support.

A closer examination of the regulation reveals that MoF Regulation No. 68/2024 indeed serves as a normative reinforcement of Presidential Regulation No. 38 /2015. This is particularly evident in Article 3, which outlines the conditions under which infrastructure provision schemes involving private sector participation may be implemented. The article states that such schemes are permissible when: (a) there is private capital involvement in project financing; (b) the project results in the availability of public infrastructure services; (c) public funds are leveraged; and (d) there are life-cycle cost advantages in infrastructure delivery.

Article 3(a) explicitly confirms that the involvement of private capital is a key criterion for project eligibility, thereby reaffirming the essence of the PPP framework. In this regard, MoF Regulation No. 68/2024 strengthens the legal foundation for PPP implementation by clarifying the government's role in providing financial support. This clarification is critical in addressing the normative vacuum that has historically created legal uncertainty particularly in relation to investment return mechanisms. By offering a more structured regulatory framework, MoF Regulation No. 68/2024 contributes to the legal certainty and predictability required to foster private sector confidence and participation in Indonesia's infrastructure development agenda.

Government Support Arrangements

The provisions regarding the form of government support are regulated in Article 4 of MoF Regulation No. 68/2024, which explains that government support consists of the following:

Pre-Project Development Facility

Pre-Project Development Facility (hereinafter referred to as "Pre-PDF") refers to the support provided by the government to identify the optimal financing scheme. The identification of an optimal financing scheme is crucial, as it helps minimize risk between parties—in this case, the private sector and the government (Patu & Akhmadi, 2021). In addition, an optimal financing scheme provides clear arrangements regarding the return on investment for private parties or business entities without interfering with state finances or disrupting the management and utilization of infrastructure that has already been developed.

The provision of Pre-PDF is carried out by the government through assistance in the formulation of infrastructure provision needs, initial identification of infrastructure, and learning on the provision of similar infrastructure. The Pre-PDF consists of several stages as stipulated in Article 9 of MoF Regulation No. 68/2024, with further details regulated in Article 10. These stages include:

First, the Pre-PDF application stage, which may be submitted to the minister, head of institution, head of region, directors of state-owned enteprises (SOEs) or region-owned enterpreises (ROEs), and other parties based on statutory regulations to carry out infrastructure provision. The application must include, at minimum, information on the infrastructure provision plan, the fiscal condition of the applicant, financial governance, and land conditions.

Second, the review stage of the Pre-PDF application, as stipulated in Article 11 of MoF Regulation No. 68/2024, conducted by the party responsible for the proposed infrastructure. Third, the implementation stage of the Pre-PDF. Fourth, the preparation of a concept note, which serves as a recommendation regarding the recipient of the Pre PDF. Fifth, the termination statge of the Pre-PDF, which occurs once the objectives of the facility have been achieved.

Project Development Facility

Project development facility (hereinafter referred to as "PDF") is regulated in Article 26 of MoF Regulation No. 68/2024. It is implemented by the government to support the preparation of documents and supporting studies related to infrastructure projects. PDF includes several stages: application stage, application review stage, implementation stage, output approval stage, monitoring and evaluation stage, and recovery and termination stages (Aulia & Mubarrok, 2023). The purpose of this support is to ensure the preparation of comprehensive documents, such as pre-feasibility studies, environmental assessments, and financing structures, thereby ensuring project readiness for the procurement stage of the implementing business entity.

Infrastructure Guarantee

Infrastructure guarantee refers to a guarantee provided by the government for the financial obligations of the Infrastructure Project Coordinator (PJPK) to the implementing business entity, aimed at reducing risks that may affect project investment. This is in accordance Article 4, paragraph (1), letter c of Mof Regulation No. 68/2024, which identifies Infrastructure Guarantee as a form of government support (Maulana, 2021). The implementation of this support is further regulated in the Article 39 to 41, which explain that guarantees are administered through the Infrastructure Guarantee Business Entity (BUPI) based on a guarantee agreement. The guarantee may involve different risk coverage or equal risk values between the government and BUPI.

