

Legal Problems in Electronic Procurement of Goods and Services (E-Procurement) by E-Purchasing at The Batang Religious Court

Mohammad Subchan¹, Imawan Sugiharto², Moh.Khamim³
{subchanm01@gmail.com}

Magister of Law, Universitas Pancasakti Tegal, Indonesia

Abstract. This thesis explores the legal problems in the procurement of goods and services electronically (e-procurement) by means of e-purchase at the Batang religious court. , Better Transparency, Competitiveness, Accountability and Fair/Non-Discrimination and How is the legal responsibility for goods and services procurement implementers who make mistakes. The method of collecting research materials is carried out by studying literature with legal materials, namely statutory regulations. The analysis used in this study is Legal Analysis, which is to explain the relationship between theories, concepts, legal rules and the legal problems faced. The results of the research on the implementation of E-Procurement in the Batang Religious Court have a good level of effectiveness. This can be seen from the success of E-Procurement in creating a fast Procurement process, so that work can be carried out optimally.

Keywords: E-procurement, E-purchasing, legal sanctions

1. Introduction

In carrying out the wheels of government, the government is required to promote general welfare with social justice for all Indonesian people. In an effort to realize this, the government is obliged to meet the needs of the people in various forms such as goods, services, and infrastructure development. In addition, in the administration of government, the government also requires goods and services, thus requiring the procurement of goods and services. The position of the government in the implementation of the procurement of government goods and services is essentially a manifestation of the implementation of state duties in the welfare of the people's lives through the provision of various facilities needed by the people in carrying out their lives, especially in meeting basic needs and a sense of security[1,2].

The procurement of goods and services is fundamentally an effort by the user to obtain or materialize the goods and services he desires through the use of specific procedures and processes in order to reach an agreement on price, time, and other terms. To ensure that the procurement of goods and services is conducted properly, both parties, namely users and providers, must always adhere to the philosophy of the procurement of goods and services, comply with ethics and rules by adhering to the principles, methods, and procedures for the procurement of standard goods and services.[3,4].

Business and individual providers of goods and services are selected for procurement. Procurement officials acquire government products and services directly from providers,

without an auction or selection procedure. Direct procurement is an ordinary sale and purchase between suppliers who have goods and services for sale and procurement officials who need goods and services.[5,6].

A successful procurement system utilizes good governance principles, is effective and efficient, and structures the behavior of the three pillars (government, private, and community) in governance administration.[7,8]Efficient means using little funds and resources to achieve quality and targets within the stipulated time or using predetermined funds to achieve results and targets with maximum quality. Effective means procuring goods and services in accordance with needs and targets to provide the most benefit.

At present, the government is trying to create an open and democratic government. One of them is by improving and optimizing public services to the community through policies/regulations that are effective, efficient, and reflect openness considering that the public has the right to obtain guarantees for access to public information, as stated in Law Number 14 of 2008 concerning Openness of Public Information, Article 3 letter c, where one of the objectives of public information disclosure is to realize good state administration, namely transparent, effective, efficient, accountable, and accountable. Article 4 paragraph (1) of this law also states that everyone has the right to obtain public information in accordance with the provisions of this law.

Transparency is a condition that provides greater opportunities for the public to be able to access information on government processes, while efficiency is a variety of steps to shorten the bureaucratic process in terms of public services. The government as the state administrator should carry out their duties proportionally in order to achieve good governance, so that a clean government can be realized. To offer quality public services at affordable prices, the Indonesian government released Presidential Instruction Number 3 of 2003, a national policy and plan for e-government development. Every government agency must now employ e-procurement service apps to enhance good governance.. To offer quality public services at affordable prices, the Indonesian government released Presidential Instruction Number 3 of 2003, a national policy and plan for e-government development. Every government agency must now employ e-procurement service apps to enhance good governance.

