

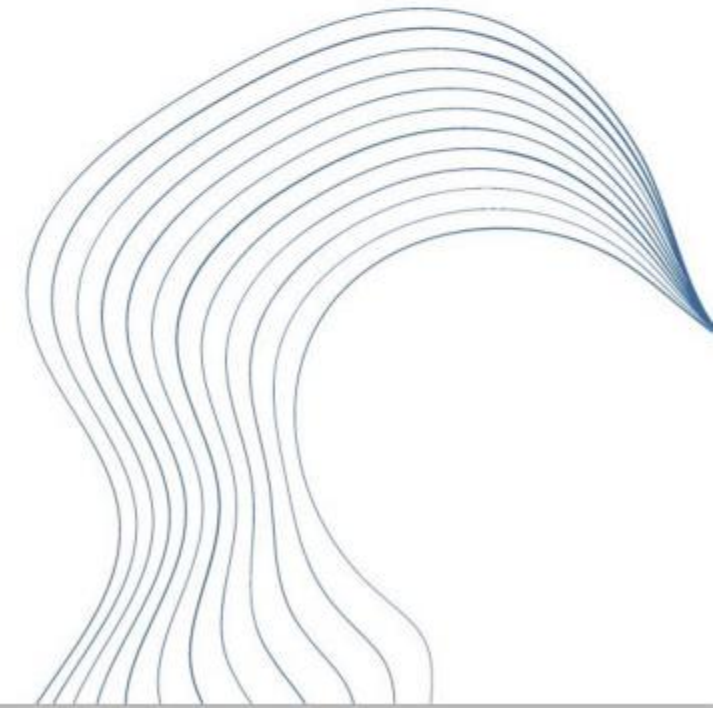
*Socialization of Minister of National Development
Planning/Head Regulations Bappenas Number 7 of
2023 concerning Implementation of Government
Cooperation and Business Entity in Provision
Infrastructure*

Sri Bagus Guritno
Director of Development and Funding



BAPPENAS

Kementerian Perencanaan Pembangunan Nasional/
Badan Perencanaan Pembangunan Nasional



PPP REGULATION



Procedures for Implementing PPP (General Guide)
 Minister of National Development Planning/Bappenas Regulation No 7 of 2023

Procedures for Procurement of Business Entities
 - LKPP Regulation No. 19 of 2015
 - LKPP Regulation No. 29 years 2018

Government Guarantee
 - Presidential Decree no. 78 of 2010
 - PMK 260/2010 jo. PMK 8/2016



Payment Availability Services (Availability Payment)
 - PMK 260/2016
 - Minister of Home Affairs Regulation No 96/2016

Feasibility Support (Viability Gap Fund)
 - PMK 223/2012 jo. PMK 170/2018
 - PMK 143/2013 jo. PMK 170/2015

Preparation & Transaction Facilities (Project Development Fund)
 - PMK 280/2020

The Ministry of Finance, LKPP and Ministry of Home Affairs are in the process of issuing new regulations
 Ministry of Finance → Government Support for Creative Financing and PPP
 LKPP → regulations for procurement of implementing business entities
 Ministry of Home Affairs → investment returns sourced from the APBD

Sociology

Describes that regulations are formed to meet community needs in various aspects



Private Sector participation through the PPP scheme in accelerating infrastructure development



Encouraging optimization of the use of PPP Scheme for the community

Philosophy

Describes that regulations are formed by taking into account life views, awareness and legal ideas



Efforts to optimize the use of funding in accordance with the mandate of the 2020-2024 RPJMN



President's Direction to achieve Indonesia Emas 2045

Juridical

Describes that regulations are formed to overcome legal problems or fill legal gaps.



