Performing the state: Everyday practices, corruption and reciprocity in Middle Indonesian civil service
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Chapter VI

How to get a construction project: Reading the ‘bidding books’

In this chapter I will discuss a bidding process -tender- for construction projects that took place at the Department of Public Works in August and September 2008. Whereas this thesis has so far mainly dealt with civil servants and intra-office interactions, this move to the Department of Public Works allows us to look at state-business dynamics, and to meet a second component of the political class (and political elite), namely contractors. As I have shown, Kupang can generally be characterized as a state dependent town with regards to finances and job opportunities. One of the few private sectors, nevertheless -albeit still mostly dependent on state revenue for projects- is the construction sector. When asking how to become a civil servant we saw the importance of a balanced composition of capital. When considering how to move up within civil service the examples from the previous chapter showed the significance of strategically choosing office alliances in order to profit from the reciprocal returns of intra-office hierarchical networks. Although some of these examples of ‘how to get things done’ might be characterized as KKN, and thereby constitute the kind of ‘actual practices’ that contradict a ‘state image’ of wholeness and well-organized governance (Migdal 2001), I presented Yurchak’s (2006) concept of ‘performative shift’ to argue that an appearance of adherence to the form of bureaucratic propriety (or state image) at times actually facilitates some of these ‘actual practices’ that conflict with a state image. Let us see now how useful these insights are when moving into state-business dynamics and wanting to know how to get a construction project. This requires a close look at what I refer to as the bidding books: lists, neatly filed in separate manila folders, which accompany every project given out during a tender on which prospective contractors can fill out their names and company details in order to join the bidding process for a project.

My fascination with the bidding books started when I decided to compose a list of all contractors that enlisted for the tender of August/September 2008, in order to get a sense of the size of Kupang’s construction sector. Shortly after the upcoming tender was made public via local newspapers, aspiring contractors flocked to the Department of Public Works to enlist in the bidding books that were available for each project. After all contractors had signed up for the available projects, I checked the bidding books and wrote down the names of the enlisted companies and their owners in an attempt to compile a current list of the number of construction companies in the city. During this long and tedious task of manually copying the bidding books (227 companies were listed for a total of 35 projects, keeping in mind that some contractors signed up for more than one project) I noted a number of
inconsistencies that proved useful in guiding me through the complex and confusing world of formal appearances and informal dealings that constitutes the construction business in Kupang. Despite an apparent adherence to office rules and regulations, ‘lobbying’, ‘commitment’, good relations, trust and risk mattered more in bidding competitions than submitting the most competitive proposal. Fear of anti-corruption investigations –fuelled by the actual conviction of a big contractor- did not motivate contractors and Public Works officials to be less ‘corrupt’, but rather made them put an even greater emphasis on performing adherence to official rules.

As I will discuss later, literature on the construction sector in Indonesia and elsewhere portray this industry as one particularly prone to corrupt practices. Indonesia is no exception to this. The post-Reformasi anti-corruption calls have, however, led to a rigorous revision of the legal framework surrounding the construction sector and tendering processes, and have brought into being various anti-corruption agencies to audit construction dealings. Despite this, these legal anti-corruption strategies have not curbed corruption. Recent scholarly discussions have addressed this apparent paradox in Indonesia’s construction sector. In particular, several have wondered why in spite of stricter policies, ‘corrupt’ practices persist in Indonesia’s construction sector (Kurniasih and Yuwono 2004; Purwanto and Van Klinken 2010; Van Klinken and Aspinall 2010). I, however, will take a slightly different approach and look at how a restructuring of laws and regulations and the addition of various anti-corruption agencies have actually enabled new forms of corruption. This chapter, therefore, asks in which ways this change in structure enables new practices in the bidding process, and alters agents’ strategies and the capital used.

Some things important in the bidding process –lobbying, commitment and good relations- are neither new to those familiar with Indonesian construction nor surprising after having read the previous chapters. I do hope to make two additions to existing literature on corruption in Indonesia’s construction sector. Discussions on disorders in the construction sector tend to emphasize the financial aspects related to dealings in the construction sector: the illegal retributions paid by contractors (Kurniasih and Yuwono 2004); and the financial loss to the state due to inefficiency in the procurement sector (Purwanto and Van Klinken 2010: 10). Although some scholars do address the socially embedded character of money circulating in construction dealings (Van Klinken and Aspinall 2010), I want to pay more attention to the ways in which economic capital is entangled with other forms of capital.

Additionally, this chapter hopes to steer clear of normative top-down approaches which assume that a tightening of the legal anti-corruption framework will translate into a decrease in corruptive practices in the public procurement system, such as attempts of contractors to secure projects in resistance to international and domestic agendas (Van Klinken and Aspinall 2010: 140-141 or the various ways bureaucrats have at their disposal to elude laws and regulations (Purwanto and Van Klinken 2010: 2). More importantly, I will try
to avoid falling into a binary oppositional dead-end in which the ‘informal’ or ‘back-stage’ practices that take place during a tender form a curious but not clearly related contrast to the ‘formal’ or ‘front-stage’ anti-corruption discourse (Goffman 1959). Instead, I argue –again drawing on Yurchak’s (2006) attention for the interrelatedness of ‘performative’ and ‘constative’ dimension of speech and public discourse- that the authoritative anti-corruption discourse and actual (informal) practices in the construction sector are not only related, but, moreover, that some of the unanticipated outcomes of the anti-corruption discourse actually enable ‘corrupt’ practices. My second addition to existing literature is thus to not view the two ends of the posed paradox as opposing, but, instead, show how revisions in the legal framework have actually enabled a continuation of corruptive practices as well as new forms of corruption.

**Corruption in the construction world**

A 15-country survey conducted by Transparency International reveals that the construction sector is perceived to be the most corrupt industry (Stansbury 2005:36). Construction companies where the state is the main client, moreover, report particularly high levels of corruption (Kenny 2006:14-15). Examples of corruption in government-funded construction sectors are found worldwide, as cases from China (Ding 2001), Japan (McCormack 1996), and West Africa (Blundo 2006) show. Such examples are by no means limited to the ‘developing’ world. The construction fraud (bouwfraude) scandal that broke in the early 2000s in the Netherlands (Bos 2002) and Cologne’s 2009 metro line collapse (Financial Times Germany 2010) uncovered hidden corruption in some of Europe’s supposedly cleanest construction sectors. Corrupt practices in this peculiar overlap between state and business, nevertheless, is particularly marked in Indonesia where it is estimated that 80 percent of the building contractors are dependent on government projects (World Bank 2001:21). This percentage is thought to be even higher in the provinces -and therefore in provincial towns such as Kupang.