Based on the aforementioned, electronic procurement, abbreviated as e-purchase, was born as a method of government procurement of goods and services conducted electronically and on the internet using communication and information technology capabilities.. It can also be said that e-procurement is a service for the procurement of goods and services electronically where this system seeks to regulate transactions business through computers and the process of procuring goods and services is done online. Through the e-procurement system, the process of procuring goods and services can take place in an effective, efficient, open, competitive, transparent, fair and accountable manner so that it is expected to reflect transparency and reduce fraudulent practices in the procurement of goods and services that result in harm to state finances.

Some things that must be considered so that the Procurement of Goods/Services is accountable are:

1. There are complete archives and records;
2. The existence of a monitoring system to enforce the rules;
3. There is a mechanism for evaluating, reviewing, researching and taking action on protests and complaints made by participants.

In Indonesia, the implementation of e-procurement began in 2003 with the issuance of Presidential Decree Number 80 of 2003 concerning Guidelines for the Implementation of Government Procurement of Goods/Services, but its use has not been optimal. The

implementation of e-procurement began to develop since the establishment of the Government Goods/Services Procurement Policy Institute (LKPP) on 7 December 2007 and as the legal basis for its formation was Presidential Regulation Number 106 of 2007.

Since the enactment of Law Number 11 of 2008 concerning Information and Electronic Transactions, the procurement of goods and services electronically has been given a wide range of motion. E-procurement as an information system is a synergy between data processing machines (computer devices, application programs, and networks) and humans to produce information.

E-Procurement also has an impact on the interactions that occur between business actors and the government. If in the past, business actors needed to frequently visit government agencies in each sector and approach related parties to obtain information about procurement opportunities, now that information is available in the system. As a result, there is a change in the way of interacting where the frequency of communication through the E-Procurement system increases while the face-to-face frequency becomes much reduced.

In its implementation, the procurement of goods/services electronically (e-procurement) can be carried out by means of e-tendering or e-purchasing. Procurement of goods/services through e-tendering (auction) covers from the announcement process to the announcement of the winner is carried out using the Electronic Procurement System (SPSE) organized by the Electronic Procurement Service (LPSE), while e-purchasing is carried out for procurement that has been listed in the electronic catalog (e-catalogue).

One of the state institutions that has carried out the procurement of goods/services electronically with e-purchasing is the Supreme Court of the Republic of Indonesia, which procures goods/services already in the electronic catalog (e-catalogue). In supporting the implementation of the electronic procurement of goods/services program, the Supreme Court of the Republic of Indonesia established and inaugurated the Electronic Procurement Service (LPSE) of the Supreme Court of the Republic of Indonesia on February 14, 2013, and then continued with the establishment of a Procurement Service Unit (ULP) for each coordinator. appeals area. Each procurement of goods/services with e-purchasing is carried out through the Electronic Procurement Service (LPSE) of the Supreme Court of the Republic of Indonesia at the address <https://lpse.mahkamahagung.go.id/>.

One of the judicial bodies under the Supreme Court of the Republic of Indonesia that has used e-purchasing is the Batang Religious Court. The use of e-purchasing has been implemented since 2015. In that year, the Batang Religious Court procured goods for data processing and communication tools in the form of a server. In the procurement of data processing and communication equipment, the Supreme Court of the Republic of Indonesia provides technical specifications of the data processing equipment to be procured, so that each working unit of the judicial body under it can choose goods that comply with these specifications in the electronic catalog (e-catalogue).

The e-catalogue contains a list, types, prices and specifications of goods available from various providers of government goods/services. At that time there was only one provider of data processing and communication equipment, namely PT. Bhinneka Mentari Dimensi, so that only those goods/service providers are appointed as providers of goods/services procurement at the Batang Religious Court. Then continued in the following years over time, providers of government goods/services began to emerge, thereby adding provider references to the e-catalogue. Since then, every procurement of goods/services for data processing and communication tools at the Batang Religious Court has always been through an e-purchasing system. This is because the Supreme Court of the Republic of Indonesia as a State Institution

recommends all judicial bodies under it to carry out the procurement of goods/services electronically.