Providing certainty in the PPP process

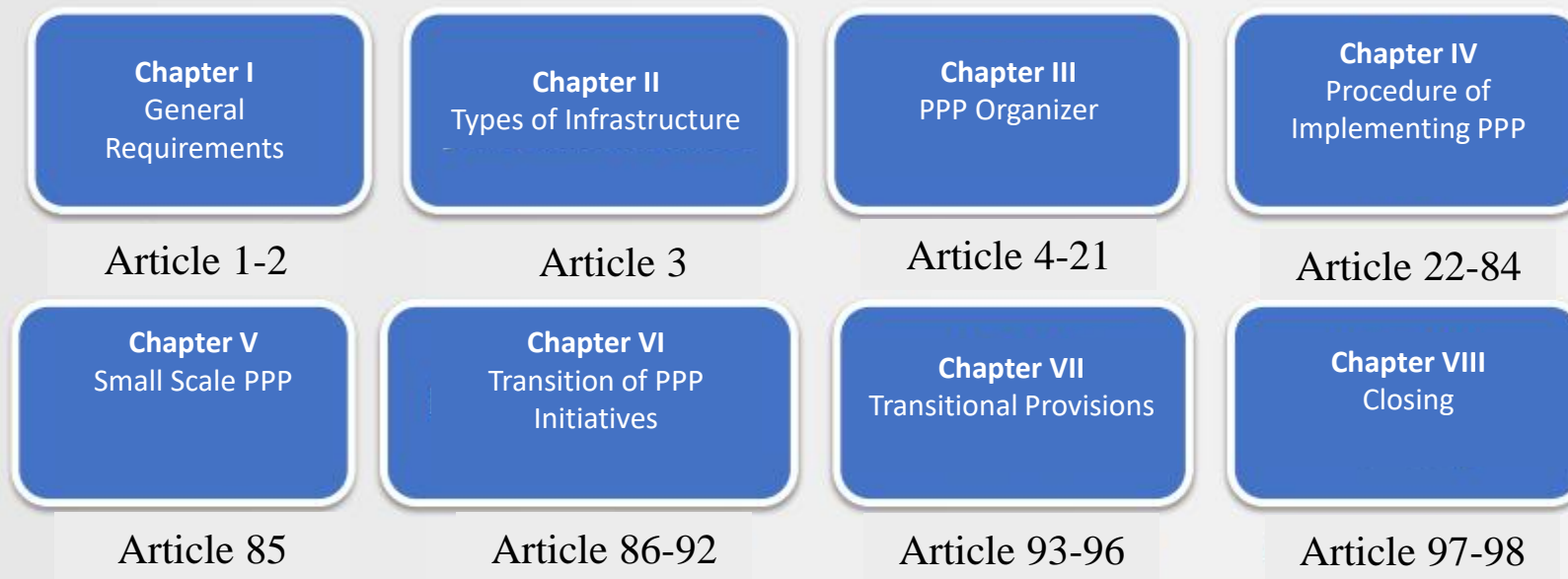


Improvement of regulations aimed at simplifying the PPP process

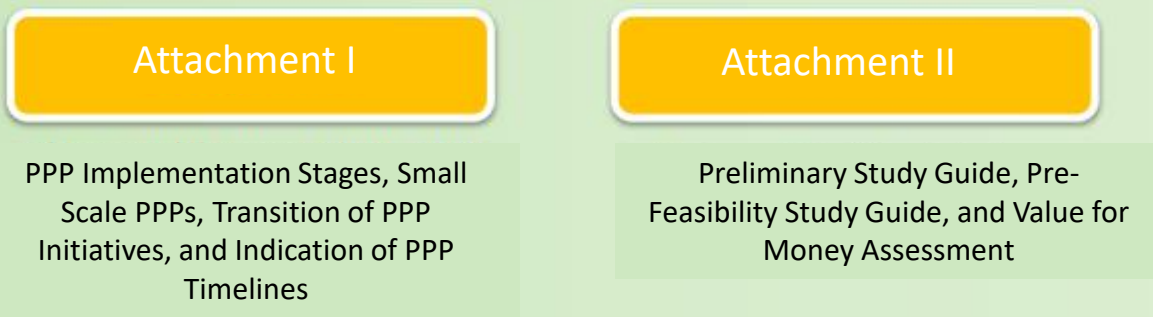
Outline

Regulation of the Minister of National Development Planning/Bappenas No. 7 of 2023 concerning Implementation of PPP in Infrastructure Provision

Regulation Body
8 Chapter
98 Acts



Attachment



Direction of Regulation of Minister of National Development Planning/Head of Bappenas Regulation Number 7 of 2023

SIMPLIFICATION PPP PROCESS



PPP process on government initiative
(Solicited)



PPP Process on Business Entity
Initiative (unsolicited)



Simplification of PPP
organization

NEW PPP ARRANGEMENT

1



- **Probity Advisor
Involvement**
- **Setup Body Panel**

2



- **Small scale PPP**
- **Addition of
Infrastructure
Sector and subs**

3



**Restriction on
Financial close
extension period**

4



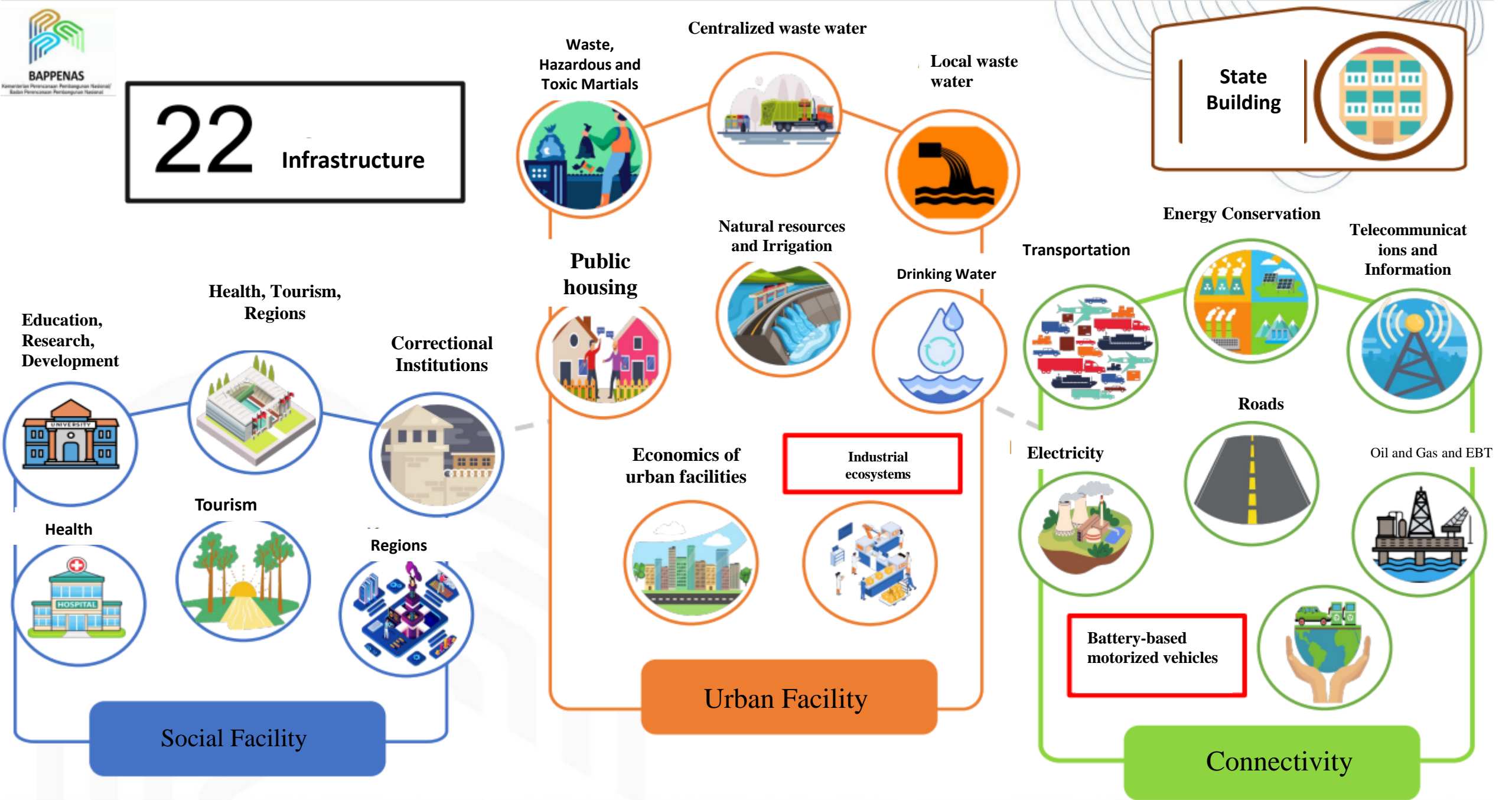
**Use of existing
Business Entity**

5



**Changes to the PPP Agreement and
Transfer of PPP initiatives**

22 Infrastructure



Changes and Additions to Infrastructure and Sub-Infrastructure



Transportation

- Provision and/or management of airport facilities and/or services, including facilities supports such as passenger and cargo terminals;
- Provision and/or management of port facilities and/or services;
- Crossing facilities and/or infrastructure;
- Railway facilities and/or infrastructure
- Railway maintenance premises and facilities
- Facilities and/or infrastructure for urban mass transportation and traffic including terminals and/or development of transit-oriented areas;
- Motor vehicle testing facilities and/or infrastructure;
- Facilities and/or infrastructure for weighing motor vehicles;
- Sea, river and/or lake shipping facilities and/or infrastructure;
- Sea shipping lanes;
- Motor vehicle facilities and/or infrastructure;
- Fishing port facilities and/or infrastructure



Tourism

- Tourism area;
- Tourist attraction
- Tourism information centre;
- Infrastructure supporting tourist attractions;
- Nature reserve;
- Wildlife sanctuary;
- National parks;
- Natural tourism park;
- Argo tourism; and/or
- Community forest park



Waste and B3

Waste Management

- Sorting
- Collection
- Transportation
- Processing
- Final processing of waste

B3 Waste (Hazardous and Toxic Materials)

- Collection
- Utilization
- Processing
- Hoarding



Sports, Art and Cultural

- Sports building/stadium;
- Arts building; and/or
- Cultural facilities in the form of: (Cultural Heritage, Cultural Heritage Sites, Cultural Heritage Areas, Museum, Gallery, Cultural Park)



Regions

- Science, technology and innovation development areas including the development of science and technology areas;
- Residential areas;
- Central business area; and/or
- Warehousing and/or logistics area.



