



# **E-Procurement System In The Mechanism Of Procurement Of Goods And Services Electronically**

Ariman Sitompul<sup>1</sup>

<sup>1</sup> Faculty of Law, Dharmawangsa University, Indonesia. Email: ariman.sitompul@dharmawangsa.ac.id

## **ARTICLE INFO**

### **Keywords:**

*System, Procurement,  
Mechanism*

Date received : 27 Januari 2022

Revision date : 09 Februari 2022

Date received : 24 Februari 2022

## **ABSTRACT**

In the implementation of State Life, the government is always required to promote public welfare. Because there is no country that does not have a purpose and diverse purposes of that country. To carry out this obligation, the government has an obligation to provide the needs of the people in various forms in the form of goods, services and infrastructure development. on the other hand, the government also needs the goods and services in implementing the government, for that it is necessary to procure goods and services. Procurement of goods and services is essentially an effort by the user to obtain or realize the goods and services he wants by using certain methods and processes in order to achieve an agreement on price, time and other agreements. In order for the nature and essence of the procurement of goods and services can be carried out as well as possible, then both parties, namely the users and providers, must always be based on the philosophy of procurement of goods and services, subject to the ethics and norms of procurement of goods and services that apply, follow the principles, methods and processes of procurement of goods and services that are standard. In the system of procurement of Good Goods and services is a system of procurement of goods and services that are able to apply the principles of good governance and Clean Governance (Good Governance and Clean Governance), encourage the efficiency and effectiveness of public spending, as well as structuring the behavior of the three pillars (government, private and public).

## **INTRODUCTION**

In the development of Information Technology has made the World Without Borders. Its ability to reach all corners of the world connected through an online network can make users connect with each other. Especially in the implementation of State Life, the government is always required to promote public welfare. The internet, which is tangible as a site page, can be very accessible to everyone, providing a lot of useful information according to its importance. So it is to

take advantage of technology in this era the government makes a system that can facilitate the users of goods and services in their work by changing the system that was conventional into an electronic system (e Procurement), on the other hand, the government also needs the goods and services in carrying out the government, for it is necessary to procure goods and services more effectively and efficiently.

Procurement of goods and services starts from the purchase/sale of goods in the market directly (in cash), then develops towards the purchase of timed payments, by making

accountability documents (buyers and sellers), and ultimately through procurement, through the auction process. In the process, the procurement of goods and services involves several related parties so that there needs to be ethics, norms and principles of procurement of goods and services to be able to regulate or be used as the basis for the determination of the policy of procurement of goods and services.

Procurement of goods / services by the government involves very large money. That is why the government is the largest buyer in a country. In this regard, the government has a responsibility for policies in the field of procurement and support economic goals and set instruments in order to achieve these goals.

In the system of procurement of Good Goods and services is a system of procurement of goods and services that are able to apply the principles of good governance and Clean Governance (Good Governance and Clean Governance), encourage the efficiency and effectiveness of public spending, as well as structuring the behavior of the three pillars (government, private and public) in the organization of good governance and clean. As stated in Law No. 14 of 2008 on public information disclosure, where one of the objectives of public information disclosure is to realize a good and clean implementation, which is transparent, effective, efficient, accountable and accountable.

Departing from the above, the presence of electronic procurement which is hereinafter abbreviated as e - procurement as an auction system in the procurement of goods and services by the government using the means of internet-based technology, information and communication. With e-procurement, the auction process can take place effectively, efficiently, open, competitive, transparent, fair/non-discriminatory, and accountable so that it is expected to reflect openness/transparency and also minimize fraudulent practices in the auction of procurement of goods and services that result in adverse state finances.

E-Procurement began to be implemented since 2007 with the establishment of the Government Procurement Policy Institution<sup>5</sup>. E-

Procurement is the process of procurement of government goods/services whose implementation is carried out electronically based on web/internet by utilizing communication and Information Technology Facilities that include electronic public tenders. Electronic procurement since the enactment of Law No. 11 of 2008 on Electronic Information and transactions has been given a wide legal mobile space. E-procurement as an information system is a synergy between data, data processing machines (which usually include computers, application programs, and networks) and humans to produce information.

