

CORRUPTION IN THE PROCUREMENT PROCESS OF GOVERNMENT GOODS AND SERVICES

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Abstract

Procurement is one of the important functions of government organizations, one of which is channeling and distributing the state budget through the procurement of government goods/services. Procurement of government goods/services is a fundamental component of good governance. Government procurement of goods/services has the aim of, among other things, obtaining goods/services at prices that can be accounted for with appropriate quantity and quality and timely implementation. The implementation of procurement of goods and services in Indonesia until 2008 still used a conventional procurement system. In carrying out this tender, the interaction between the procurement committee and service providers is carried out directly so that there are many irregularities in the process of procuring goods and services. This type of research uses descriptive qualitative with analytical methods. The causes of irregularities in the procurement of goods and services in Indonesia include: a dominating bureaucratic leadership structure, lack of strong regulations on government procurement of goods/services, the system of government procurement of goods/services not working properly, employee salaries/incentives that are still low, the mental and moral of employees the low, the lack transparency, expensive political campaigns, the existence of political dynasties, big projects, crony interests, weakness order and law enforcement, weak legal profession.

Keywords: *Corruption, Procurement of Goods and Services, Law*

INTRODUCTION

During the current reform period, the government is trying to implement open and democratic government in accordance with the wishes of the wider community, one of which is by improving and optimizing public services provided to the community through effective, efficient and transparent policies/regulations. This is because the public is guaranteed access to public/open information. The government must fulfill its duties to achieve good governance, so that clean governance can be implemented.

As an effort to realize the ideals of the Indonesian nation, it is to carry out development in all fields. The development of physical facilities and infrastructure, or often referred to as infrastructure, is a very important part of the public service system. Various physical facilities are vital to support various government, economic, industrial and social activities in society and government. The development of quality infrastructure such as roads, buildings, bridges, energy, electricity and telecommunications will create prosperity and welfare for the community.

One way of channeling and distributing the state budget is through the procurement of government goods/services. Procurement of government goods/services is a fundamental component of good governance. Government procurement of goods/services has the aim of, among other things, obtaining goods/services at prices that can be accounted for with appropriate quantity and

quality and timely implementation. To regulate the implementation of procurement of goods/services financed from the APBN/APBD, it needs to be regulated from a formal and material perspective. Bearing in mind that financing for the procurement of government goods/services is government spending that uses state finances which, among other things, come from the taxes of every Indonesian citizen. This arrangement is intended to ensure that the process of procuring goods and services has accountability and without reducing effectiveness in its implementation.

Regulation of procurement of goods/services after reform began during the administration of President Abdurahman Wahid by issuing Presidential Decree Number 18 of 2000 concerning Guidelines for Implementing Government Procurement of Goods/Services replacing Presidential Decree Number 16 of 1994 concerning Implementation of the State Revenue and Expenditure Budget.

During the time of President Megawati Soekarno putri, Presidential Decree Number 80 was issued regarding Guidelines for implementing Government Procurement of Goods/Services. Meanwhile, under President Susilo Bambang Yudhoyono, Presidential Regulation Number 54 of 2010 concerning Government Procurement of Goods/Services was issued, which has undergone changes to keep up with developments in time and technology, which to date has undergone the latest amendment through Presidential Regulation Number 4 of 2015 concerning Amendments. Fourth, on Presidential Regulation Number 54 of 2010 concerning Procurement of Government Goods/Services. The aim of establishing government procurement regulations for goods/services is so that the procurement process can be carried out more effectively and efficiently with healthy, transparent, open competition and fair treatment so that the results can be accounted for both in terms of physical, financial and benefits for public services.