Natural Resources and Irrigation

- Water storage infrastructure along with complementary buildings, including reservoirs/dams and channel dams raw water carrier;
- Irrigation network; and/or
- Water resources infrastructure area.



Public Housing

- Rental public housing for the lower class;
- Simple flat for rent (Special flats, Limited ownership flats, State flats, Public flats with function)



Roads

- Arterial roads, collector roads and local roads;
- Toll road; and/or
- Safety and security infrastructure.



State Buildings



Electronic-Based Motorized Vehicles



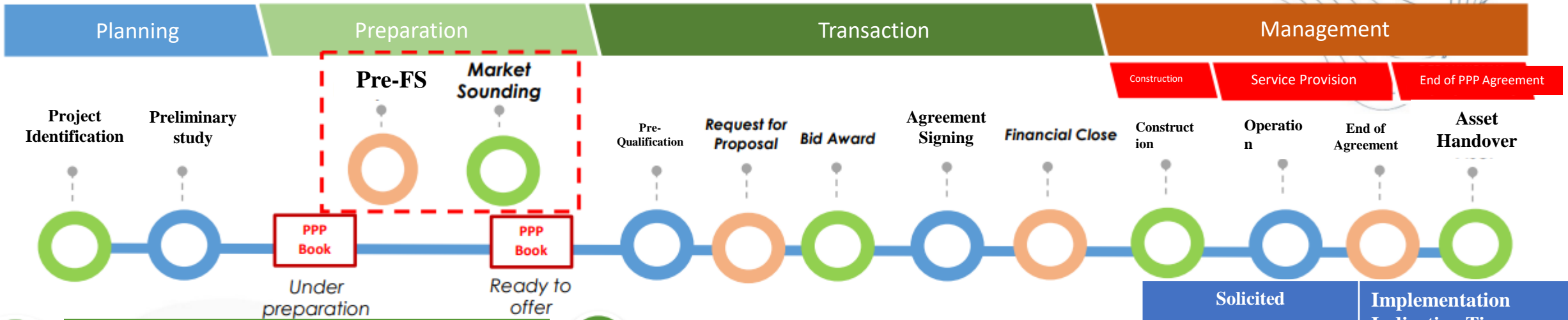
Industrial Ecosystem

- Industrial area;
- Small and medium industrial centers;
- Testing laboratories and development
- Packaging service unit
- Industrial workforce training unit



Simplification of PPP Process

Simplification of Solicited PPP Process



1 Preliminary Study at the Planning Stage

Bappenas Ministerial Regulations 4/2015 jo. 2/2020

Consisting 5 studies:

- Needs Analysis
- Compliance Criteria
- VfM
- Potential Analysis
- Income
- Recommendations and Follow up plan



Bappenas Ministerial Regulation Number 7 / 2023

Consisting 2 Studies:

- Strategic
- Infrastructure Provision Initiative

2 Pre-FS at the Preparation Stage

Bappenas Ministerial Regulations 4/2015 jo. 2/2020

Consisting 8 studies:

- Legal and Institutional
- Technical
- Economic and Commercial
- Environment and Social
- Form of PPP
- Government Support and Guarantee
- Risk
- Outstanding issue



Bappenas Ministerial Regulation Number 7 / 2023

Consisting 5 Studies:

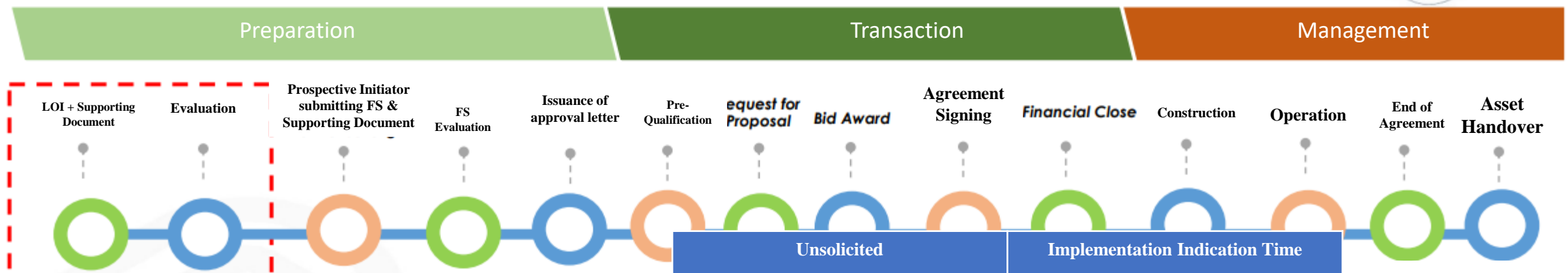
- Strategic
- Economic
- Commercial
- Financial
- Management

Solicited	Implementation Indication Time
Preparation of Preliminary Studies	1-4 Months
Preparation of Pre-feasibility study documents	5-8 Months
Implementation of Procurement for SPC	2-8 Months*
Formation of SPC and signing of the PPP Agreement	1-3 Months
Total Planning, Preparation and Transaction Time is 9 to 23 months	
Financial Close	12 Months*

*Procurement with a period of 2-8 months can be carried out as long as the preparation documents and supporting documents are ready to be confirmed
 **Financing fulfillment can be extended a maximum of 2 times and each extension is carried out within a period of 6 months

Simplification of Unsolicited PPP Process

In implementing an unsolicited PPP, there is a simplification of the process where at the **beginning of the Unsolicited process there is no longer a need to prepare a pre-feasibility study** but it is necessary to submit an LOI accompanied by supporting documents. Then, after approval, the process continues with the proposal of the initiative accompanied by a Feasibility Study (FS).