The functions of infrastructure guarantee include ensuring the payment of PJPK's financial obligations— such as financial compensation to the implementing business entity due to project risks— and enhancing project attractiveness for investors by reducing uncertainty related to financial risks.

Feasibility Support

Feasibility support is fiscal support provided by the Minister of Finance to improve the financial feasibility of infrastructure projects. It is legally grounded in Article 4, paragraph (1), letter d of Mof Regulation No. 68/2024, which defines feasibility support as a form of government support. Further arrangements regarding feasibility support are outlined in Article 55 to 58, which detail the mechanisms for principle approval, determination of support amount, and final feasibility support.

Availability Payment Documents

Availability payment (AP) is a periodic payment made by Infrastructure Project Coordinator (PJPK) to the implementing business entity for the availability of infrastructure services in accordance with the PPP agreement. The legal basis of this support is outlined in Article 4, paragraph (1), letter e of MoF Regulation No. 68/2024, which states that the processing of AP documents is part of government support. Further provisions are regulated in Article 62 to 63, which describe the AP processing procedures. These procedures consist of a preliminary confirmation letter issued by the relevant Directorate General as an initial assessment of the readiness to use AP and the final confirmation letter which confirms the results of the preparation of AP documents based on an evaluation of the quality of services provided by the implementing business entity.

MoF Regulation No. 68/2024 also introduces additional provisions not previously regulated in Presidential Regulation No. 38/2015. These include AP disbusrsement, which may be carried out when the Infrastructure is ready to operate and when the service indicators agreed upon in the PPP agreement are met.

i. Arrangements Regarding the Purpose of Government Support: Provisions regarding the purpose of government support are regulated in Article 5 of MoF Regulation No. 68/2024. The regulation states that government support in infrastructure financing aims to accelerate the provision of quality infrastructure by mobilizing broad private funds and optimizing the use of public resources, including the state budget (APBN), regional budget (APBD), and the use of state property (BMN) and regional property (BMD) (Verico et al., 2024). This objective also includes the application of environmental, social, and governance (ESG) principles that integrate aspects of environmental sustainability and good governance in every project. With this support, the government seeks to encourage private sector involvement in infrastructure provision while ensuring sustainable and targeted fiscal management.

ii. Arrangements Regarding the Financing Source for Government Support: MoF Regulation No. 68/2024 also regulates the source of financing for government support, which is outlined in Article 6. The article explains that the main sources of financing include the state budget, regional budget, or other legal sources in accordance with statutory provisions. Facility funds for the Pre-PDF and PDF are allocated from the expenditure of the Budget Section of the State General Treasurer or the Ministry of Finance. The use of this financing source must pay attention to the state's fiscal capacity, fiscal sustainability, and governance in accordance with the principles of quality spending and accountability.

iii. Arrangements Regarding the Procedure for Providing Support: MoF Regulation No. 68/2024 also outlines the procedure for providing support, which is divided into two processes: the application and evaluation process (Article 9 to 12), and the procedure for providing feasibility support (Article 53 to 58). The procedure begins with the submission of an application by the Infrastructure Project Coordinator (PJPK) to the Minister of Finance through the Directorate General of Financing and Risk Management. This application should include information on project feasibility, bankability aspects, and compliance with ESG principles. The review process includes an evaluation of the project supporting documents to ensure conformity with the objectives and policies of infrastructure financing. Eligibility support approval is granted in stages, starting from in-principle approval, support amount, to final approval after in-depth evaluation.