Procurement of goods/services is essentially an effort by the user to obtain or realize the goods/services they desire, so that each party must comply with the ethics and norms/regulations that apply regarding the process of procuring goods/services. With e-procurement, it is hoped that the potential for fraud in the government goods/services procurement process can be minimized. E-procurement can increase efficiency and effectiveness in the procurement of public goods/services, reduce costs, increase competition, and ensure equality of opportunity and treatment. In general, the aim is to ensure integrity, public trust and transparency in procurement procedures for public goods/services. So e-procurement can be used as a control tool in a goods/services procurement process. According to Kalakota, et al., the benefits of e-procurement are divided into 2 (two) categories, namely: efficient and effective. E-procurement efficiency includes low costs, speeding up time in the goods/services procurement process, better control of the purchasing process, presenting information reports, and integration of key goods/services procurement functions in the back-office system. Meanwhile, the effectiveness of e-procurement is increasing control over the value chain, good management of important data, and improving the quality of decision making in the purchasing process in the organization.

The benefits of e-procurement are not only for the agencies and system developers themselves but also for providers of goods/services and the general public who want to know about the government procurement process for goods/services that can be accessed openly. With e-procurement, procurement organizing agencies get higher bid prices and the administration process is simpler, while goods/service providers can expand business opportunities, create healthy business competition, open up business opportunities to anyone and reduce administration costs.

There are several practices that give rise to criminal acts of corruption in the

procurement of government goods/services starting from the budgeting process, planning, holding auctions, examining goods, handing over goods and payment. Forms of criminal acts encountered in the procurement of government goods/services include bribery, dividing or combining work packages, mark ups, reducing the specifications of goods/services, reducing the number of goods and services, direct appointment, collusion between the provider and the employer or with fellow service providers. Around 70 to 80% of corruption cases handled by the Corruption Eradication Commission (KPK) occur in the realm of government procurement of goods/services. These projects are very vulnerable to corruption by related parties, apart from direct appointment, but also through mark ups on the prices of goods and services.

RESEARCH METHODS

This type of research uses descriptive qualitative with analytical methods. Bogdan and Taylor in Moleong (2010:4) state that qualitative research is "a research procedure that produces descriptive data in the form of written or spoken words from people and the behavior of observed objects".

PROBLEM FORMULATION

1. What are the consequences of corruption in the process of procuring government goods/services?
2. What are the government's efforts to improve the procurement process for government goods/services?

PROCUREMENT CORRUPTION

1. Definition of Procurement

Procurement includes the activity of procuring goods and services through one of three methods, namely self-managing, buying, renting. Purchasing is an activity of procuring goods/services only through purchasing. According to Presidential Regulation Number 54/2010, Chapter I Article 1 paragraph (1) Procurement of Goods/Services is an activity to obtain goods/services by Ministries/Institutions/Regional Work Units/Other Institutions whose process starts from planning needs to carrying out all activities for obtain goods/services. Implementation of procurement of goods/services can be carried out through self-management and selection of goods/service providers. Government procurement of goods/services includes:

- a. Goods
- b. Construction Work
- c. Consulting Services
- d. Other services.

The term procurement of goods/services in a broad sense includes an explanation of the preparation, determination, and implementation or auction administration stages of procurement of goods/services. Procurement of goods/services is not only an activity for selecting goods/service providers but also includes the entire process starting from planning, preparation, licensing, auction, determining the auction winner, to the implementation stage and administrative process in procuring goods/services.

Roeslan Saleh expressed his opinion regarding the meaning of criminal acts, namely acts which are declared by criminal law regulations to be prohibited acts. 5 Based on several opinions of scholars, it can be summarized that criminal acts or criminal acts are acts which are prohibited and are punishable by punishment whoever commits them.

According to the General Indonesian Dictionary: "Corruption is a bad act such as

embezzling money, accepting bribes and so on". Corruption and corruption come from the Latin *corruptus*, which means changing from a condition that is fair, right and honest to the opposite. From a legal perspective, criminal acts of corruption generally include the following elements: acts of defiance law, abuse of authority, opportunity, or means, enriching oneself, other people, or corporations, harming state finances or the state economy.