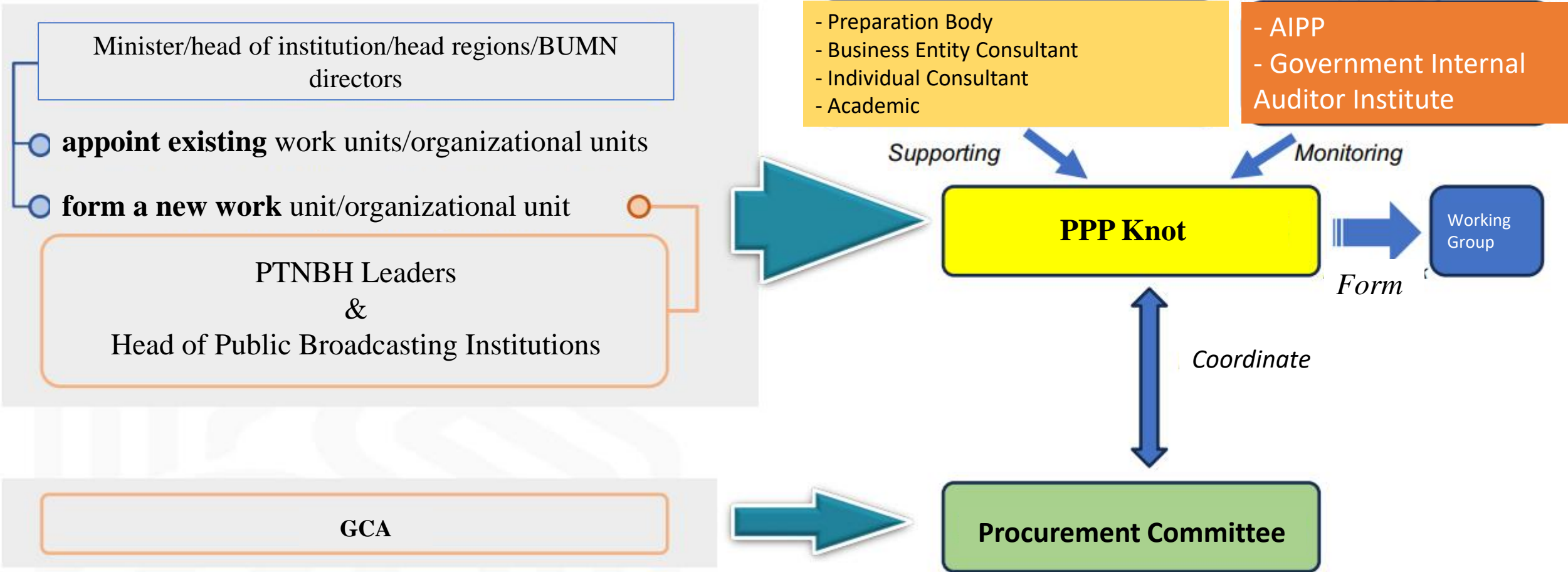
- LoI& Supporting Documents**
- Confirmation of conformity with the relevant sector master plan, government planning documents, regional spatial planning plans, and detailed spatial planning plans;
 - Confirmation that there is an indication of the need for Infrastructure Provision; initial review of project plans;
 - Confirmation of sufficient financial capabilities and technical experience;
 - Initial identification of GCA institutions

- Feasibility Study Document**
- Consisting 5 studies:
- Strategic
 - Economics
 - Commercial
 - Financial
 - Management

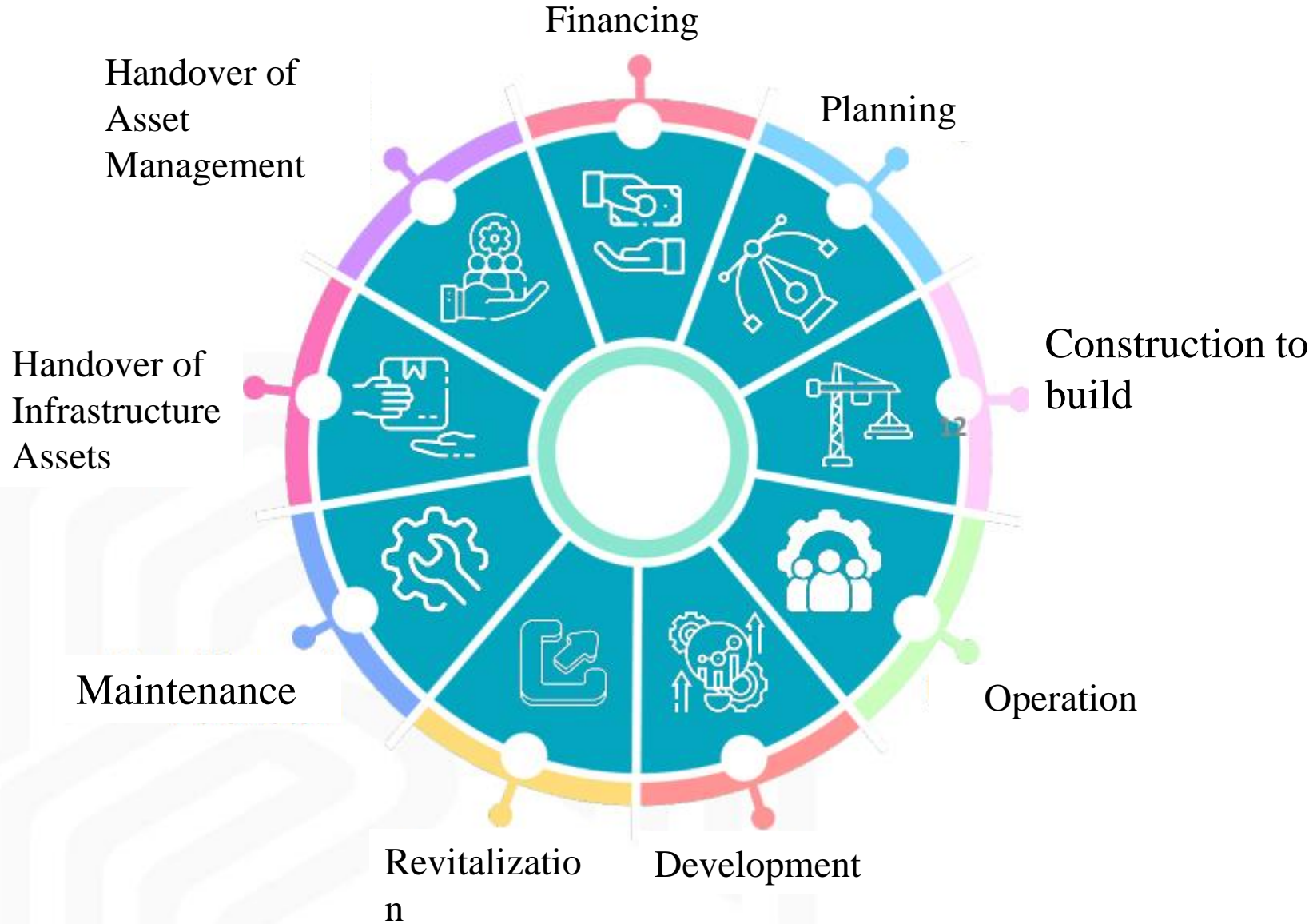
Unsolicited		Implementation Indication Time	
Submission of a statement of intent and supporting documents			
Evaluation of ministers/heads of institutions/regional heads/directors of State-Owned Enterprises on the statement of intent and supporting documents		15 Working Days **	
Preparation of feasibility studies			
Assessment of Prospective Proponent documents		1 Month***	
Implementation of Procurement for SPC		2-8 Months****	
Formation of the Implementing Business Entity and Signing of the PPP Agreement		1-3 Months	
Total time for evaluation of initiatives to transactions is 4 months to 12 months and 15 working days			
Financing Fulfillment		12 Months****	