Since Reformation, Indonesia has instigated a thorough revision of its legal framework explicitly aimed at curbing corruption. The IMF’s stringent conditions for a financial bailout therefore not only concerned more general political and administrative reforms to guide Indonesia in a more neoliberal direction of Good Governance and global market discipline, but also aimed specifically at changing the institutional framework in which corruption and rent-seeking had become so entrenched. This entailed the introduction of new banking regulations, commercial courts, extended external auditing of government departments, the establishment of anti-corruption agencies, new administrative procedures, and regulations concerning procurement and tendering (Robison 2006). The legal backing for these changes were provided by, among others, the ratification of Act 31/1999 on the
eradication of corruption by Habibie, the issuing of Presidential Regulation 19/2000 on a joint team to combat corruption, the issuing of Presidential Regulation 71/2000 on the public participation to eradicate corruption by Wahid, the ratification by Megawati of Law 30/2002 which enabled the formation of anti-corruption commission KPK, and, consequently, Susilo Bambang Yudhoyono’s issuing of Presidential Instruction 5/2004 on accelerating the eradication of corruption (Purwanto and Van Klinken 2010: 3-8).

The legal revisions that were aimed particularly to strengthen the weak legal basis underlying the construction business were articulated in Presidential Decree 80/2003. This Decree, which by now has been amended several times, concerns the improvement of the execution of procurement, and the standardization of all regulations on activities related to the procurement of goods and services by central and regional government. Additionally, it prescribes stricter stipulations regarding the tendering process. For instance, these new stipulations state that the tendering process must consist of 11 stages and cannot exceed 23 work days, all projects offered via tendering should be announced publicly, and contractors competing no longer have to be a member of the national Chamber of Commerce but only need to be licensed by one of the existing business associations. These new revisions hope to remove some of the loopholes that were thought to facilitate corruption, and promote a more open, transparent and competitive tender process (Ibid 2010: 10-12).

The changes made in the institutional framework paved the way for the establishment of various anti-corruption agencies. One of them is the now well-known Corruption Eradication Commission (KPK). Although not yet very active during Megawati’s presidency, with president Susilo Bambang Yudhoyono’s full political support KPK has been responsible for the investigation of some high-level corruption cases and conviction of prominent officials (Ibid 2010: 4-7). The majority of cases handled by KPK involve the procurement of public goods and services, of which corruption in the construction industry is one example (Ibid: 8-9). Two other anti-corruption bodies, created specifically for the auditing of procurement of public goods and services, came into being after the issuing of Presidential Decree 80/2003. These are the internal audit body BPKP (Development and Finance Surveillance Agency) and external audit body BPK (Supreme Audit Board).

Despite these legal reformations and the foundation of various anti-corruption agencies, predatory and rent-seeking coalitions have managed to survive within the new institutional framework (Robison 2006), contractors still pay bribes to government officials (Kurniasih and Yuwono 2004), and procurement of public goods and services in the construction sectors continues (Purwanto and Van Klinken 2010). The ‘neoliberal fantasy of competition’ has thus failed in Indonesian provincial towns (Van Klinken and Aspinall 2010: 160). While this restructuring has not led to a significant decrease in corrupt practices, it has had some other effects. For instance, it has installed such a fear of possible investigation that

80 Later amended in Law 31/1999 by president Wahid.
some civil servants under suspicion of corruption have even committed suicide (Purwanto and Van Klinken 2010: 7).

In Kupang, the fear of anti-corruption investigations has led to a great preoccupation with appearance of adherence to rules, which then, paradoxically, enable new forms of corruption. In 2008 Cosmas Lay, a well-known and respected contractor, was convicted and sent to prison for corruption in an unfinished infrastructural project (Pos Kupang 2008). The fears such examples evoke resonate in an increased preoccupation with avoiding suspicions of corruption by keeping up an appearance of sticking to rules, as voiced by my respondents. For instance, Benny, the head of the Department of Public Works, expressed his concern with avoidance of conspicuous behavior and the importance of sticking to tendering regulations (*aturan*). He showed annoyance with the habit various contractors have to visit him at his house to enlist for a project or to submit a project proposal at the time of a tender. Contractors I interviewed, in contrast, tended to think such a personal approach of establishing or maintaining ‘good relations’ with Benny would increase their chances of winning the tender.81 Benny himself, however, claims to tell these contractors off and to send them to the office to enlist at the proper place, since, ‘now we have to play by the official rules’.

Stories about convictions and investigations also frighten contractors, and they are well aware of who is keeping an eye on them. Rudi, an experienced contractor in his forties who owns four construction companies, listed all the investigation agencies related to the construction business. Instead of portraying these various audit bodies as occupied with combating corruption he, in contrast, sees them as intent on getting in on the action:

> We have to be very careful, because there are some many investigators that can be involved in investigating a project. There are internal investigation bodies on both province and regency level. There are also internal investigations straight from the center. For investigation agencies there are BPK; BPKP; Justice Department; police; army; KPK. KPK and the police are *cicak* (lizard) and *buaya* (crocodile). The KPK is the smaller version, and the police the big hungry version. It is not just businessmen that are involved. It is a world surrounded by Satan. What the investigations do is they add more people that want to share in the pie (*berbagi kueh*).

Rudi’s statement supports the finding of scholars that the restructuring of the legal framework surrounding the tendering process and the establishment of anti-corruption agencies have not led to a decrease of corruptive practices, since it is still, ‘a world surrounded by Satan’. Anti-corruption initiatives have added new parties eager to ‘share in the pie’, and have therefore actually enabled further corruptive practices. These anti-

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81 More attention to the importance of ‘good relations’ will be paid later. See also Van Klinken and Aspinall’s (2010) article on ‘building relations’.
corruption initiatives have thus enabled some unanticipated outcomes in Kupang: a preoccupation with appearance of sticking to regulations to avoid suspicions of corruption, and a higher number of parties wanting to share in rents.

**Kupang and the tendering process**

The posed paradox concerning stricter rules yet persistent corruptive practices made a chance to witness a tender up close from within the Department of Public Works in Kupang too good an opportunity to pass up. The Department of Public Works is the department in charge of spatial planning, infrastructural development and construction. It consists of a secretariat and five sub-departments; Irrigation and Rural (pengairan dan perdesaan), Facilities and Infrastructure (sarana dan prasarana), Settlement (permukiman), Technology and Construction Services (teknologi dan jasa konstruksi), and the Technical Implementation Unit (unit pelaksana teknis dinas). At the time of my research in 2008 98 people were employed by Public Works, of which approximately three-quarters were male and one-quarter female. 24 Employees occupied positions as a head (of department or sub-department), 54 were regular staff and 21 were working as temporary employees. In Kupang, the Public Works Department is referred to as a ‘wet place’. Wet places are departments that are allocated relatively large sums of money from the General Allocation Fund (Dana Alokasi Umum) and Special Allocation Fund (Dana Alokasi Khusus) flowing to the regions from central government. In addition, contractors vying for projects also ensure fresh flows of ‘money under the table’, ‘thank you money’ and ‘smoothing money’. Opportunities for rent-seeking -‘getting wet’- are therefore plenty. To illustrate this, one of the heads of a sub-department of Public Works jokingly stated that, ‘this is not just a wet place: it is flooded!’ Attracted by the chance to experience office life in a ‘wet’ department, combined with my goal of finding out more about Kupang’s business (i.e. construction) world, I decided to follow the tender held at the sub-departments of Irrigation, Technology and Construction Services and Settlement.