The implementation of e-procurement is included in one of the national programs to realize a clean government and free of corruption, collusion and nepotism. Where later through the program, all government agencies, both central and local, must implement e-procurement in the procurement of goods/services. E-procurement offers the widest opportunity for improvements in cost and productivity. Therefore, e-procurement is one of the most effective ways to improve management, both directly and indirectly, in the search for purchasing sources. As a result, e-procurement will increase the key to success in increasing competitiveness in the future.

In order for the nature or essence of the determination of the goods/services can be implemented as well, then both parties, namely the users and providers must always be on the philosophy of determining the standard goods / services. The system of thought (system of thought), following the prevailing norms and ethics, based on standard methods and processes of determination

## **METHOD**

In this study the authors do based on research methods where this type of research is done juridically empirical, namely research methods conducted by preparing problems and concepts, this study refers to the legal norms contained in the legislation. The research method used by the author in this study is juridical sociological. In juridical sociology, law as law in action. This study was conducted by searching for data and data collection techniques carried out through the study of data

that has been obtained from legislation, textbooks, article magazine results, and visiting internet sites and observations related to the problem.

## **RESULTS AND DISCUSSION**

### **A. Government Procurement Law (Electronic Procurement)**

Until now, the method of procurement of goods and services that is considered better because the implementation is more effective, efficient and transparent is the method of procurement of goods and services electronically or e-procurement. With e-procurement, the auction process can take place effectively, efficiently, open, competitive, transparent, fair/non-discriminatory and accountable so that it is expected to reflect openness/transparency and also minimize fraudulent practices/corruption collusion nepotism in the auction procurement of goods/services that result in financial losses of the state.

In this study, the authors want to know to what extent the legal effectiveness of procurement of goods/services electronically (e - procurement) seen from the effectiveness of legislation. The effectiveness of a legislation can be seen from various factors, namely:

- a. Knowledge of the substance (content) legislation
- b. Ways to acquire this knowledge
- c. Institutions related to the scope of legislation within the community
- d. How is the process of the birth of a legislation that should not be born in a hurry for the sake of instant (momentary) which is termed as sweep legislation (sweep law), which has poor quality and does not fit the needs of the community.

Related to the procurement of government goods/services is Presidential Regulation Number 16 of 2018. In Presidential Regulation No. 16 of 2018, the procurement of goods/services is specifically regulated in Article 104 to Article 112. The regulation of e-procurement is considered urgent because it is based on the phenomenon that exists in society at this time where many processes of procurement of goods and services are indicated by the practice of corruption, collusion and nepotism.

In addition to saving government budgets, other benefits of e-procurement for agencies / institutions that implement e-procurement is to make the process of interaction between users and service providers, as well as the community run easier and speed up the procurement process. No less important, the implementation of e-procurement automatically improves the control system against various deviations and violations of the rules. Changes in this process are taken by utilizing advances in information technology as a medium of interaction between the two parties

Although in Presidential Regulation No. 16 of 2018 on the procurement of Goods/Services has been regulated regarding sanctions for any violations in the procurement process of government goods and services, the existing sanctions are still general and not firm in the provision of penalties. There are only punishments in the form of compensation claims and inclusion in the Black list (black list) whereas if observed violations that exist not only administrative offenses and civil offenses but also there are criminal offenses.

In addition, the legal product of the existing procurement of goods and Services Arrangements is still a Presidential Regulation that can still change if the president is replaced. For this reason, it is necessary to have higher regulations, be consistent and have strict legal sanctions to suppress irregularities in the procurement of government goods and services. A rule or product of law is a law.

The existence of laws that regulate the procurement of goods and services, especially those that regulate the procurement of goods and services electronically (e - procurement) is expected to suppress budget leaks in the procurement of goods and services. This is because the law regulates from planning, procurement, to project implementation. Thus, the law on electronic procurement of goods and services (e-procurement) is an effort to prevent the possibility of leakage in the procurement of goods and services. The law will also need to include the right of supervision and forced rights that refer to the anti-corruption law and do not forget also strict sanctions against perpetrators of

violations in the procurement process of goods and services and must be in accordance with other laws.

With this e-procurement system, the opportunity for direct contact between providers of goods and services with the procurement committee is getting smaller so as to minimize the occurrence of collusion as often happens in conventional procurement of goods and services. Thus the aspect of efficiency and effectiveness has been able to run well.