**Evaluation may be extended if needed
 ***Assessment of Candidate documents The initiator can be extended if necessary
 ****Procurement with term can be implemented in 2 -8 months during setup documents and supporting documents are ready to be confirmed
 ***** Fulfillment of financing can be extended to a maximum of 2(two) times and every extension carried out within a period of 6month

Simplification of PPP Organization



PPP FORMS



- Pre-Study Preparation → Solicited Eligibility
- Study Preparation → Unsolicited Eligibility

- Determining the Form of PPP notice project needs as a whole project life cycle and appropriate risk allocation.



SPECIALTIST AND NEW SETTING

Delegation of Authority

Ministry/Head of Institution

- Ministers/heads of institutions as **GCA**s can delegate their authority to heads of organizational units in ministries/institutions in accordance with the provisions of statutory regulations



- Delegation of authority **does not include** signing a regression agreement.
- The delegation of authority is determined by the minister/head of institution

Delegation of Authority does not transfer the responsibility of the minister/institution head/regional head as PJPK

District Head

- The regional head as PJPK can delegate authority to the regional secretary or head of regional apparatus whose scope, duties and responsibilities cover the infrastructure sector in accordance with the provisions of statutory regulations.



- Delegation of Authority **does not include:** signing PPP Agreements, regression agreements and/or other agreements which are the responsibility of regional heads in implementing PPP projects.
- The delegation of authority is determined by District head.

Delegation of Authority

The Minister of Education, Culture, Research and Technology or the Minister of Religion **can delegate** their authority



PTNBH Leader



The delegation **transfers the responsibility** of the minister who gave the delegation to the head of PTNBH or the head of the public broadcasting institution that received the delegation as **PJPK**

The Minister of Communication and Information can delegate his authority



Head of Public Broadcasting Institutions

Regulations Related to the Assignment of BUMD as GCA



Requirements for BUMD to become GCA



As long as it is regulated in sector laws and regulations



Acting on behalf of the Regional Head after receiving an assignment from the regional head



After receiving an assignment from the regional head

The authority of BUMD as GCA after receiving an assignment from the regional head:



Preparation of documents at the PPP stage



Implementation of activities at the PPP stage



Establishment of a Procurement Committee



Implementation of coordination with PPP nodes and procurement committees



Preparation and issuance of Procurement documents for Implementing Business Entities



Determination of the winner of the Agency Procurement

The Authority of BUMD as GCA **Doesn't** Include:



Sign the PPP Agreement



Sign the Regression Agreement



Sign other agreements which are the responsibility of regional heads in implementing PPP projects

Regional heads can assign BUMDs as GCAs based on PP No. 54 of 2017 concerning Regional Owned Enterprises (Article 94 paragraph (8) and Article (108))

Probity Advisor

Probity Advisor Financing Budget

- Sourced from APBN, APBD, and/or other legitimate sources.

Duties and Parties of the Process Advisor

- Responsible for providing recommendations to the GCA regarding the suitability of the PPP project process from BUP procurement to financing fulfilment. If necessary, it can be involved from the PPP preparation stage.
- Can come from business entities, individuals, and/or government internal supervision apparatus (APIP).