Apart from that, there are several other types of criminal acts of corruption, including: giving or receiving gifts or promises (bribery), embezzlement in office, extortion in office, participating in procurement (for civil servants/state administrators), receiving gratuities (for government employees/ state administrator). Corruption is a disease that has infected Indonesia. Like a disease, corruption must be cured so that it does not spread to other parts of the body. For body parts that are rotting and cannot be saved, those body parts must be amputated so that the virus does not spread to other parts and could endanger the sufferer's life. Likewise with criminal acts of corruption.

2. Causes Corruption Procurement

The factors that cause irregularities in government procurement of goods/services in Indonesia include Dominant bureaucratic leadership structure, Lack of strong regulations regarding government procurement of goods/services, The government's goods/services procurement system is not running in accordance with applicable regulations, Employee salaries/incentives are still low, Low employee mental attitude and morale, Lack transparency, Expensive political campaigns, with expenditures greater than normal political funding, The existence of political dynasties, especially for regional governments, Projects involving large amounts of public money, A closed, self-serving environment and a network of "old friends" (cronies), Weak, Weaklegal profession.

Lack of salary is not the most determining factor, many people who have enough do commit corruption. However, the lack of salaries and income of civil servants is indeed the most prominent factor in the prevalence and spread of corruption in Indonesia. Procurement of goods and services in government forms of irregularities are certainly elements of criminal acts of corruption, and there are several forms of corruption, the most easily found forms are bribery and giving facilitation payments to other, more subtle forms in various forms. Deviations and corruption can occur in all government procurement processes for goods/services which can occur in: Needs assessment / needs determination stage, Preparatory stage of design and preparation of procurement documents, Stage of selecting participants and determining the auction winner, Work implementation stage, Job handover stage, Job payment stage, Reporting stage and audit process.

3. Consequences Arising from Corruption Procurement

a. Politics and Democracy

In the world of politics, corruption makes things difficult democracy and good governance by destroying formal processes. Corruption which often occurs as a result of regional and legislative elections will reduce accountability and representation in policy formation; corruption in the court system halts legal order; and corruption in public government produces imbalances in public services. In general, corruption erodes the capacity of government institutions, due to neglect of procedures, siphoning of resources, and officials being appointed or promoted not because of merit. At the same time, corruption complicates government legitimacy and democratic values such as trust and tolerance. If legislators are held hostage in committing criminal acts of corruption, what will happen to the quality of legal products created jointly by the legislature and executive? It is possible that

there will be collusion to undermine the efforts to eradicate corruption by the Corruption Eradication Commission.

b. Economic Sector

Corruption also makes development difficult economy and reducing the quality of government services. Corruption also makes development difficult economy by creating high levels of distortion and inefficiency. Private sector, corruption increases trade costs due to losses from payments illegal, management costs in negotiations with corrupt officials, and the risk of cancellation of agreements or due to investigations. Although some claim that corruption reduces (commerce) costs by simplifying bureaucracy, the emerging consensus concludes that the availability of bribes causes officials to create new rules and new obstacles. Connected firms are protected from competition and as a result retain inefficient firms.

Corruption creates distortion (chaos) within public sector by diverting public investment to community projects where kickbacks and wages are more readily available. Officials may add complexity to community projects to hide corrupt practices, ultimately resulting in more chaos. Corruption also reduces compliance with building safety requirements, the environment, or other regulations. Corruption also reduces the quality of government services and infrastructure; and adding pressure to government budgets. In conclusion, corruption will hinder investment and economic growth. This will lead to increased poverty and income inequality.

c. Sector of People's Welfare and Public Services

Political corruption exists in many countries, and poses a major threat to their citizens. Political corruption means expediency government often benefiting the bribe giver, rather than the general public. One more example is how politician create regulations that protect large companies, but harm small companies (SME). These "pro-business" politicians simply return favors to large corporations that made large donations to their election campaigns. The result of corruption will be a shortage of the APBN, so that to meet the development budget, the government will increase state income, one example of which is by increasing fuel prices, TDL, taxes, which of course will cause public unrest. You can imagine how difficult it will be for the people because they will experience expensive education costs, high transportation costs, and increasing unemployment because many labor-intensive factories will close due to the high production costs that must be borne as a consequence of the increase in the minimum wage to adjust to the high costs. life. The impact of E-KTP corruption will also lead to poor public services, until now, after more than a year of the E-KTP case being uncovered, the government is still unable to fulfill the demand for the required E-KTP blanks.