Based on the provisions outlined above, MoF Regulation No. 68/2024 can be understood as a strategic effort to enhance the implementation of infrastructure development under the PPP scheme. This regulation not only complements Presidential Regulation No. 38/2015 but also introduces legal adjustments that reflect evolving practical needs and current dynamics in infrastructure financing. By providing more detailed guidance on the mechanisms for government support, the regulation contributes to refining the PPP legal framework—aiming to promote greater efficiency, transparency, and sustainability in infrastructure project implementation. The characterization of MoF Regulation No. 68/2024 as a form of legal strengthening is supported by several key considerations, including the following:

First, more comprehensive regulation. A more comprehensive regulation is one of the important steps in strengthening the legal and administrative framework to support the implementation of infrastructure projects through the PPP scheme. In this context, MoF Regulation No. 68 / 2024 plays a significant role by clarifying and expanding the details of the forms of government support that were previously mentioned in general terms in Presidential Regulation No. 38/2015. The support includes viability gap funding and infrastructure guarantees, designed to provide certainty to private investors. Through this MoF Regulation, the technical procedures and steps required to access such support are explained in detail, including requirements, application procedures, and evaluation criteria.

This arrangement helps ensure that PPP projects have clearer and more measurable financial viability, thereby reducing risks for investors. In other words, this mechanism not only provides protection to the private sector, but also increases the attractiveness of PPP projects as viable investments. In addition, this more systematic procedure allows the government to prioritize projects with a significant impact on society, while maintaining transparency and accountability in the management of public funds. Overall, the more comprehensive regulation through MoF Regulation No. 68/2024 reflects the government's commitment to creating a conducive and sustainable investment ecosystem, while still oriented toward long-term benefits for national development.

Second, simplification and legal certainty. One of the main objectives of MoF Regulation No. 68/2024 is to simplify various regulations related to infrastructure financing, which previously appeared complicated and overlapping. In many cases, complicated procedures and unclear rules often cause confusion among the parties involved, such as Infrastructure Project Coordinators (PJPK) and investors. The MoF Regulation addresses these issues by integrating and unifying technical and administrative rules related to infrastructure projects. This allows for a more structured and easy-to-follow policy for all parties involved, while reducing the potential for misinterpretation that could be detrimental to all parties involved.

With this simplification of procedures, the administrative process has become more transparent and efficient. For example, clearer Pre-PDF application procedures allow Infrastructure Project Coordinators (PJPK) and investors to more quickly access the necessary support for feasibility studies and other preparations. In addition, the procedures for applying for infrastructure guarantees as stipulated in this MoF Regulation provide higher legal certainty, due to more detailed provisions on how infrastructure guarantees can be made and what conditions must be met—so that investors feel more secure in making investment decisions. This simplification not only accelerates the infrastructure financing process, but also increases the attractiveness of PPP projects in the eyes of investors, which in turn can encourage faster and more efficient infrastructure development, without sacrificing transparency or accountability.

Third, resolving bankability issues. MoF Regulation No. 68 of 2024 emphasizes the importance of providing financially viable infrastructure (bankability) by involving private funds. Infrastructure guarantees that are regulated in detail, such as joint guarantees between the Minister of Finance and BUPI, are legal innovations that provide investors with a sense of security against project financial risks. These various arrangements can significantly enhance the bankability and transparency of the project, thereby improving the certainty of rights and obligations for all parties involved in infrastructure development under the PPP scheme.

Fourth, substantial legal strengthening. MoF Regulation No. 68/2024 is not merely a complement to Presidential Regulation No. 38/2015; it represents a more substantial legal strengthening in the implementation of infrastructure development through PPP schemes. This strengthening is evident in the resolution of several legal and administrative problems that previously hindered PPP implementation. MoF Regulation No. 68/2024 also enhances collaboration between the government and business entities by minimizing risks and strengthening trust and also ensuring that infrastructure development is in line with the vision of sustainability and good governance.