Article 1233 BW States: "every engagement is born either by agreement or by law". that the engagement arises then there is a legal consequence that the existence of two parties, each party because the engagement has rights and the other party has obligations which must be carried out in accordance with the agreed engagement. Article 1233 BW is reinforced by Article 1234 BW which states: "every engagement is to give something, to do something or not to do something." So that the engagement gives rise to rights and obligations in the field of property law, the parties voluntarily make an agreement which with the agreement it is to bind themselves to each other to do something or not to do something in fulfilling their rights and obligations.

Meanwhile, what is meant by the wealth field is an agreement relating to agreements related to one's property, such as Article 1131 BW which states: "all material belonging to the debtor, both movable and immovable, both existing and new will exist in the future, he is responsible for all of one's actions." Thus it is very clear that in legal science is strictly regulated legal building or legal construction and its legal consequences so that activities that require the parties to make an engagement must be based on the basis of interests protected by law.

#### **B. The role of supervisory institutions in the procurement of goods and services**

Supervision can be defined as an activity of continuous observation and assessment of an object of activity by using certain methods, tools, and rules to ensure the conformity of its implementation with the plans and policies that have been established. Supervision of goods and services is the supervision carried out on the implementation of procurement of goods and services whether it is in accordance with the plan, basic principles of procurement,

procedures, and applicable rules. The nature of supervision is to prevent as early as possible the occurrence of irregularities, waste, and failure, and so that procurement can run efficiently, effectively, sparingly and orderly. Supervision of procurement of goods and services in government agencies is the responsibility of every leader in government agencies related to procurement.

Supervision in the procurement of goods and services must be carried out by government agencies in an effort to realize justice, transparency, and accountability in the framework of good governance.

As regulated by the provisions of Presidential Regulation No. 16 of 2018 concerning the procurement of goods and services, supervision and inspection of the procurement of goods and services is intended to:

- a. Improve the performance of government apparatus, realize a professional apparatus, clean, and responsible
- b. Eradicate abuse of authority and the practice of corruption, collusion and nepotism.
- c. Enforce applicable regulations and secure state finances.

To support the principles of procurement of government goods and services in accordance with the provisions, then in the process of procurement of goods and services, there are several parties involved in the supervisory function, namely:

- a. Leadership of the relevant government agencies
- b. Users of goods and services
- c. Internal Control Unit
- d. Society

#### **CONCLUSION**

Electronic procurement of goods and services (e-procurement) is the right system to use because it is more transparent, effective and efficient when compared to conventional procurement of goods and services system (face to face). The rule of law governing e - procurement is not effective because the regulation is still not specific, both in terms of substance and technical because there is no regulation specifically governing e - procurement. It is necessary to establish a law that regulates the procurement of goods and

services electronically (e - procurement) so that the implementation of e - procurement can be more effective. With the law, the procurement of goods and services has binding legal force and has stricter sanctions against cases of violations that may occur. The sanctions that exist now against perpetrators who commit fraud in the procurement process of goods and services are still mild. The law made later is expected to provide stricter and heavier sanctions for perpetrators who commit irregularities in the procurement process of goods and services so that it is expected to cause a deterrent effect for the perpetrators. Since the purpose of law and legislation in general is to create a harmonious society, actions that threaten the continuity of the harmony of people's lives should be discarded far and prevented.