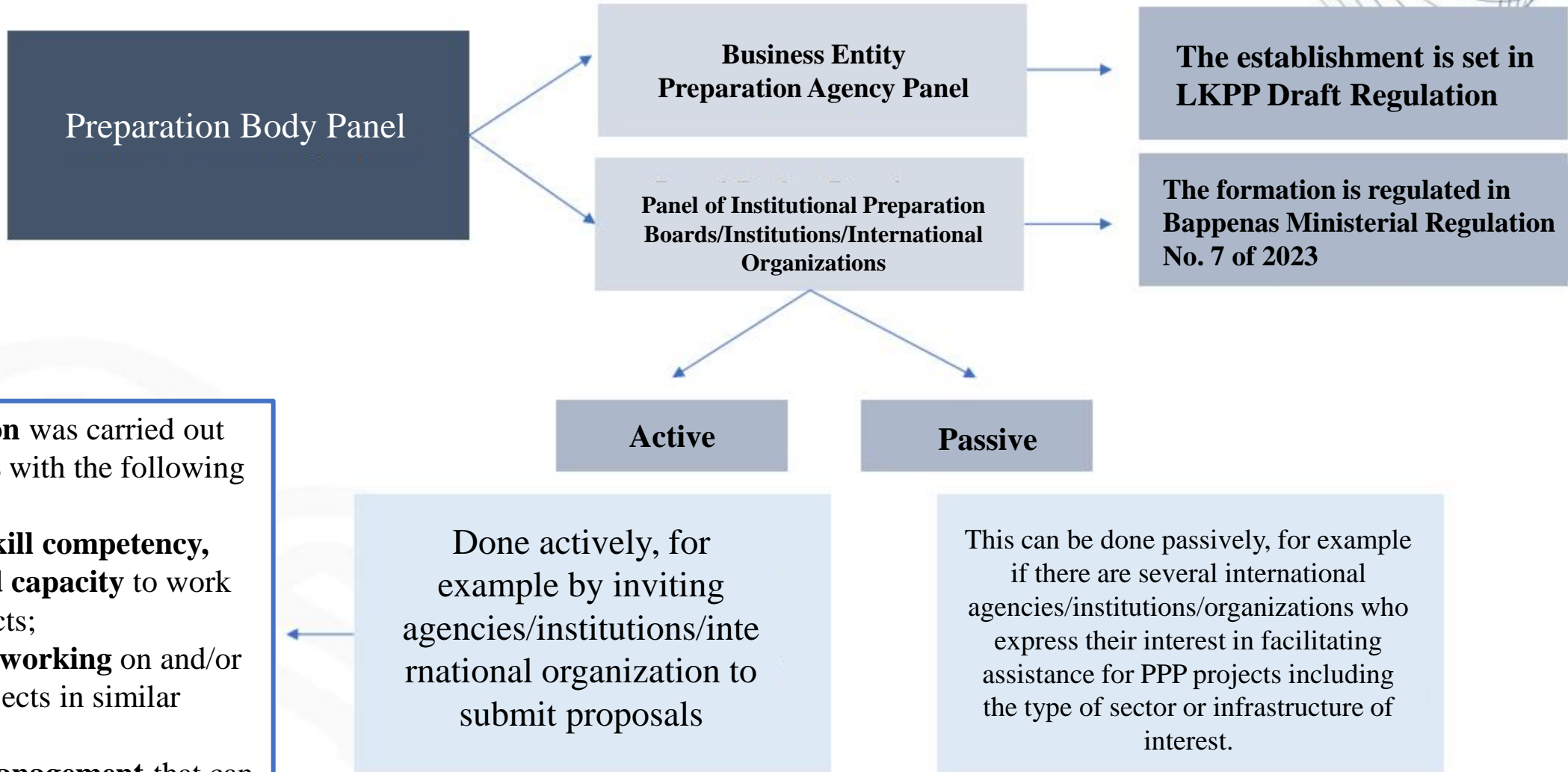
Transaction Stage

- Can be involved by the GCA in the PPP transaction stage to assist the GCA in carrying out the process: Procurement of Implementing Business Entities, Signing of the PPP Agreement and Fulfilment of financing

Preparation Stage

- Can be involved by the GCA in the PPP preparation stage to assist the GCA in implementing the process: Preparation of BUP Procurement Documents, Preparation of PPP Agreement, Exploring Market Interest, Other activities related to the implementation of BUP Procurement and fulfilment of financing carried out at the preparation stage

Preparation Body Panel



The **formation** was carried out by **Bappenas** with the following criteria:

- **adequate skill competency, intensity and capacity** to work on PPP projects;
- **experience working** on and/or **assisting** projects in similar sectors;
- **best risk management** that can be offered to the GCA;
- other criteria

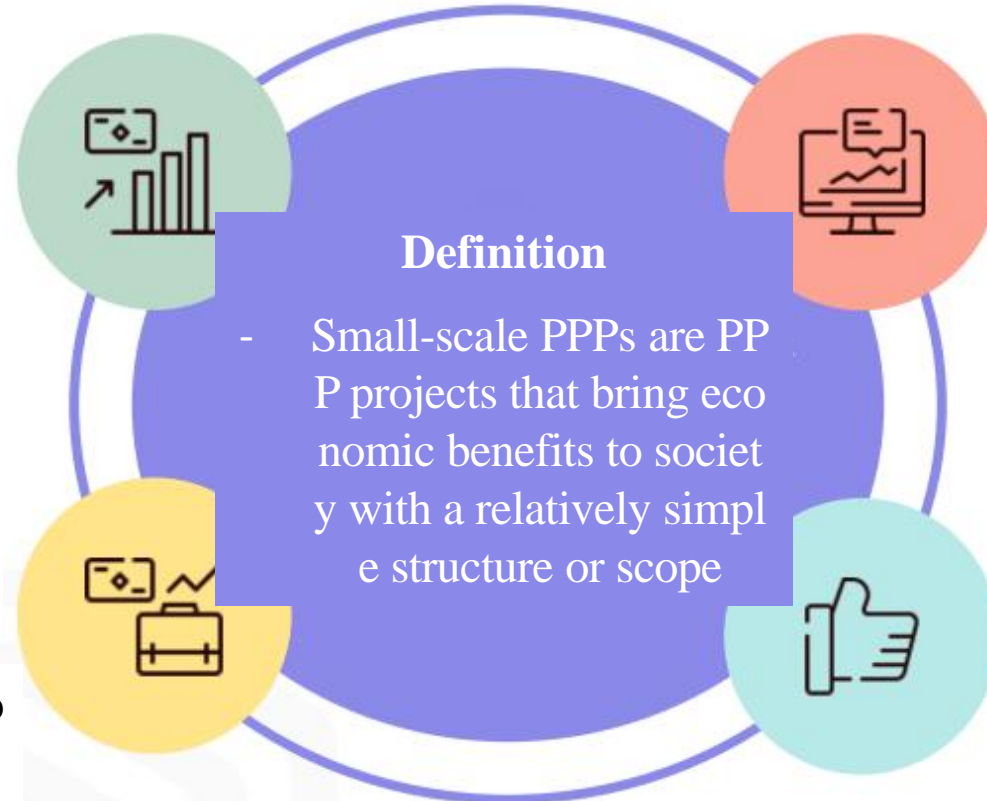
KPBU Skala Kecil

Criteria

- Simple structure or scope,
- Planned technical solutions using technology that has been proven or has been applied in similar projects before
- Preferably does not require feasibility support as proven, including the GCA's fiscal capacity to implement the project

Procurement Arrangements for BUP Business Entities:

- Auction
- Direct Appointment



Investment Return Arrangements

- Small-scale PPPs are prioritized for projects with a form of return on investment using user charges

Proses Simplification

- Simpler study documents.
- Can form or use a limited liability company that was established before the Procurement of the PPP Implementing Business Entity began to act as the Implementing Business Entity.
- For local governments, the cooperation period is limited to a maximum of 10 years

Transition of PPP Initiatives (Solicited → Unsolicited)

PPP Initiative Transition: Solicited → Unsolicited

The transition at the transaction level is done when the Procurement of the Implementing Agency fails and the PJKK declares the termination of the Procurement of the Implementing Agency

Planning Stage

- The GCA evaluates the need for transition to PPP initiatives and the proposed Business Entity initiative

Preparation and Transaction Stage (GCA Does):

- Evaluation of the transition needs of PPP initiatives
- Assessment of feasibility studies and supporting documents
- Compare the Pre-FS produced by the GCA with the FS and supporting documents produced by the Business Entity

Consideration of Transitioning Solicited to Unsolicited



In comparing the Pre-Qualification Study produced by GCA with FS and Supporting documents from businesses, GCA considers the added value that provides the least:

- More Innovative New Elements
- Better VfM
- Better economic and financial qualification



Risk mitigation against the potential waste of national finances



Unhealthy business competition, as defined in legislation

Transition of PPP Initiatives (Unsolicited → Solicited)

PPP Initiative Transition: Unsolicited → Solicited



Preparation Stage

Transition can be done when the Candidate Initiator resigns



Transaction Stage (A transition can be made when):

- The initiator withdraws before the stage of implementation of the Procurement of the Executing Agency begins; or
- The Procurement of the Executing Agency failed and PJPB announced the termination of the Executing Agency Procurement.

In Transitioning PPP Unsolicited → Solicited, GCA does:



Evaluation of the transition needs of KPBU initiatives



Consideration of risk mitigation against the potential waste of national finances.



Consideration of unhealthy business competition as determined in the legislation.