In Article 107 of Presidential Regulation Number 54 of 2010 concerning the Procurement of Government Goods and Services, it is explained that the procurement of goods/services electronically is basically aims to :

1. Increase transparency and accountability;
2. Improving market access and fair business competition;
3. Improve the efficiency of the procurement process;
4. Support the process of monitoring and auditing;
5. Fulfill the need for real time access to information.

E-procurement deployment in various agencies simplifies user-provider-community interactions and speeds up procurement. E-procurement has strengthened control against anomalies and rule violations. Electronic tendering or e-purchasing can be used to buy government goods/services.

E-procurement is part of a national goal to achieve a clean, KKN-free government (Corruption, Collusion, and Nepotism). All central and regional government entities must use e-procurement to buy products and services under this program. E-procurement improves costs and productivity the most. E-procurement is one of the most effective ways to improve management, both directly and indirectly, in the search for purchasing sources, so it will raise future competitiveness.

In general, the implementation of the procurement of goods and services can be grouped based on the duration of the activity. The stages of the procurement of goods and services are grouped into 4 (four) stages, namely:

1. Preparation stage, at this stage the activities include:
 - a. Planning for the procurement of goods and services,
 - b. Establishment of a committee or appointment of goods and services procurement officials,
 - c. Contract drafting stage,
 - d. Contract implementation stage.
2. Procurement Process Stage, at this stage the activities include:
 - a. Selection of providers of goods and services,
 - b. Determination of providers of goods and services.
3. Contract Preparation Stage;
4. Contract Implementation Stage.

The existence of the practice of KKN (Corruption, Collusion and Nepotism) in government and social life in Indonesia is something that is very strategic in assessing the success of governance reform and regional autonomy such as in the process of procurement of government goods/services. The phenomenon of KKN is an indicator of low government accountability, not only unaccountable in the eyes of the people, but can also cause a loss of trust and legitimacy to the government. If this happens, it will be difficult for the government to mobilize the public and the market to work together in addressing the various public problems faced.

2. Method

This research was conducted using empirical normative research because the library materials used as the main materials, namely primary legal materials consisting of basic norms or basic rules, basic regulations, and laws and regulations. The author analyzes the principles of

law in which the author tries to focus on studies of legal science and its rules that apply in society then describe the existing phenomena and analyze them systematically [9,10].

3. Result & Discussion

A good goods and service procurement system is a goods and service procurement system that is able to apply the principles of good governance (good governance), encourage efficiency and effectiveness of public spending, as well as structuring the behavior of the three pillars (government, private and community) in the administration of good governance. good governance. The implementation of good governance is a the ideals and hopes of the Indonesian nation. One form of maintenance e-government to achieve good governance is the procurement of goods and services services electronically. This is a form of change that This was done because of the many problems that occurred in procurement conventional government goods and services.

Presidential Regulation Number 16 of 2018 concerning Procurement Goods/Services (Presidential Regulation Number 16 of 2018) Government provide ample opportunities for the central government and regional governments to carry out the procurement process in accordance with the laws and regulations, it aims to create legal certainty and provide protection for every actor in the procurement of goods/services from a series of arbitrary actions and abuse of authority in the implementation of the procurement of goods/services.

In Presidential Decree No. 54 of 2010 Article 109 states that the procurement of goods/services electronically (e-procurement) can be carried out through e-tendering and e-purchasing. Procurement of goods/services through e-tendering (auction) covers starting from the announcement process to the announcement of the winner. E-tendering is carried out using the Electronic Procurement System (SPSE) organized by the Electronic Procurement Service.

Article 73 Number 16 of 2018 concerning the acquisition of government goods/services is the legal basis for Electronic Procurement Services. Its operational technical provisions are controlled by LKPP Institution Regulation Number 14 of 2018 concerning Electronic Procurement Services. Electronic Procurement Services in SPSE must also meet Act standards. The Electronic Procurement System now offers tenders whose technical provisions are specified by LKPP Institution Regulation Number 9 of 2018 concerning E-Tendering Procedures. LKPP additionally offers an Electronic Catalog (e-Catalogue), an online audit process (e-Audit), and procedures. electronic catalog shopping (e-Purchasing).