## REFERENCES

- Ali, Achmad., Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang- Undang (Legisprudence). Jakarta: Prenada Media Group, 2009.
- Amiruddin. Korupsi Dalam Pengadaan Barang dan Jasa. Yogyakarta: Gent Publishing, 2010.
- Ashshofa, Burhan. Metode Penelitian Hukum. Jakarta: Rineka Cipta, 2007.
- Dimiyati, Khudzaifah. Teorisasi Hukum: Studi Tentang Perkembangan Pemikiran Hukum di Indonesia 1945-1990. Surakarta: Muhammadiyah University Press, 2005.
- Hakim, Abdul Aziz. Negara Hukum dan Demokrasi di Indonesia. Yogyakarta: Pustak Pelajar, 2011.
- Hamidi, S Gayo, A Sitompul. (2021). Juridical Analysis on The Procurement Of Goods/Service Of The Government To Realize Good Governance (Research Studies In The Department Of Human Settlement and Layout Batam City). International Journal Of Research and Review 8 (11
- Hukum, Kerugian Negara, dan Badan Pemeriksa Keuangan. Yogyakarta: UPP STIM YKPN, 2011.
- Indriati, Maria Farida. Ilmu Perundang- Undangan, Dasar-Dasar dan Pembentukannya. Jakarta: Kanisus, 1998.
- Irianto, Sulistyowati dan Sidharta. Metode Penelitian Hukum Konstelasi dan Refleksi. Jakarta: Yayasan Pustaka Obor Indonesia, 2009.
- Kamaroesid, Herry dkk. Pembuat Komitmen, Wewenang dan Tanggungjawabnyadalam Pelaksanaan APBN/APBD. Jakarta: Mitra Wacana Media, 2010.
- Lubis, Andi Fahmi dkk. Hukum Persaingan Usaha Antara Teks dan Konteks. Jakarta: GTZ, 2009
- Makarim, Edmon. Tanggung Jawab Penyelenggara Terhadap Tata Kelola yang Baik Dalam Penyelenggaraan Sistem Elektronik (Good Electronic Governance). Depok: Ringkasan Disertasi FHUI, 2009.
- Mubaryanto dkk. Metode Penelitian Praktis. Yogyakarta: BP FE UGM, 1987.
- Nurachmad, Much. Buku Pintar Pengadaan Barang/ Jasa Pemerintah Berdasarkan PP Nomor 54 Tahun 2010 & Peraturan Perundang- Undangan Terkait. Jakarta: Visimedia, 2011.
- Republik Indonesia. Undang-Undang Nomor 1 Tahun 2004 *tentang Perbendaharaan Negara*. Lembaran Berita Negara Nomor 5 Tahun 2004.
- Republik Indonesia. Undang-Undang Nomor 15 Tahun 2004 *Tentang Pemeriksaan Pengelolaan dan Tanggung Jawab Keuangan Negara*. Lembaran Berita Negara Nomor 4400 Tahun 2004.
- Republik Indonesia. Undang-Undang Nomor 17 Tahun 2003 *tentang Keuangan Negara*. Lembaran Berita Negara Nomor 4286 Tahun 2003.
- Republik Indonesia. Undang-Undang Nomor 20 Tahun 2001 *tentang Perubahan UU No.31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi*. Lembaran Berita Negara Nomor 4150 Tahun 2001.
- Republik Indonesia. Undang-Undang Nomor 31 Tahun 1999 *tentang Pemberantasan Tindak*

*Pidana Korupsi. Lembaran Berita Negara Nomor 3874 Tahun 1999.*

- Saidi, Muhammad Djafar. *Hukum Keuangan Negara*. Jakarta: Rajagrafindo Persada, 2008.
- Simamora, Y.Sogar. *Hukum Perjanjian-Prinsip Hukum Kontrak Pengadaan Barang dan Jasa oleh Pemerintah*. Yogyakarta: LaksBang PRESSindo. 2009.
- Sitompul, A, P Hasibuan, M Sahnan. (2021). The Morality Of Law Enforcement Agencies (Police, Prosecutor's Office, KPK) In Money Laundering With The Origin Of The Corruption. *European Science Review* 9 (10),
- Sitompul, A. (2020). The Criminal Replacement Of Fine In Law Of Money Laundering Number 8 Of 2010 (Case Study In North Sumatera). *International Journal Of Creative Research Thoughts*,
- Sitompul, A., & Sitompul, M. N. (2020, February). The Combination Of Money Laundering Crime With The Origin Of Narkotics Crime To Islamic Law. In *Proceeding International Seminar of Islamic Studies* (Vol. 1, No. 1,).
- Soekamto, Sarjono. *Pengantar Penelitian Hukum*. Jakarta: Universitas Indonesia Press, 2007.
- Sutedi, Adrian. *Aspek Hukum Pengadaan Barang dan Jasa dan Berbagai Permasalahannya*. Jakarta: Sinar Grafika, 2010.
- Witanto. *Dimensi Kerugian Negara dalam Hubungan Kontraktual (Suatu Tinjauan Terhadap Risiko Kontrak Dalam Proyek Pengadaan PBJ Instansi Pemerintah)*. Bandung: CV Mandar Maju, 2012.
- Zein, Ahmad Yahya. *Kontrak Elektronik & Penyelesaian Sengketa Bisnis E-Commerce dalam Transaksi Nasional dan Internasional*. Bandung: CV. Mandar Maju, 2009.

---

**Copyright holder :**

*Ariman Sitompul*

**First publication right :**

*International Asia Of Law and Money Laundering*

**This article is licensed under:**