A tender is a public auction (pelelangan umum) for construction projects that are valued at IDR100,000,000 or higher. Not all projects at Public Works are given out via a tendering process. Projects valued at IDR50,000,000 or lower are offered through the direct appointment process (penunjukang langsung). Those valued between IDR50,000,000-100,000,000 are given out through the direct selection process (pemilihan langsung). These

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82 As explained in Chapter Two, DAU (General Allocation Fund) is money stemming from central government, which is allocated to local level government to decide on. The DAK (Special Allocation Fund) is money given from central government to certain local governments especially for the development of infrastructure, clean water, health care and education, to prevent too large disparities between regions. The Public Works Department received a total amount of IDR23,000,000,000 in the year 2008. IDR2,000,000,000 of that was to be used for employees’ salaries, while IDR21,000,000,000 was meant for ‘development’. Approximately IDR13,000,000,000 consisted of DAK money, and about IDR10,000,000,000 came from DAU funds.

83 A fourth option is through a ‘limited tendering process’ (Purwanto & Van Klinken 2010: 11)
two methods are fairly similar. Public Works invites a small group of two, three, or four contractors to compete for a project. These contractors are chosen from a list of reliable contractors that every sub-department of Public Works has. They are each given a specification of the prospective project and are all requested to hand in a project proposal, including bid, as well as an overview of their administration. The contractor with the most competitive bid is then chosen, provided all administrative information is in order. As we will see later, adherence to proper form of all documentation involved in bidding processes is of extreme importance.

A tender, by contrast, is thus a bidding competition for more expensive projects open to all contractors interested in bidding for projects. In Kupang, Public Works made the upcoming tender public through local radio and newspapers on Friday August 2. In the week following this, contractors were invited to enlist themselves and take a photocopied booklet of their projects of interest. While enlisting, contractors were expected to hand in their association certificate, a personnel list, and a machinery list. The following Friday, August 29, Public Works organized a clarification session (aanwijzing) on all available projects in order to give prospective contractors more in-depth information regarding their respective projects. Those contractors still willing to compete were then given the opportunity to submit an official project proposal consisting of a time schedule and proposed project value. This project proposal had to be accompanied by an ‘administrative package’ containing the contractor’s identification card, educational and occupational background information, and official company documentation.84

The proposals were then reviewed according to national tendering guidelines as stated in Presidential Decree 80/2003. In accordance with these guidelines, they were judged via a ‘merit point’ system and given points for offering to complete the project in less time and for lower costs than initially estimated by Public Works. Generally, the contractor that offers to complete the project fastest and at lowest costs gathers most points. The administrative package was judged as well, albeit via a ‘fail’ (gugur) system. Those proposals of which the administration was incomplete or not in line with national guidelines - and thus ‘failed’ to meet official requirements- were dismissed. Again, national guidelines require this administrative check to ensure all contractors competing are indeed veritable contractors, with the skills, backgrounds and resources to legitimately compete for projects.

84 After the Department of Public Works has announced the availability of projects, interested contractors can sign up. This phase consists of two steps. First, contractors hand in an ‘Integrity Pact’ (Pakta Integritas) which consists of a certificate given out by a construction association, personnel list and a machinery list. This is to ensure that the companies enlisted are indeed veritable companies. After a ‘clarification’ session at Public Works in which the projects are explained in more detail by the Public Works’ project committees, contractors hand in all required administrative documentation regarding the company and its owner as well as a project proposal with concrete plans on how to execute the project, and an estimation of the costs and time needed for completion (Peminat).
The review of the various project proposals and administrative packages was carried out by temporary project committees assembled per sub-department for the duration of the tender. After all I had heard about Public Works’ reputation as a ‘wet place’ and having heard several remarks made by contractors and Public Works employees regarding how corrupt these committee members tend to be, I had expected to find a general disregard of rules. Instead, I found that the committee members accorded extreme importance to having detailed knowledge of the exact steps of the tender procedure and all rules and regulations somehow involved in the tendering process. Throughout the tender, I witnessed many discussions at the sub-department of Water on how to interpret the plethora of, sometimes contradictory and often unclear, regulations on tendering. Desks were cluttered with explanatory law books of the kind commonly found in Indonesian bookstores where they occupy entire sections, and various employees made serious attempts at understanding them. Leo, an ambitious Public Works employee in his thirties, told me he had purchased a copy of Presidential Decree 80/2003 at bookstore Gramedia. He bought it to learn everything he could about the tendering process, since being a young and still fairly new employee, he found the process very hard to understand. Even the very experienced in the department, however, had difficulties understanding the entire process. Thinking many might need it, Leo had brought the booklet to the office. Instead of finding a general disregard of rules (old or new), I thus found a great preoccupation with proper regulations and figuring out exactly how a tender should proceed. Because of this, I was repeatedly treated to extended elaborations on all steps involved in a tender by employees, often aided by self-drawn diagrams or references to information obtained from their law books.

This interest in figuring out the tendering regulations and making sure all procedures were followed properly did not mean all regulations were actually followed. As I spent more time at Public Works, talked more to employees and contractors, and endeavored to read the bidding books accompanying the projects, I found that what was followed—passionately—was the form of tendering rules and regulations, especially when displayed in the various documents that circulate during a tender. As one contractor stated below, the following of form as expressed in official documents at times even took priority over what would seem to be graver issues when judging the eligibility of a bidding contractor: experience, financial backing, personnel, and a good project proposal:

Because they think we have mistakes [in our administrative package] we cannot enter the tender. Because of matters that are actually small. Even though we have good experience in the field, we have the financial ability, and we have the personnel, we cannot enter. They [Public Works committee] prioritize the documentation more. We might as well throw our good proposal out the window since surely we will lose.
No matter how many ‘merit points’ a projects proposal gained, a single ‘fail point’ on the administrative package sufficed as a reason to dismiss a bid.

**Performativity: documents as form**

The preoccupation with tender regulations and proper form as described above thus shows that revisions in the legal framework and the creation of various anti-corruption agencies aimed at decreasing corruption in the construction sector have certainly not passed Kupang by. Stricter regulations, national corruption cases and the conviction of local contractor Cosmas Lay have made anti-corruption threats very real. The looming threat of convictions has made it important to give a convincing performance of adherence to official rules and regulations during a tender. This appearance of adherence to rules is not just important to Public Works officials, such as the committee members arguing about the proper interpretation of confusing and contradictory regulations or department head Benny who now urges bidding contractors to stay away from his house, but also to contractors competing in a tender. Knowing very well that failure to adhere to proper form of the administrative package can lead to disqualification in the bidding process, makes contractors focus on the correctness of their proposal and administrative package even more.

Because of this, some Public Works employees rent out their expertise in tendering regulations to contractors to help them draft correct administrative packages and bidding proposals. While interviewing Leo, the Public Works employee who bought the Presidential Decree 80/2003 booklet, one night over dinner our interview was repeatedly interrupted by incoming phone calls. I could hear Leo give the person on the line directions to our restaurant. After a while a man showed up and Leo took him to a corner table of the restaurant. They chatted for a few minutes and then Leo saw the man out and returned to our table. With a bright smile on his face, Leo exclaimed, ‘this is KKN!’.