Based on the explanation above, it can be concluded that the issuance of MoF Regularion No. 68/2024 constitutes a significant legal strengthening, especially in the legal framework governing the provision of financing in infrastructure development under the PPP scheme. MoF Regulation No. 68/2024 makes a substantial contribution by providing a comprehensive and clear arrangement regarding government support in PPP implementation. It also includes a comprehensive arrangement regarding the return of investment to the private sector or business entity by utilizing the availability payment scheme.

Challenges and Opportunities in the Implementation of Minister of Finance Regulation Related to Infrastructure Financing Support through PPP Scheme in Indonesia

As previously explained, the issuance of MoF Regulation No. 68/2024 represents a form of legal strengthening aimed at increasing legal certainty in the implementation of infrastructure development under the PPP scheme. This regulation addresses various normative gaps found in the main PPP regulation, namely Presidential Regulation No. 38/2015. Such legal reinforcement can significantly impact the implementation of infrastructure development in Indonesia through the PPP scheme, generating both opportunities and new challenges.

Opportunities arising from legal certainty provided by MoF Regulation No. 68/2024 include the following, first, the regulation facilitates access to greater financing. By resolving the normative vacuum in PPP implementation, private sector entities feel more secure in investing their funds. This creates an opportunity for the government to mobilize larger scale financing for infrastructure development without directly burdening the state budget (Siswantoro, 2022).

Second, involving the private sector with expertise and resources, can lead to higher-quality and more efficient infrastructure outcomes. The application of the latest technology and professional management can improve project performance. Third, the legal certainty provided by MoF Regulation No. 68/2024, especially regarding investment returns to private entities, can attract foreign investors. With clearer regulatory support and fiscal incentives, Indonesia becomes an attractive investment destination for foreign investors interested in infrastructure development via PPP schemes. In addition, regulatory clarity can support the creation of a sustainable ecosystem by integrating existing regulations with ESG principles, thereby promoting environmentally friendly and socially responsible infrastructure development with long-term value.

Despite opportunities and the clearer legal framework introduced by the regulation, its implementation is not without challenges. Key obstacles include:

i. Inter-agency coordination issues: PPP schemes involve numerous parties, including the Ministry of Finance, technical ministries/agencies, local governments, and the private sector. Ineffective coordination can lead to overlapping roles, delays in decision-making, and disagreements on risk allocation (Damayanti et al., 2023).

ii. Capacity and readiness of Infrastructure Project Coordinators (PJPK): Many PJPKs, especially at the regional level, lack sufficient technical, administrative and managerial capacity to prepare and manage PPP projects (Surachman et al., 2021). This includes the ability to conduct feasibility studies, manage procurement, and comply with ESG principles.

iii. Administrative and regulatory complexity: The process of applying for support, from Pre-PDF to infrastructure guarantee approval, is often perceived as overly bureaucratic and time-consuming. This can hinder the realization of projects that require a swift execution.

iv. Limited budgets for feasibility support: The provision of feasibility support is often constrained by limited government budgets, especially in amid competing demands for other infrastructure projects. This can discourage private sector participation.

To address these challenges, several solutions are proposed. Strengthening coordination among institutions involved in the PPP scheme is essential. Establishing task forces at both national and regional levels can help harmonize roles and responsibilities, reduce overlap, and accelerate decision-making. In addition, the use of digital platforms can facilitate data integration and simplify administrative processes, making workflows more efficient and transparent.

Another effort that can be undertaken is to increase the capacity of Infrastructure Projects Coordinators (PJPK), especially at the regional level, through technical training and direct assistance related to project planning and implementation. Incentives may be provided to coordinators that successfully realize infrastructure projects, thus encouraging more optimal performance. In addition, investor attractiveness needs to be strengthened with infrastructure guarantee schemes that cover political and financial risks and the development of alternative financing instruments such as infrastructure bonds. These efforts can reduce investment risk and increase private sector interest in participating.