Establishment of SPC To PPP Procurement

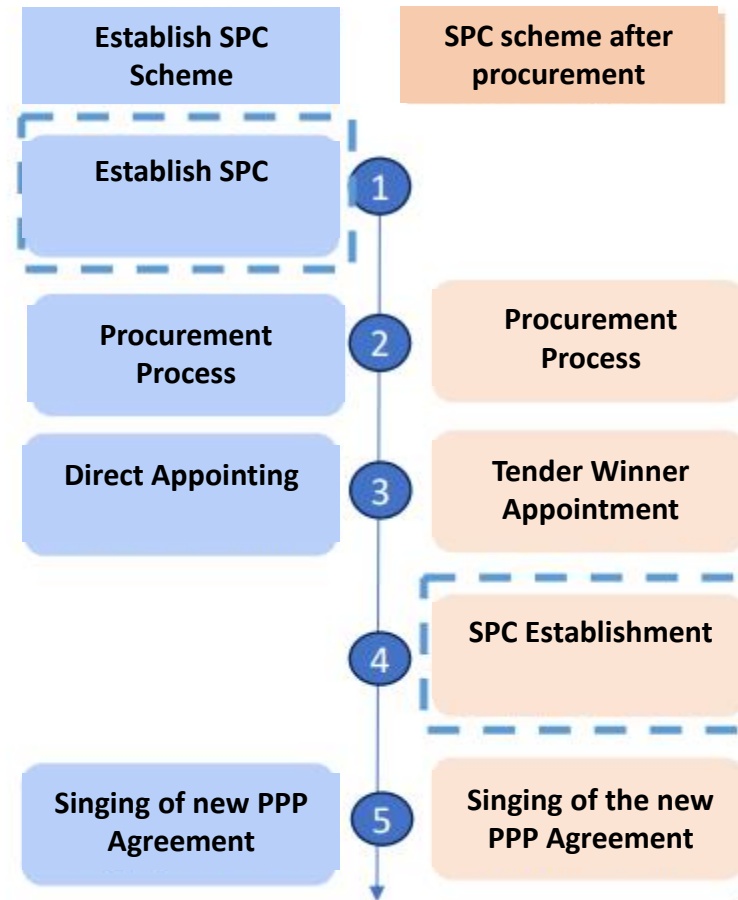
SPC established before the PPP Procurement must meet the KBLI Criteria and criteria that have been regulated in Bappenas Ministerial Regulation Number 7 / 2023

Criteria

- SPC is only established to carry out PPP projects
- There are no previous lawsuit/legal disputes/ transaction disputes
- Has no obligation/liabilities in the form of debt or other forms at the time of signing the PPP Agreement
- SPC has KBLI in accordance with the law

KBLI Criteria

- Have the same KBLI as the PPP infrastructure
- Have an KBLI that is aligned with the PPP infrastructure if an appropriate KBLI doesn't exist yet



Changes to the PPP Agreement after Signing

Changes to the contents of the PPP Agreement can be made based on the agreement of the GCA and the Implementing Business Entity with the provisions **not to make changes**



Project Structure



Financial feasibility of the project



Risk Allocation



Bidding parameters (bidding parameters) which has been previously determined



Does not reduce service



Does not increase government obligations in accordance with the PPP Agreement

Changes to the contents of the PPP Agreement are made to ensure the continuity of PPP implementation

Changes to the contents of the PPP Agreement provide a positive impact or to maintain the PPP VfM produced at the time of signing the PPP Agreement

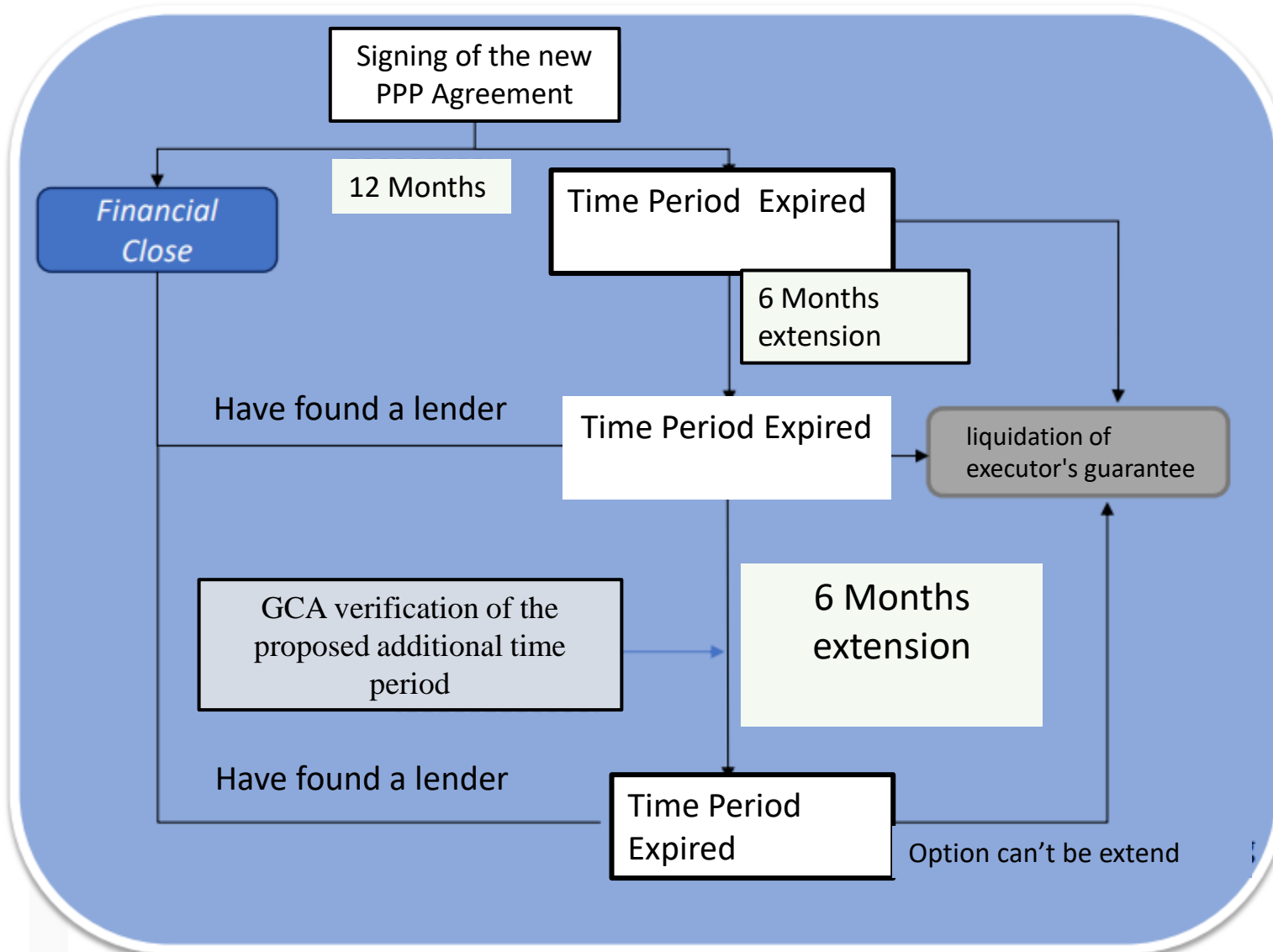
Considering the final Service Availability Payment confirmation issued by the Minister of Finance and the Minister of Home Affairs