It turned out this man was a contractor who asked for Leo’s help in making sure his administration and documentation was in order. Leo accepted this request and told me he helped a few other contractors as well for the lucrative fee of IDR500,000 ((US$55, about half or a third of a starting civil servant’s monthly salary) per contractor.

The heightened preoccupation with the appearance of properness or adherence to regulations that we saw in Benny’s urging of contractors to enlist at the proper location thus becomes particularly visible in the various documents involved in the tendering process. After all, they constitute materialized proof of wrongdoings that can be used in investigations. As suggested previously, this attention, nevertheless, concerns the form of the documents more than that they corresponded to the practice of tendering which often went against the stipulations of the legal reforms laid down in Presidential Decree 80/2003. The effort Leo

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85 KKN is the popular Indonesian acronym for ‘corruption, collusion and nepotism’ (*Korupsi, Kolusi dan Nepotisme*), the trinity of corruption related evil.
undertook to get acquainted with all aspects of the Decree actually enabled him to engage in new ways of making money. The concern with form of documents in a tender therefore cannot merely be explained in terms of a certain ‘aesthetics of bureaucratization’, a concern with ‘pattern’—proper punctuation, official procedures, correct spelling—over substance (Riles 2001:16-17; Bateson 1987:318-328). Nor can it be fully grasped through more commonly used binary concepts as ‘formal’/’informal’ or ‘front stage’/’back stage’ (Goffman 1959).

Instead, it is useful to once more draw on Yurchak’s (2006) thoughts on performativity which I already discussed in more detail in Chapter Four. In Chapter Five Yurchak was helpful in considering how the constant replication of the form of authoritative discourse led to a performative shift which, on the one hand, left the performative dimension potentially empty of its constative truth while, on the other, also enabled the possibility of new meanings and practices through the performance of the form. Continuing this line of thought, I am now similarly arguing that the Indonesian authoritative anti-corruption discourse has led to a greater adherence to the performative dimension of the discourse (appearance of adherence to form), but not the constative dimension (actual adherence to regulations). Furthermore, keeping up this appearance of adherence to rules actually enables further corruptive practices. This offers an explanation to the previously proposed question of why a tightening of the legal framework underpinning the anti-corruption discourse does not lead to a decrease in corruptive practices: what is taken from the authoritative discourse is the importance of proper form—appearance of formality, not its constative meaning. The form of authoritative anti-corruption discourse is reiterated and reproduced in office documents, giving an appearance of adherence to the authoritative discourse while losing its constative dimension. At the same time, as we saw in Chapter Four, the reiteration of form as materialized in office documents enables new meanings and practices unrelated to the constative meaning of the anti-corruption discourse as found in the current legal framework.

The importance of adherence to form displayed by documents involved in a tender was exemplified previously by young Leo who rents out his expertise in formal regulations to eager contractors, aware of the importance of making their administration and documentation look proper. A lot of money and effort are thus put into creating documents in line with regulations (sesuai dengan aturan). Having all documents in line with regulations—with or without the help of Public Works employees—does not guarantee winning a tender, however. Michael, a contractor with years of experience in the construction business, explained that even when you know your proposal is more competitive than that of a rival contractor favored to win, the Public Works’ project committee can always find problems in your submitted administration: a stamp that was forgotten or a signature that was omitted. Failure in adherence to the proper form of documents—proper punctuation, required signatures and stamps—instead of the competitiveness of the proposed bid can be used as a legitimate reason
to disqualify contractors. Rudi, the contractor introduced earlier, refers to such minor administrative problems as ‘lice’ and reveals a flipside to Michael’s experience: when ‘lice’ are found in his document, Public Works employees will notify him and give him the chance to improve his proposal, so all documents are ‘lice free’ in case of an investigation. Again, performance of proper form of the documents takes precedence.

An unanticipated outcome of Indonesia’s anti-corruption discourse is thus how form has become a means through which to formalize an ‘informal’ winning bid at the cost of the ‘constative’ meaning of the anti-corruption discourse: actual competitiveness of the bid. That is, following the form imposed by anti-corruption laws does not rid Indonesia of corruption nor does it assure the actual competitiveness of a bid, but rather it for the most part only ensures that the form of anti-corruption is maintained while also opening up new possibilities for further corruption, such as the hiring of people like Leo to teach the subtleties of maintaining form, or using failure to adhere to form to formalize an informally won bid. The obsession with properness of documents is therefore not just a matter of aesthetics (Riles 2001; Bateson 1987), but also a matter of creating a performance of adherence to rules over informal negotiations, against a constant threat of investigations. As long as the documents are in order there is no proof of foul play.

**Office documents: the bidding book**

So far I have suggested that one explanation to the paradox of persistence of informal practices during a tender, in spite of a stricter legal framework and anti-corruption agencies, is that mainly the performative dimension has been taken from the authoritative discourse. This performative dimension is reiterated in the preoccupation with form of office documents. Office documents give an appearance of adherence to the constative dimension of the anti-corruption discourse while in fact they merely reproduce the form, and keep some of the unanticipated outcomes of anti-corruption initiatives neatly hidden. Yet, upon closer investigation, contestation and negotiation can in fact be read from office documents. I therefore want to turn to office documents and in particular the bidding books that circulated at the Department of Public Works at the time of the 2008 tender as materialized sources of contestation to see what they reveal about bidding practices in a time of stricter regulations.

Annelise Riles (2001) has similarly focused on the role of contestation and negotiation in relation to official documents. She discusses the lengthy negotiations that precede the materialized object of an NGO document (the *Pacific Platform for Action*). Not the generation of meaning, but the production of ‘properly patterned language’ guides these negotiations. In her case, documents are objects that emerge after the process of negotiation. During these processes documents are, ‘better imagined as an orientation of thought and action, a state of being, than as a reified object’ (Riles 2001:83). Jacqueline Vel (2010) furthermore describes how processes of negotiation and attempts at social climbing can be
read from the ‘book of donations’ used during a fundraiser for a new extravagant church in Sumba. Whereas a normative reading of this book of donations suggests a list of contributors motivated by religious obligations, Vel argues that the book also reveals the successful transformation of social capital into economic capital and status for the church-building committee’s chairman and main contributor Umbu Djima, and, conversely, the attempts of donors to become part of Umbu Djima’s influential clique by giving money. Documents—in various forms and degrees of formality—can thus form interesting vignettes through which to look at processes of negotiation and contestation, even more so when documents are the most vital material objects through which to perform an adherence to anti-corruption regulations.