For recurring reasons, like as ATK training, participants still employ the auction approach because the internet catalog has limited goods/services. Electronic catalogs cover building work and other services, per Government Goods/Services Procurement Policy Agency Regulation 11 of 2018. Electronic catalogs mostly offer product categories. In addition to other services, the work unit offers construction and consultancy. If the electronic catalog includes items/services other than goods, the procurement official can use it to buy them. Article 73 Number 16 of 2018 concerning the acquisition of government goods/services is the legal basis for Electronic Procurement Services. Its operational technical provisions are controlled by LKPP Institution Regulation Number 14 of 2018 concerning Electronic Procurement Services. Electronic Procurement Services in SPSE must also meet Act standards.

The Electronic Procurement System now offers tenders whose technical provisions are specified by LKPP Institution Regulation Number 9 of 2018 concerning E-Tendering Procedures. LKPP additionally offers an Electronic Catalog (e-Catalogue), an online audit process (e-Audit), and procedures. electronic catalog shopping (e-Purchasing).

For recurring reasons, like as ATK training, participants still employ the auction approach because the internet catalog has limited goods/services. Electronic catalogs cover building work and other services, per Government Goods/Services Procurement Policy Agency Regulation 11 of 2018. Electronic catalogs mostly offer product categories. In addition to other services, the work unit offers construction and consultancy. If the electronic catalog includes items/services other than goods, the procurement official can use it to buy them.

E-purchasing saves a lot of money. Several procurement officials favor electronic catalogs because they're easy and offer legal protection against future legal action. E-purchasing can reduce corruption and save money.

This research differs from others because it incorporates the implementation and supervision of electronic goods/services procurement. This research examines the Batang Religious Court's e-procurement policies, implementation, and oversight. Ministries/Institutions/Local Governments/Institutions must use an e-purchasing system to purchase goods/services through the website of the Government Goods/Services Procurement Policy Institute (LKPP) and an electronic catalog (e-catalogue).

The supplier of goods/services or the public can make a complaint on the process selection of goods/services providers if they detect procedural flaws or a violation of fair competition in the implementation of Presidential Decree No. 16 of 2018. Complaints are sent to the relevant K/L/D/I APIP (Government Internal Supervisory Apparatus) and/or LKPP with supporting evidence. E-purchasing saves a lot of money. Several procurement officials favor electronic catalogs because they're easy and offer legal protection against future legal action. E-purchasing can reduce corruption and save money.

This research differs from others because it incorporates the implementation and supervision of electronic goods/services procurement. This research examines the Batang Religious Court's e-procurement policies, implementation, and oversight. Ministries/Institutions/Local Governments/Institutions must use an e-purchasing system to purchase goods/services through the website of the Government Goods/Services Procurement Policy Institute (LKPP) and an electronic catalog (e-catalogue). The supplier of goods/services or the public can make a complaint on the process selection of goods/services providers if they detect procedural flaws or a violation of fair competition in the implementation of Presidential Decree No. 16 of 2018. Complaints are sent to the relevant K/L/D/I APIP (Government Internal Supervisory Apparatus) and/or LKPP with supporting evidence.

If in the procurement of goods/services fraud is suspected, then the community submits a complaint to APIP accompanied by supporting evidence factual, credible and authentic. And law enforcement officers continue public complaints to APIP for follow-up (Article 77 paragraph 1 and 1 Presidential Decree No. 16 of 2018). APIP reports follow-up results complaint to the minister/head of institution/head of region. The results of the follow-up to complaints made by APIP are reported to the Minister/Head of Institutions/Heads of Regions/Heads of institutions, and can be reported to the competent authority with approval Minister/Head of Institution/Head of Region/Head of Institution, in the event that it is believed that there are indications of KKN that will harm state finances, by copies to LKPP and BPKP. The competent authority can follow up on complaints after the Contract is signed and there are indications of state losses. Based on the provisions of Article 77 of Presidential Regulation Number 16 Years 2018 Concerning the Procurement of Government Goods/Services, supervisory apparatus Internals called APIP in the scope of goods/services procurement act as the government's internal auditor must be able to provide added value, namely in the form of adequate confidence in the procurement process current goods/services. APIP must be able to assess and ensure that

risk management, internal control, and governance in the procurement of goods/services have been effective in preventing corruption.