Examples of cases of irregularities and corruption in government procurement of goods/services:

- a. Hambalang Sport Center Case: In the corruption case of the Hambalang Sport Center project by the Corruption Eradication Commission (KPK) which caused the state to lose Rp. 463.66 billion. According to the BPK's findings, the money the government spent on Hambalang from the Rp. 1.2 trillion contract was only Rp. 471 billion, but because there was still Rp. 8 billion remaining, it became Rp. 463 billion, including for the procurement of goods and services. In this case, former Minister of Youth and Sports Andi Malarangeng, Secretary General of the Ministry of Youth and Sports Wafid Muharram, and former Chairman of the Democratic Party Anas Urbaningrum were involved.
- b. Driver's license simulator procurement case: The SIM driving simulator procurement project that used 2011 budget funds emerged as an irregularity in

using an inappropriate budget. It started after PT CMMA, a company owned by Budi Susanto, became the winner of the project tender. The company buys goods from PT. ITI worth a total of IDR 90 billion. Meanwhile, the total tender value for the four-wheeled and two-wheeled simulator project won by PT CMMA reached IDR 198.7 billion. From this project, it is alleged that state losses of around IDR 100 billion arose, the main suspect is former Head of Police Traffic Corps Inspector General Djoko Susilo.

- c. Corruption case in the procurement of Al Qur'an which resulted in state losses amounting to Rp. This 35 billion rupiah involves elements from users of goods and services, providers and also members of the legislature. From this project, it can be concluded that deviations began when the project was still in the planning stage. Here, the role of the policy maker in the budget sector in the DPR, namely member of Commission VII Zulkarnaen Djabar, conspired with businessman Fadh A Rafiq who was also his crony and abused his authority.
- d. Corruption Eradication Commission (KPK) investigators summoned two witnesses to be questioned in connection with the development of an investigation into a case of alleged corruption in the form of bribery in the road procurement project in East Kalimantan with the suspect being the Head of the East Kalimantan National Road Implementation Unit (BBPJN) Type B Rahmat Fadjar (RF) and friends. The five suspects are the Director of CV Bajasari Nono Mulyanto (NM), the owner of PT Fajar Pasir Lestari Abdul Nanang Ramis (ANR), the staff of PT Fajar Pasir Lestari Hendra Sugiarto (HS), the Head of the East Kalimantan National Road Implementation Unit (BBPJN). Type B Rahmat Fadjar (RF), and Commitment Making Officer (PPK) on the implementation of the national road in the East Kalimantan region.

4. Prevention Efforts Corruption Procurement

The government's efforts to improve and minimize irregularities in the goods/services procurement process, the government issued regulations regarding government procurement of goods/services through Presidential Regulation Number 106/2007 concerning the Government Goods and Services Procurement Policy Institute (LKPP). Since its formation, LKPP has made a positive contribution to the government's procurement mechanism for goods and services. In terms of regulations, LKPP also participated in formulating and encouraging the ratification of Presidential Regulation Number 54/2010 concerning Government Procurement of Goods/Services which contains a regulatory framework for procurement of goods and services based on the principles of transparency, integrity, openness and accountability. In terms of preparing the superstructure to support efforts to modernize the national goods and services procurement system, LKPP has developed an e-procurement system designed to increase transparency and promote greater competition in procurement.