The documents I wish to focus on here are not neatly bundled reports, such as the NGO document described by Riles. Although various documents circulate during a tender—and are all entangled in processes of negotiation and contestation—I now turn to one of those in particular: the bidding books. The ambivalence of suggested informal practices that nevertheless cannot quite be proven make the bidding books an interesting window through which to look at the bidding processes during a tender. As explained previously, bidding books are the books in which contractors enlist for construction projects given out by the Department of Public Works. After enlisting in these bidding books and attending a ‘clarification’ session on the available projects, those still interested hand in an administrative package and a project proposal. Bidding books accompany every project given out by the Department of Public Works during a tender. They consist of a pile of dirtied pages with a few columns drawn on it, put in a manila folder. In it, prospective contractors can enlist for a project by writing down the name of the company, the name of the owner, a signature of a representative and the company stamp. Unlike Riles’ documents, these documents are not objects that result from contestation, nor are they objects that inspire or provoke contestation. Rather, these documents are the objects in which contractors and Public Works officials perform their adherence to the new tender laws and anti-corruption regulations, meanwhile in fact enabling ‘corrupt’ practices. As such, bidding books can serve as ‘proof’ of sticking to rules in the event of an investigation.

As mentioned previously, with the constant fear of investigation it is important to give all documents submitted and given out during a tender an air of formality and to remove all signs of possible tampering from them. Nevertheless, a close look at the bidding books does give some indications of hidden competition and negotiation. A look at the bidding books for the 35 projects during the 2008 tender at Public Works certainly suggested a thriving market-oriented competition between a number of construction companies in line with Presidential Decree 80/2003. Varying from around five to over 50 companies had enlisted for each of the projects. Compiling a list of construction companies therefore was a daunting task for me that took days. But determined to get an idea of the number of construction companies in Kupang I nevertheless jotted down the names of all the companies
that had enlisted for each project. Unsurprisingly, I found that some companies had enlisted for more than one project. Spending so much time copying names from the bidding books, however, also revealed certain inconsistencies that encourage me to present the bidding books here as materialized contestation, especially after having followed the rest of the tender process.

One thing that stood out in several bidding books was that whole clusters of entries were written down in the same handwriting, even though the companies enlisted had different names, different owners and a unique stamp. When comparing the names of the companies that had enlisted in the bidding book with those that had handed in an actual project proposal during a later stage in the bidding process it furthermore became clear that some companies had enlisted many times, but had never handed in a proposal. Company Haleluyah for instance had enlisted seven times without handing in a proposal. Cahaya Baru moreover had enlisted 19 times yet never handed in a proposal. In contrast, the company Waskita Karya had enlisted for only one project, handed in one proposal and consequently won the tender. A few more companies similarly competed for very few projects, but did win.

These inconsistencies are not proof of foul play per se, and this is the strength of the bidding books as a materialized performance of adherence to rules amidst corruptive practices. Perhaps some helpful employee wrote down the names of several companies waiting in line to enlist in the bidding books, which could explain the similarity in handwriting (but why did the signatures put in by a representative of the company still look so similar?). Perhaps Cahaya Baru lost its courage after the clarification phase of all 19 projects it signed up for and decided to withdraw from all. Perhaps Waskita Karya decided to place all bets on one horse and won because of the effort put into the proposal for the one project it enlisted for.

I discussed these inconsistencies with Xaverius, a lower-level employee at Public Works:

Sylvia: So there are some companies (CV) that handed in an Integrity Pact [enlisted in the bidding book] (Pakta Integritas), yet never handed in a proposal (Peminat).

Xaverius: Oh yeah. These probably enlist to make it look as if there is a competition, a strong enough competition. So if we just look at the list it will look like, ‘Wow, so open! Everybody can enter.’ But in fact it will just go to one person. One person enlists, and invites some friends to enlist as well. But this is just in order to make it look crowded.

Sylvia: So there are some that only enlist to make the list look good, they never want to hand in a proposal?

Xaverius: They are just used to liven [the list] up (meramaikan saja). That is not good.

Sylvia: Then there are companies that were enlisted in the same handwriting. Why is that?
Xaverius: The same reason. To fill the list and make it seem as if there is competition. To make it look fair. While actually, the competition is between only three contractors. So these just invite their friends to enlist.

Xaverius thus claims that some of the discrepancies I found –entries in the same handwriting, enlisting yet never handing in a project proposal- are strategies to ensure the appearance of a ‘strong enough competition’ and ‘to make it look fair’. This suggests that behind the fair competition performed by the bidding books, another kind of competition takes place. A few examples from interviews with contractors and Public Works officials provide some insights into the mechanisms of this informal competition made possible by the formal appearance performed by the bidding books.

**Bidding for projects: ‘lobbying’ and ‘commitment’**

According to some contractors, the ‘fair competition’ that can be read from the bidding books actually masks a contest that has been won far before the tender opened. For the funding of projects the Public Works Department is dependent on revenue allocated by central government for funding their projects. Therefore, the bidding books that accompany projects only exist if Jakarta has made the money available. For some contractors, this is where the competition for a project begins, as Rudi explained:

Rudi: With regards to lobbying we can for instance go to the center. This is lobbying for the budget, meaning the budget for the upcoming year at national parliament (DPR).

Sylvia: What are you lobbying for then?

Rudi: That is lobbying for state budget (APBN).

Sylvia: So that is lobbying in the center so the funds for the region is bigger? Have you ever done that?

Rudi: Yeah, the lobbying in the center is carried out so the allocation of funds is bigger. For instance once I have gotten a project worth seventeen billion (approximately $2,000,000) that was going to be sent down [from center to region] like this. We had to prepare five percent of that amount, so me and a friend had to pay about 750 million (almost $8,500).

Sylvia: In which way did you give an amount that big? Via a bank account?

Rudi: We brought cash, not a check, so it could not be verified. So while they were still here [in Kupang] that money was given directly, because if it would have been given in Jakarta [we] could have been arrested. And as long as they were here, we would pay for their enjoyable stay, for their hotel and so forth.

Rudi talks about one way of securing projects, namely by ‘lobbying’ for funding for construction projects in the regions with members of national parliament (the ‘they’ in his
story). Through this kind of lobbying he has once managed to get a large project—worth IDR17 billion—allocated to the region. By offering around five percent of the total project value up front to these members of parliament he secured his company the right to execute the project. In this case the bidding book would not have existed had Rudi not lobbied with members of central parliament for this project. The bidding book for this project therefore hides the lobbying process that resulted in its existence, and also gave a false impression of competition since other contractors who signed up for this project stood no chance of winning. Furthermore, Rudi shows some concerns about getting caught, which is why he prefers to leave no trail of this illegal transaction by paying in cash and ensuring the transaction took place in the to him familiar surroundings of Kupang.

‘Lobbying’ is not just done from above and not all projects are decided upon in advance. As one contractor stated, ‘no lobby, no way’. Niko, a small contractor, told me, when discussing how to succeed during a tender, that despite all the regulations (aturan) contractors still have to ‘lobby’ to get contracts. If one contractor has everything—money, employees, skills, machinery, but lacks lobbying skills, he or she might consider cooperating with another contractor who is very good at lobbying. So, the ‘competent’ and the ‘lobby savvy’ contractor unite their strengths in order to get a contract. Good lobbying, according to Niko, is to be skilled in talking (fasih berbicara), to have acquaintances (punya kenalan), and to have adequate financial backing (kemampuan finansial).