In addition to the above, other mechanisms for addressing challenges include simplifying administrative processes by digitizing document submission and evaluation, along with setting clear time limits for each stage. The government needs to optimize the feasibility support budget by increasing the allocation of state budget and regional budget funds for strategic projects and utilizing blended financing, which is a combination of public and private funds to reduce the fiscal burden. In addition, the application of ESG principles should be strengthened by providing clear technical guidelines and success indicators, and integrating environmental and social audits in project evaluation.

Resolving issues related to the limited budget for feasibility support can also be achieved through funding synergies between the government and various parties. The government can optimize collaboration with the private sector, financial institutions, and international organizations to create more diverse financing mechanisms. This synergy can be realized through a blended financing model, in which public funds from the state budget or regional budget are combined with private investment or philanthropic funding to support strategic projects. In addition, the government can expand the use of innovative financing instruments such as green bonds or development bonds that attract local and international investors. With these measures, PPP-based infrastructure projects can secure more stable and sustainable funding without relying entirely on state budget allocations.

Funding synergies can also be strengthened through partnerships with international institutions, such as the World Bank or the Asian Infrastructure Investment Bank (AIIB), which have the capacity to provide financing facilities and technical consultations. By engaging international partners, PPP projects not only receive funding, but also support in risk management and implementation of international standards, including ESG principles. This collaborative approach will help overcome budget constraints and accelerate inclusive, competitive and sustainable infrastructure development. With these efforts, the implementation of MoF Regulation No. 68/2024 can proceed more effectively, encouraging the acceleration of inclusive, sustainable, and environmentally sound infrastructure development.

While the implementation of MoF Regulation No. 68/2024 provides an important legal foundation for addressing regulatory gaps within the PPP framework, it is important to acknowledge that there may be alternative explanations for the observed opportunities and challenges. For instance, improvements in private sector participation or investor confidence may not solely stem from regulatory clarity, but could also be influenced by broader macroeconomic conditions, changes in political leadership, or global investment trends. Fluctuations in global interest rates, economic recovery post-pandemic, or Indonesia's sovereign credit rating can independently affect the appetite of private investors regardless of legal reforms. Thus, attributing all improvements or setbacks in PPP implementation exclusively to MoF Regulation No. 68/2024 may oversimplify the complex interplay of legal, economic, and institutional variables.

From a legal standpoint, some critics may argue that regulatory reinforcement through ministerial regulations (MoF Regulation) might still be limited in scope due to their lower hierarchical position in the legal framework compared to Presidential or Parliamentary regulations. This raises the question of whether systemic legal certainty can be sustainably achieved without a broader legislative update such as amendments to the primary legal instruments governing PPP or the enactment of a dedicated PPP law. In this context, reliance on ministerial regulations alone may be insufficient in addressing deeper structural challenges such as legal harmonization, hierarchical consistency, and institutional accountability. This alternative perspective calls for a more integrated legal reform agenda that goes beyond ministerial-level interventions.

Furthermore, while MoF Regulation No. 68/2024 emphasizes investment return mechanisms and government support schemes, legal scholars may question whether it sufficiently addresses dispute resolution and risk allocation in cases of contractual failure or project underperformance. An alternative legal interpretation might posit that without comprehensive mechanisms for conflict resolution, including clear arbitration procedures or standardized contract templates aligned with international norms, PPP projects may still face uncertainty, especially in cross-border investment scenarios. Comparative legal analysis with other jurisdictions, such as India or South Korea, reveals that regulatory clarity must be complemented with robust institutional frameworks to ensure legal enforceability and investor protection.

In light of these considerations, it is essential for the analysis to account for alternative explanations and counterarguments. While MoF Regulation No. 68/2024 represents a step forward in legal strengthening, further empirical evaluation and cross-sectoral collaboration are needed to ensure that the regulation functions effectively within a complex policy ecosystem. Future studies may benefit from incorporating multi-stakeholder feedback and comparative legal analysis to more accurately assess the regulation's impact and inform broader legal reforms aimed at institutionalizing PPP success in Indonesia.