According to Presidential Decree 54/2010 electronic procurement or e-procurement is the procurement of goods/services carried out using information technology and electronic transactions in accordance with statutory provisions. Electronic Procurement Services, known as LPSE, are work units of Ministries/Institutions/Regional/Institutional Work Units which were formed to provide an electronic Procurement of Goods/Services service system. Based on Article 131 paragraphs 1 and 2, each K/L/D/I is obliged to implement part/all of the work packages in the 2012 Fiscal Year.

E-procurement is a process of procuring goods/services that refers to the use of the internet as a means of information and communication. Starting in 2011, and mandatory in 2012, all K/L/D/I must use the e-procurement system. The e-procurement system is an effort to create a nationally integrated market, to achieve

higher efficiency, transparency and accountability. The process of procuring goods and services using the e-procurement system utilizes communication and information technology facilities which are used to support the electronic public auction process. With an electronic auction system, the intensity of meetings between the procurement committee and service providers or auction participants can be minimized, so that dirty practices that often characterize the process of procuring goods and services can hopefully be prevented or avoided. For prospective providers of goods and services through e-procurement, it will be more efficient and easier for providers to carry out the process of selecting goods and services because they do not have to be physically present and there is transparency and openness which makes it easier for prospective providers of goods and services to obtain information on procurement of goods and services nationally.

Government policy in improving the process of procurement of goods and services is part of efforts to realize good governance and clean government, namely a clean and authoritative government system. All citizens, especially officials, must work harder and be more careful according to the rules that have been set and distance themselves from disgraceful actions. Furthermore, not being careful in carrying out tasks will not only disrupt the orderly order and orientation of the organization as well as hinder the achievement of the targets that have been set. But it can also damage morale, attitudes and discipline which can also damage the image of the institution.

For this reason, things that need to be emphasized here to be guided and implemented include: first, carrying out tasks according to the function, authority and rules that have been outlined. Second, synergy, discipline and motivation to give the best. Third, don't be easily tempted to take shortcuts that can lead to potentially detrimental things, both individually and institutionally.

CONCLUSION AND SUGGESTIONS

A. Conclusion

The reasons for the occurrence of criminal acts of corruption in the procurement of government goods/services include: a dominating bureaucratic leadership structure, lack of strong regulations for government procurement of goods/services, the system of government procurement of goods/services not working properly, employee salaries/incentives that are still low, low mental and moral of employees, lack of transparency, expensive political campaigns, the existence of political dynasties, big projects, crony interests, weakness order and enforcement law, weak legal profession. The consequences of irregularities and corruption in the procurement of government goods/services include:

- a. Politics and Democracy: In the world of politics, corruption makes things difficult democracy and good governance by destroying formal processes. Corruption which often occurs as a result of regional and legislative elections will reduce accountability and representation in policy formation; corruption in the court system halts legal order; and corruption in public government produces an imbalance in public services.
- b. Economic Sector: Corruption also makes development difficult economy and reducing the quality of government services. Corruption also makes development difficult economy by creating high levels of distortion and inefficiency. So that in the end corruption will hamper investment as well as hinder economic growth.
- c. Sector of People's Welfare and Public Services: Political corruption exists in many countries, and poses a major threat to their citizens. Political corruption means expediency government often benefiting the bribe giver, rather than the general public. As a result of corruption in fulfilling its budget, the government will

increase state income, one example of which is by increasing fuel prices, TDL, taxes, which of course will cause public unrest and the poverty rate will increase.

B. Suggestions

There is a need for regulations regarding government procurement of goods/services that are stronger than just the level of a Presidential Regulation but must be through the Law on Government Procurement of Goods/Services, and followed by improving employee welfare. There are efforts by the government to minimize and anticipate the consequences resulting from corruption in the procurement of government goods/services. As the government is slow in anticipating E-KTP corruption, where up to now there are still many shortages of E-KTP forms in the regions, the process of monitoring and taking action in the procurement of government goods/services must be more firm. There are transfers, promotions, rewards and punishments to maintain the integrity of procurement officials.

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