Contractor Alfred explained the importance of having acquaintances or ‘good relations’ in lobbying for projects. After his enlisting has been accepted by the tender committee he approaches either all committee members or just the head of the committee. He knows that money given to the head of the committee will trickle down to all committee members, and thus make them all judge his proposal favorably, but he prefers to spend some time—and money—on all separate members. Already having relations with one or more committee members, however, is best. Established relations of whatever kind with committee members facilitates the lobbying process: the committee members know you, might feel obliged to help you out and can count on the relationship they have with you as an extra stimulus for you to get the job done in time and properly. Leo, the ambitious young Public Works employee, recognizes these ways of lobbying and confirms their—sometimes—success. He distinguishes lobbying ‘from above’ (dari atas) from lobbying ‘from below’ (dari bawah). Leo has seen influential and wealthy contractors lobbying from above and contact the head of the Department of Public Works—Benny who previously urged contractors to stay away from his house because, ‘now we have to play by the rules’—after which the head makes it known to lower-level employees who is supposed to win. Contractors lobbying from below sometimes give money directly to the committee head, but—as Alfred stated as well—prefer giving money to all members of the tender committee, ‘so the relations are good’.
Another important aspect of good lobbying for projects mentioned by Niko is having the financial backing. Officially, a contractor’s bid is judged on the amount of time and amount of money needed to execute the project: the contractor that offers to finish the project fastest and cheapest wins. This contractor then gets (an advance of) the total project value from the Department of Public Works to fund the project. Unofficially, however, bids are judged on the percentage of the total project value that the contractor promises to return to the tender committee as an informal fee, euphemistically labeled ‘commitment’. As one contractor explained:

Ok, it’s like this. We want to get a project. For that we have to show a certain commitment (komitmen). This can be 5 percent, 7.5 percent, 10 percent, 12.5 percent or 15 percent. … If our commitment is hesitant (ragu-ragu), another contractor with a bigger commitment will get it. This is not yet a guarantee that we’ll get it. They can give it to someone else. They can find mistakes in our administration.

Interestingly, this contractor notes how form – ‘mistakes in our administration’- can be used to delegitimize a contractor’s bid when another contractor has offered a larger ‘commitment’, supporting the idea that the performative dimension has taken precedence over the constative dimension of the anti-corruption discourse. Even after having been allocated a project the money flow to Public Works officials does not stop:

There is also ‘returning a favor money’ (uang balas jasa), this is given throughout the project, not at the beginning. It can happen that he [committee member] wants to go somewhere. He then asks us for a ticket. That is ‘answering back’ (balas kembali).

When not adhering to these informal rules:

And if we don’t give this money, sometime in the future they will discredit us. So they will refuse us other projects, so they refuse us in a very polite way.

Flag companies and uang mundur
A closer look at some of the inconsistencies found in the bidding books thus reveals an informal competition that differs from the ‘fair competition’ displayed. This informal competition sometimes is not a competition at all, because the winner of the tender has been arranged beforehand, and is at other times influenced by the importance of ‘good relations’ and ‘commitment’, or –to stick to the concepts used throughout this thesis- social and economic capital. The emphasis placed on performance of adherence to form
also demands a role for cultural capital: only those contractors with official association certificates and an overall proper administrative package are allowed entrance into a tender. However, flipping through the bidding books for all 35 projects during the tender, I saw list after list with names of companies, names of owners and stamps. How could so many construction companies survive in Kupang where, as mentioned earlier, it is estimated that at least 80 percent of contractors are dependent on government projects. Were these ‘real’ companies? If so, why would so many only enlist yet never hand in an actual bid? Why bother enlisting when lacking the financial backing or lobbying skills to engage in informal competition?

Most, if not all, of the companies enlisted in the bidding books are ‘real’ in the sense that they are a member of one of the acknowledged construction associations and therefore have all proper administrative backing to be allowed entrance into a tendering process. Yet, as research on the construction sector in other parts of Indonesia has found, many associations entering a tender do not have an office, let alone machinery or employees to execute any type of construction project (Van Klinken & Aspinall 2010:154). In that sense these companies are thus ‘fictive’ competitors. Such fictive companies enlist for various reasons. One is as a favor to an actual competitor who does have the intention of joining the informal bidding process, which explains why some of the entries in the bidding book are written down in the same handwriting. At the time of signing up, the actual competitor also enlists the names of a few friends (with fictive companies), ‘to make the list look good’. As a thank you for lending their names and stamps, a small fee of even percentage of the project value, often referred to as ‘withdrawal money’, may be given (Van Klinken and Aspinall 2010:154). Little fees for backing out of the competition are also a reason many fictive companies sign up. A retired entrepreneur who plays tennis with a few young men that own such fictive construction companies explained to me that many companies do not have the ambition to ever hand in a project proposal. They are merely ‘fee-seekers’ in it for the ‘withdrawal money’ that actual competitors offer them. In the meantime, these informal fee-seekers and receivers of thank-you-money do add to the performance of adherence to rules displayed in the bidding books by making the competition look real and in line with official regulations.

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86 Also referred to as ‘flag companies’ (*perusahaan bendera*) (Van Klinken & Aspinall 2010: 154).
Association certificate: real or ‘fictive’ contractor?

Money, moral codes and reciprocal obligations
So far, money has come to the fore in various guises: as part of the ‘lobbying’ process with central parliament members, in the form of ‘commitment’ paid to committee members in order to secure projects, as ‘returning a favor’ or ‘answering back’ money given to various parties throughout the construction process, and as ‘withdrawal fees’ given to fee-seekers. It is tempting to view the bidding competition in Kupang merely as a means of various involved parties to seek rents, to –as contractor Rudi stated previously-  ‘share in the pie’. I
would, however, like to stress that the circulation of money in the tendering process cannot merely be viewed in terms of economic gain, but always intimately follows social ties and the reciprocal obligations implied in those.

This is exemplified by the many euphemisms mentioned in this chapter employed to refer to money. Money circulating in the tender I followed was never referred to as plain ‘money’. Yet, some ways of referring to money circulating in the tendering process were considered rude. I was scolded, for instance, by employees of the sub-department of Water one day when asking about ‘wild retributions’ (pungutan liar) and ‘withdrawal fees’ (uang mundur), euphemisms I encountered while reading up on the process of tendering. Not only were these terms too rude (kasar) to use in relation to the use and exchange of money during a tender according to these employees, they also implied that it was just about money changing hands and economic gain. They preferred the terms ‘returning a favor money’ (uang balas jasa) instead, which was also the most commonly used term by contractors I talked to.

Referring to the exchange of money as ‘returning a favor’ does not dismiss the economic aspect of such exchanges, but it does subtly add the importance of social capital and reciprocal morality to them. To illustrate how money is tied up with social relations, Mech, the head of Kupang’s Chamber of Commerce, posed a dilemma:

When asked at a family party to give a project to a family member, one cannot really refuse. Projects in Kupang are small, and there aren’t many. When lucky, a contractor might get one project a year. The profits contractors get from a project are not very big, so what would happen if the relative does not get a new project? How will he live? How will he eat?