In its implementation, the selection of goods/services is carried out by the Procurement Officer who receives orders from the Commitment Making Officer (PPK) who has determined the goods/services in accordance with the technical specifications that have been determined. In the implementation of the implementation of electronic procurement (e-purchasing) there are several parties who supervise the implementation, such as :

1. The Supervisory Body of the Supreme Court of the Republic of Indonesia as the institution's internal supervisor.
2. Government Goods/Services Procurement Policy Institute (LKPP) as the supervisor in the technical implementation of the government's goods/services procurement process,
3. The Supreme Audit Agency (BPK) as the supervisor in the realization of the government budget,
4. The Business Competition Supervisory Commission (KPPU) as the supervisor for the providers of goods/services,
5. The Corruption Eradication Commission (KPK) as the supervisor of the procurement of goods/services for the parties involved in the implementation of government procurement of goods/services.

The things mentioned above look very different from previous research that has never discussed further about the procurement of goods/services with the e-purchasing method, especially within the Supreme Court of the Republic of Indonesia and the judicial bodies under it, so that it can be used as a reference in the implementation of the procurement of goods/services. services using the e-purchasing method through electronic catalogs in general and within the Supreme Court Republic of Indonesia.

4. Conclusion

This research has implications for the Procurement Service Unit (ULP) and Electronic Procurement Services (LPSE) of the Supreme Court of the Republic of Indonesia so that the procurement of goods/services can meet procurement principles so that the procurement process can run more efficiently, effectively, transparently, competitively, fairly, and accountable. Electronic procurement of goods/services, if conducted according to procurement principles, will eliminate irregularities, misuse, and fraudulent acts, minimizing state financial losses.

References

- [1] Syahrin ZA, dkk. Analisis Yuridis terhadap Kerugian Negara yang Berasal dari Keuntungan Rekanan dari Proses Pengadaan Barang / Jasa Pemerintah yang Tidak Sah". Januari 2018 2018;6.
- [2] Setyadiharja R. E-Procurement (Dinamika Pengadaan Barang/Jasa. Yogyakarta: Depublish; 2017.
- [3] Pane MD. Aspek Hukum Pengadaan Barang dan Jasa Pemerintah Suatu Tinjauan Yuridis Peraturan Pengadaan Barang dan Jasa Pemerintah". Jurnal Media Hukum n.d.;24.
- [4] Sutedi A. Aspek Hukum Pengadaan Barang dan Jasa dan Berbagai Permasalahannya. Jakarta: Sinar Grafika; 2010.
- [5] Purwosusilo. Aspek Hukum Pengadaan Barang dan Jasa. Jakarta: Prenamedia Group; 2014.

- [6] Swadesi U. Efektivitas Pengadaan Barang dan Jasa secara Elektronik (E-Procurement) pada LPSE Kota Pekanbaru”. Jom FISIP n.d.;4.
- [7] Ramli S. Sertifikasi Ahli Pengadaan Barang/Jasa Pemerintah. Jakarta: Visimedia; 2014.
- [8] Rosidah N. Asas-Asas Hukum Pidana. Semarang: Pustaka Magister; 2011.
- [9] Marzuki PM. Penelitian Hukum. Jakarta: Kencana Prenada Media Group; n.d.
- [10] Hamzani I. Achmad “Pendekatan-pendekatan dalam Penelitian Hukum”, Bahan Kuliah Metodologi Penelitian Hukum. Fakultas Hukum Universitas Pancasakti Tegal; n.d.