According to the findings stated above, this analysis carries significant implications for policymakers involved in infrastructure project governance and legal reform under the PPP scheme. First and foremost, the implementation of MoF Regulation No. 68/2024 underscores the importance of adaptive and responsive legal instruments that are capable of bridging normative gaps without waiting for prolonged legislative reform. Policymakers must recognize the value of ministerial regulations as agile tools for regulatory innovation particularly in rapidly evolving sectors such as infrastructure financing while also acknowledging their limitations in terms of legal hierarchy and institutional authority. To this end, complementary policy frameworks, including Presidential Regulations or even a dedicated PPP Law, should be developed to solidify and expand the gains achieved through MoF Regulation No. 68/2024.

Secondly, the regulation's emphasis on return on investment and fiscal guarantees suggests that legal clarity must be matched with robust institutional mechanisms. Policymakers should prioritize strengthening the capacity of implementing agencies, especially Infrastructure Project Coordinators (PJPK) at the regional level through continuous legal education, technical assistance, and performance-based incentives. This would ensure that legal provisions are not only understood but effectively operationalized across all levels of government. Institutional reforms, such as the establishment of centralized PPP advisory units or regional PPP task forces, could further support harmonized implementation and facilitate knowledge transfer between national and sub-national actors.

Furthermore, the insights generated from this study highlight the need for integrated legal planning that aligns infrastructure governance with cross-cutting policy priorities such as ESG principles, risk mitigation, and investor protection. Legal reform efforts should therefore consider embedding sustainability mandates and dispute resolution mechanisms into the regulatory ecosystem. The introduction of standardized PPP contract templates, risk-sharing frameworks, and arbitration procedures would help enhance legal predictability and reduce transaction costs for both public and private parties. This is particularly critical in attracting long-term investment from institutional and foreign investors seeking regulatory stability.

Lastly, this analysis supports the case for adopting a holistic legal reform agenda that moves beyond isolated regulatory interventions. Policymakers should initiate a broader review of Indonesia's PPP regulatory framework, possibly through the codification of PPP-related regulations into a comprehensive legislative act. Such reform would enhance legal coherence, streamline project delivery, and improve accountability mechanisms. Additionally, incorporating stakeholder feedback including from the private sector, financial institutions, civil society, and international development partners will be vital in ensuring that legal reforms are grounded in practical realities and globally benchmarked standards. Through these steps, the governance of PPP-based infrastructure projects in Indonesia can evolve toward greater effectiveness, sustainability, and legal resilience.

Conclusion

Based on the examination throughout the study, it can be concluded that MoF Regulation No. 68/2024 is one of the legal strengthening measures presented as a legal update to Presidential Regulation No. 38/2015 to reinforce the public-private partnership (PPP) scheme. MoF Regulation No. 68/2024 provides a clearer, more comprehensive, and responsive framework to modern needs, with a focus on optimizing government support through facilities such as Pre-PDF, PDF, infrastructure guarantee and feasibility support. The challenges faced—such as inter-agency coordination, limited investor attractiveness, and administrative complexity—point to the need for an integrated strategic approach. Solutions offered include strengthening coordination, improving the technical capacity of Infrastructure Project Coordinators (PJPK), simplifying administrative processes, optimizing budgets, and resolving uncertainty regarding the return of investment funds to the private sector entities.

In addition, these legal enhancements not only accelerate the provision of quality infrastructure but also open opportunities for private sector participation through more flexible financing schemes and stronger risk guarantees. Thus, the implementation of MoF Regulation No. 68/2024 is not only a response to the need for accelerated development but also a mechanism to ensures inclusive, transparent, and sustainable infrastructure development. Ultimately, the success of MoF Regulation No. 68/2024 as a legal instrument will depend on the commitment of all parties to work together to encourage efficient and effective PPP implementation, in order to achieve maximum benefits for the people of Indonesia.

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