The obligation felt towards the relative in this example motivates Mech to give projects to family members when solicited to do so. As we have seen in Chapter Two with regards to the ‘book of donations’ which circulate at family parties, relationships of generalized reciprocity (Sahlins 1972: 193) in which family members can count on the help, support and financial contributions form a central element of Kupang’s social fabric. As we have seen throughout this thesis, furthermore, such reciprocal obligations and expectations are not just restricted to family-networks but color all kinds of relationships in Kupang. It thus pays to invest in building and maintaining ‘good relations’: one can hope for reciprocal returns implied in social networks. As in Chapter Five, what some might view as ‘corrupt practices’ tend to be framed as proper behavior in a very recognizable ‘Kupang way’. The commitment given ‘from above’ trickles down the lower echelons of the department not just to make sure no employee will talk, but also because it is the proper thing to do. Paying off friends and fictive competitors that enlisted to fluff up the bidding books is a polite thing to do, so –as one contractor explained- ‘we can all get something’. Contractor Niko, mentioned previously,
gave me another example of inter-contractor loyalty after having won three projects at the same time. Feeling bad about having obtained so many projects he decided to sub-contract two of those to other contractors so they could profit as well. As a return for his generosity he did still expect to receive a percentage of the project value, but he framed this to me as being a matter of good manners, of ‘returning a favor’.

The circulation and exchange of money in the construction sector is thus tied up with social relations and reciprocal obligations, as so many things in Kupang are. Through social relations and their implied obligations tender money flows through office networks, and networks among (actual and fictive) contractors. Contractors and Public Works officials are aware of their unique local style of cooperating and negotiating –whether ‘dirty’ (kotor) or ‘clean’ (bersih)- and prefer to keep it that way. The vast majority of construction companies in Kupang are classified as small sized (ged), and are not equipped to take on medium-sized or large projects.87 Bigger projects are therefore executed by outside companies from Java or abroad, much to the dissatisfaction of ‘locals’. Public Works employee Xaverius explains how outside interference is sometimes prevented:

Not many local companies have the man-power, machinery or skills to handle large projects, therefore there is a risk that the large-scale and expensive projects get snatched away by big contractors from ‘outside’, for instance Java. Public Works committees and local contractors appear to have a mutual understanding of how to engage in business. They know one other, are familiar with each other’s backgrounds, families, experience in the field, and most importantly they understand how their bribing (suap-menyuap) system works. It is less clear how to deal (bergaulan) with outside contractors, who are unaware of the contracting customs in Kupang, so sometimes it is easier, and definitely more profitable, to cut up a large tender-project into smaller direct appointment or direct selection pieces.

Getting a piece of the pie in ways not in line with Presidential Decree 80/2003 is not something unique to Kupang, but the way in which these pieces are obtained hinge on specific local logics, in which economic capital, social capital, and hopes for reciprocal returns are intertwined. Even though the performative dimension of the new tender rules and regulations is reproduced and materialized in office documents, its constative dimension has largely disappeared. ‘Fairness’ in the tendering process does not connote a neo-liberal market-oriented competition but, rather, sharing the pie in such a way that, ‘we all get something’.

87 Even though Jeanne was unsure about the number of construction companies for 2008, she did give me an idea of the amount and size of the companies for 2007. For that year she estimated the total number of construction companies to be 406, of which 369 were small, 32 medium and 5 big.
Limits of moral acquiescence: trust, risk and keeping your mouth shut

This fairness should not be overly romanticized, however. Besides ‘good relations’, lobbying and ‘commitment’, other important factors influencing the bidding process – especially in light of the looming threat of investigations- are trust, risk and ‘keeping your mouth shut’.

An example concerning the building of a dam in the Dendeng River in sub-district Fontein illustrates the limits of good relations and commitment, and shows the risks involved in the construction business. The Dendeng River flows in front of the house of the Raga family, who we met in Chapter Two. In dry Kupang this river is a popular place for fetching water, doing laundry, bathing, but also for recreation. In July of 2007, when I first visited Kupang, big construction machines appeared and started the process of blocking the stream and flattening the embankments by breaking off huge rocks. Apparently, a sluice-system would be built to regulate the flow of water and turn this part of the river into an even more popular recreation area. The contractor, a 24-year old recent graduate of a Javanese university of Chinese descent, often visited the Raga residence for tea and chats. Business-savvy Ade managed to secure herself some extra income by offering her catering services to provide the laborers with lunch and snacks. Even though the residents in the vicinity of the project grumbled a bit about the nuisance of having a construction project right outside their doors and worried about the aesthetic damage a dam would do to their picturesque river, they generally seemed excited about the prospects of making some extra cash by selling snacks to the expected recreationists.

When I returned to Kupang in early 2008 the situation had changed. According to the initial project proposal the dam should been have finished by the end of 2007. In February 2008, however, the dam did not look near completion, and it would not be until April of that year that the project was finally done. Not long after completion, furthermore, parts of the paint and the concrete itself came off, spurring suspicions among neighborhood residents that the materials used were of inferior quality. The laborers, meanwhile, frequented the Raga house for their lunches and occasional card games, and were filled with complaints regarding the project. Their main complaint concerned underpayment. Contractor John paid them too late and –at times- not at all. John, however, did not seem to have a lack of money. The treasurer of the project told me John regularly gave her ‘envelopes’ (amplop) to pass on to Leo, the representative from Public Works who was previously so eager to rent out his expertise with tender regulations to contractors. Out of discontent, some of the laborers and the foreman engaged in their own little everyday forms of resistance (Scott 1990), by taking some of construction materials for private use or for selling, by not showing up at all, and by spending their time playing cards on the Raga porch. The two policemen, stationed at the project to make sure no theft or disturbances occurred, happily joined in on the card
games and conversation. Contractor John was seen less and less frequently at the construction site until he did not show up at all anymore and was unreachable for the foreman, Leo, and anyone else wanting to get in touch with him.

The Dendeng project gained some notoriety locally due to corruption charges (Timor Express 2008a; Timor Express 2008b). Leo, who had been closely involved in this project, explained to me some of the things that had gone wrong and revealed a flip-side to the importance and benefits of ‘good relations’ in the construction sector and the possible dangers of not sticking to official construction regulations. At the time of the tender for the Dendeng project, John and his father had approached the head of the Public Works Department ‘lobbying’ for this job. John’s father was a well-known contractor with an excellent reputation. John would not be using a company of his own nor one of his father. Instead, he used a construction company owned by contractor Cosmas Lay, who –at least before his conviction in 2008- was also known as a reputable and trusted contractor. Because of his ‘good relations’ with well-known contractors (and their good relations with Public Works officials), John was allocated the Dendeng project. Looking back, nevertheless, Leo admits young and inexperienced John was a bad choice:

Would I give him a project again? If John would follow a tender process anywhere I would not pick him. Even if all his documents are in order, I won’t pick him. Because his performance (kinerja) is bad. This is not a money problem, but an execution problem. There are a lot of things that were his tasks, but that he just obstructed. He didn’t know. He didn’t want to do his tasks. With regards to the salary of the laborers, that really was his bad. He was late. That became an obstruction. Their wages were OK, the payment was just too late. The money was there, John was just stingy. I don’t believe that he can really handle a project. Then, looking at his family background, he seemed trustworthy. At the time when he came asking for the project, his dad came with him. His dad is an ex-contractor, a cool guy.