Changes to the contents of the PPP Agreement are made to comply with government policies or statutory regulations

Changes to the contents of the Agreement ensure that the internal rate of return does not change, specifically for changes to the contents of the PPP agreement which result in changes to risk feasibility and/or offering parameters

Several provisions must be proven if the GCA and the Implementing Business Entity need to change provisions that cannot be changed

Financial Close Period Limitations



- In PPN Ministerial Decree 7/2023 it is regulated regarding financial closer restrictions which has not previously been set on PPN Ministerial Decree 4/2015 jo Ministerial Decree 2/2020
- It is hoped that the limitation on the extension of the financial close will provide certainty to the GCA regarding the process of fulfilling the financing carried out by BUP and the continuation of the PPP project being implemented.

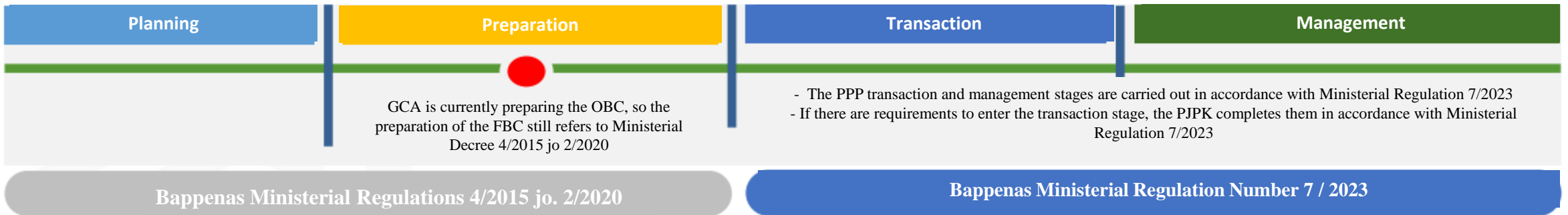


OTHER SETTINGS

When this ministerial regulation applies :

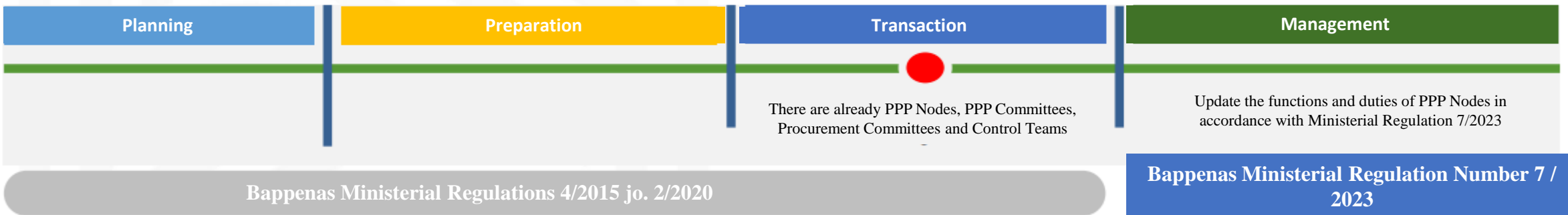
Transition Provision for PPP Stage

- GCA which is implementing the stages of PPP **before** the implementation of Bappenas Ministerial Regulation No 7/2023, then GCA **must completed** the stages and fulfills completion of PPP documents **in accordance** with provision of Bappenas Ministerial Regulations No 4/2015 jo No 2/2020.
- To continue the next stage, GCA implements the PPP stage **in accordance** with the provisions of Bappenas Ministerial Regulation No 7/2023
- If there are requirements for the next stage, then GCA completes the requirements **in accordance** with the provisions of Bappenas Ministerial Regulation No 7/2023



Transition Provision for PPP Institutions

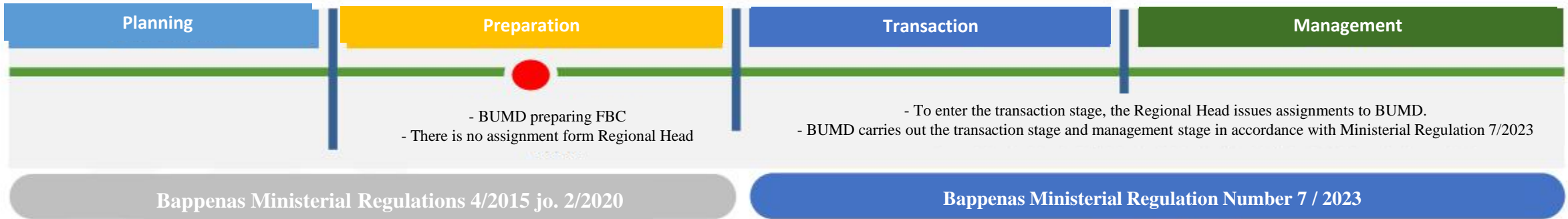
- PPP institutions that have been formed and/or appointed by M/KL/KD/BUMN Board of Directors remain valid but **need to adjust their duties** and institutions according to Bappenas Ministerial Regulation No 7/2023



When this ministerial regulation applies :

Transition Provision for BUMD

- The KPBU agreement that has been signed by the BUMD board of directors is stated to remain in effect
- PPP projects that are currently in the transaction stage, the BUMD board of directors completes and extends the stage **in accordance** with PPN Ministerial Regulation 4/2015 Jo 2/2020
- PPP projects that **have not yet entered** into a transaction complete the implementation stages in accordance with **PPN Ministerial Regulation 4/2015 Jo 2/2020** and continue the **next stage** with the **new Ministerial Regulation**. In completing the stage of the project **that has not yet entered** into the transaction, the District Head issues an assignment to BUMD in accordance with the provisions of the new **Bappenas Ministerial Regulation No 7/2023**



Transition Provision for PPP Transition

- M/KL/KD/BUMN Board of Directors who are **currently transitioning initiatives** continue transitioning PPP initiatives in accordance with the provisions of the Bappenas Ministerial Regulation No 7/2023





KANTOR BERSAMA KPBU REPUBLIK INDONESIA

PPP Joint Office Government of Indonesia

Kantor Bersama KPBU Republik Indonesia
PT Penjaminan Infrastruktur Indonesia (Persero)
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Jl. Jenderal Gatot Subroto Kav. 18,
Jakarta 12710

Thank You

Directorate of Development Funding Development Deputy
for Development Funding Ministry of National Development
Planning/Bappenas



BAPPENAS

Kementerian Perencanaan Pembangunan Nasional/
Badan Perencanaan Pembangunan Nasional