What bothered Leo most about the Dendeng project and John were not ‘corrupt practices’ such as the way John obtained the project or the envelopes he received from John throughout the project. Leo was most bothered by the fact that John had seemed so ‘trustworthy’ but proved to be completely unreliable. He even, ‘had his phone switched off all the time’, destroying what little was left of a ‘good relation’. John’s incompetence and media coverage of the wrongdoings in the Dendeng project led to anti-corruption investigations. According to Leo, John and Cosmas Lay managed to make a deal with the investigators, keeping further damage at bay. The Dendeng affair was certainly disadvantageous to John, who –as Leo vowed- would never be given a project again even when submitting the most excellent proposal, but also posed a threat to the
Department of Public Works because of the anti-corruption investigations. That Public Works was still sufficiently shaken by the possibility of further investigations became clear when I could not find the Dendeng files anywhere. The book-cases holding files on all executed projects of Public Works contained no files on the Dendeng project. Perhaps even the performance of adherence to office rules displayed in office documents was thought to be insufficiently foolproof.

One thing this case shows is that good relations, commitment and lobbying only get you so far in a tendering process. Even though Leo rents out his services to contractors to ensure their proposals and administrative packages are ‘lice-free’, money alone does not guarantee winning a tender. Leo prefers to pick as a winner a person who ‘causes least conflict, meaning someone who can finish a project without causing conflict between different parties involved.’ Trusting a contractor—to keep all involved parties happy, to make sure no suspicions of corruption leak, and to actually finish a project—also plays an important part.

Another thing shown by this case is that the risk of investigations is a very concrete one. Cosmas Lay and John managed to negotiate a deal with the investigators of the Dendeng project. Later in 2008, however, Cosmas Lay was less lucky and got convicted for corruption in another construction project. Public Works has thus far dismissed the Dendeng case as a ‘misunderstanding’ or mere ‘administrative problem’ but, nevertheless, keeps the case files hidden. The fear of anti-corruption investigations has made the lobbying process much more dangerous:

everybody that wants to win [a tender] can be reported these days and that is dangerous. If there is an investigation, we can get caught. So we have to know which committee member to approach who will keep their mouths shut.

The tendering and construction system which is held together by reciprocal obligations, good relations, and commitment, is thus also a system that hinges severely on trust, and is at constant risk of falling apart. Revisions in the legal framework and the auditing of various anti-corruption agencies have not altered ‘corrupt practices’ significantly, but have installed an increased fear of prosecution. Rudi claimed that since SBY promised to strike down hard on corruption there has been a steep rise in investigations. The contractors I asked all stated that they are far more afraid to end up in jail now than they were a few years ago. However, as Rudi said at the beginning of this chapter, this increase in investigations only adds more parties looking for construction profits and this to Rudi makes for an ‘unfair’ situation. These new parties—unlike the ones previously involved in the construction sector—have the recognized backing of legal power. Not letting them share in the pie can land you in jail. When letting them share,
however, the piece left for the contractor is so small that some contractors plan to leave the hazard of tendering to the fee-seekers and move into a less risky and more profitable sector. Rudi, for instance, told me he is planning to quit his construction activities and solely focus on the supplying business.

Concluding

Even though the initial purpose of my stay at Public Works was to find out more about the size of Kupang’s construction sector, I quickly found myself drawn into the tendering process. Copying all the names of the companies that enlisted for the 2008 tender did not give me as clear an indication of the number of construction companies in Kupang as I thought it would, since, for instance, a significant amount of contractors turned out to be fictive. However, the inconsistencies found in the bidding books did lead me to other discoveries. The bidding books therefore formed a superficially convincing front masked by signatures and stamps that obscured, but not entirely hid, attempts from various parties to appropriate state funding for construction projects. This is why I found the bidding books such an interesting vignette through which to view the confrontation between office regulations, anti-corruption discourse, and local practices. Similar to the previous chapters on getting things done within Kupang’s civil service, succeeding in the bidding process is again an intricate mechanism in which social capital (good relations, lobbying), economic capital (commitment), and certification (cultural capital) play an important role. The exchange of these various forms of capital follows Kupang’s reciprocal logic. It is preferred, for instance, to keep projects ‘local’, even if that means breaking up a big-scale project into smaller pieces to keep big outside companies out of the bidding process. Furthermore, through following local reciprocal obligations most parties involved will manage to ‘get wet’ in some way during the tender: central parliament members, Public Works employees, contractors, ‘fee-seekers’, fictive bidders, and audit body agents. While recognizing the central role of money, I hope to have shown how economic capital is tied up not only to other forms of capital, but also to matters of trust and risk under the constant threat of anti-corruption investigations.

In this sense, this chapter adds to existing post-Reformasi literature on corruption in Indonesia’s construction sector that discuss the paradox of why, despite stricter regulations regarding this sector, corruptive practices persist. However, instead of merely giving various examples of ‘corruption’ that I encountered during my few months at Public Works and the interviews and chats I had with employees, contractors, association representatives and construction workers, this chapter also aims to address the question of how the recent change in structure has affected bidding practices. If it did not reduce corruption, what did it do? Keeping in mind Yurchak (2006), I find that even though the constative part of Indonesia’s anti-corruption discourse has taken a back-seat in the tendering procedure, its performative dimension has been taken up with vigor. In other words, ‘top-down lobbying’, giving
envelopes, and promising commitment persist, but an appearance of adherence to rules is upheld at all times, as exemplified by Benny’s urging of contractors to enlist at the office instead of at his house, or by the importance attached to the correctness of form in official tender documents. So, although legal revisions and the creation of audit bodies have hardly had any effects on curbing corruption, the fear of investigations and convictions that these initiatives instigated make performing adherence to rules imperative.

An unanticipated outcome of the revision of Indonesia’s legal framework surrounding construction dealings as articulated in Presidential Decree 80/2003 is thus this performance of adherence to rules while corruptive practices prevail. Paradoxically, however, this adherence to form has enabled new forms of corruption as well, such as Leo’s renting out of his expertise in tendering procedures to bidding contractors, and project committee’s formalization of an informally won bid by finding mistakes in administrative packages. Besides new forms of corruption, the change in structure has also added new parties eager to share in rents. Instead of checking corruption, contractors complain audit body agents are only out to get a piece of the pie as well, thereby reducing the profits contractors make while increasing the risk they run. An increase in parties trying to extract rents and a greater preoccupation with appearances of adherence to rules, as can be read from the materialized objects of office documents and the bidding books in particular, are thus some of the effects brought about by recent changes in the legal framework. We can—and should—however, also wonder about further effects this sharing in the pie has on another materialized objects related to tendering processes: the actual constructions meant to be built with the state-funds:

...and then fees have to be promised to the other inspectors (pengawas). After having paid all commitment fees and having taken my own profit perhaps only 60% of the initial project value is left to use for the project. The real victim in the construction world is maybe the physical project.

- from interview (November 2009)