

The Authority of the Selection Working Group in the Implementation of the Direct Appointment Method in the Procurement of Consulting Services: A Legal Perspective at the Palembang Aviation Polytechnic

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Abstract

Procurement of goods and services in the public sector requires special attention to compliance with applicable laws and regulations, especially in terms of implementing procurement methods. One method used is direct appointment, which allows the Selection Working Group to appoint service providers without going through an open auction, with certain conditions. This study aims to analyze the authority of the Selection Working Group in implementing direct appointment in the procurement of consulting services at the Palembang Aviation Polytechnic, as well as to examine its implementation from the perspective of applicable law. This study uses a normative legal method with a statutory approach and case studies, involving an analysis of related laws and regulations, procurement documents, and interviews with related parties. The results of the study indicate that although direct appointment can be applied under certain conditions, its implementation at the Palembang Aviation Polytechnic often experiences obstacles in terms of transparency and accountability. This study also found that the authority of the Selection Working Group needs to be strengthened with stricter supervision to ensure that legal principles are maintained. The recommendations put forward are the need to improve understanding and training for members of the Selection Working Group and improvements in internal oversight mechanisms to optimize the implementation of procurement in accordance with legal provisions.

I. Introduction

Procurement of goods and services in the public sector is an integral part of the state administration system which aims to realize efficiency, transparency, and accountability in the management of the state budget. One important aspect in the procurement of goods and services is the selection of the right procurement method. One method that is often used in the procurement of services is the method direct appointment. However, this method often raises debate regarding the authority held by the Selection Working Group (Election Working Group), especially in ensuring that its implementation is in accordance with applicable regulations (Gulo et al., 2024).

In Indonesia, regulations on procurement of goods and services are regulated in Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, which provides a legal basis for the implementation of procurement through various methods, including direct appointment. The direct appointment method allows a government agency or institution to appoint a service provider without going through an open auction process, with certain requirements that can be met by the Selection Working Group (SAM, 2024).

At the Palembang Aviation Polytechnic, which is one of the higher education institutions managed by the government, the implementation of consulting service procurement often involves the direct appointment method. This raises questions regarding the authority of the Selection Working Group in determining the appropriate service provider, and whether the implementation of this method is fully in accordance with applicable legal provisions. In many cases, the Selection Working Group must ensure that the direct appointment process continues to pay attention to the principles of transparency, accountability, and efficiency, while avoiding potential abuse of authority.

This study aims to analyze the authority held by the Selection Working Group in implementing the direct appointment method in the procurement of consulting services at the Palembang Aviation Polytechnic. In addition, this study will also examine the legal perspective related to the implementation of this method, as well as the obstacles and challenges faced in ensuring that procurement continues to run in accordance with applicable legal principles. By considering the importance of the authority of the Selection Working Group in government procurement of goods and services, especially in the application of the direct appointment method, this study is expected to contribute to a better understanding of procurement practices in accordance with legal provisions at the Palembang Aviation Polytechnic.

Procurement of goods/services by the government is a very important activity in the administration of government, with the aim of meeting the needs of the community

and ensuring the smooth implementation of government tasks. This activity includes procurement of goods and services that not only support infrastructure development, but also play a role in the development of national industry, micro, small, and medium enterprises (MSMEs), and support the development of domestic culture and economy. Therefore, government procurement of goods/services must be carried out carefully to ensure the achievement of goals that are in accordance with the needs of the community and improve the quality of public services (Albab, 2023).

Basically, procurement of goods/services aims to obtain the goods or services needed by using certain methods that allow for agreement on price, time, and quality. This procurement involves various parties, including users of goods/services and service providers, who must work in accordance with the basic principles of procurement of goods/services which include transparency, efficiency, accountability, and fairness (Hakiki et al., 2024).

In the context of Indonesia as a developing legal state, the government has an obligation to provide goods and services needed by the community. This not only supports the implementation of government, but also improves public welfare. The Indonesian government continues to strive to improve the quality of human resources through various programs, one of which is through the procurement of goods/services carried out by government agencies. Procurement of goods/services carried out by ministries/institutions/regional apparatuses, which are funded by the APBN/APBD, includes the entire series of processes from identifying needs to handing over the results of the work (Elviandri, 2019).

Along with the development of the government, procurement of goods/services in Indonesia is regulated in various regulations, one of which is Presidential Regulation of the Republic of Indonesia Number 12 of 2021, which amends Presidential Regulation Number 16 of 2018. This regulation regulates various aspects of procurement of goods/services, including procurement actors, types of procurement, procurement methods, and the amount of procurement value. It also regulates various principles that must be followed in the procurement process, which aim to ensure that procurement is carried out fairly, efficiently, and effectively (Rizan et al., 2022).

The main objective of the government procurement system for goods/services as regulated in Article 4 of Presidential Regulation of the Republic of Indonesia Number 12 of 2021 is to produce the right goods/services with every fund spent, strengthen domestic industry, increase the participation of micro, small and cooperative businesses, and support economic equality. This procurement also aims to support economic sustainability and ensure that the use of the state budget can be accounted for in a

transparent and accountable manner (Herniwati, 2015).

Procurement of goods/services is divided into four types, namely: (1) Procurement of goods, which includes tangible and intangible objects, (2) Construction work, (3) Consulting services, and (4) Other services. The process of selecting a provider of consulting services can be carried out using various methods, including general selection, direct procurement, and direct appointment, which can be applied according to certain conditions, such as urgent needs or if there is only one provider who meets certain qualifications.

The direct appointment method, especially the repeat order method, simplifies the process of selecting a consulting service provider who has worked together before, with certain conditions, such as good performance recorded in the provider performance information system (SIKaP). This method provides time efficiency, which in some cases can be faster than the general selection method which involves more stages (Taufiqurokhman, 2014).

At the Palembang Aviation Polytechnic, in 2023, procurement of consulting services was carried out through a general selection method for building renovation supervision consulting work with 21 selection stages. Meanwhile, in 2024, for similar work, the direct appointment method of repeat requests (repeat order) was applied, which only requires five selection stages, thus accelerating the procurement process.

Overall, government procurement of goods/services requires the application of strict principles to maintain integrity and avoid potential irregularities that could harm state finances. Therefore, it is important for every party involved in the procurement process to comply with applicable regulations and avoid practices that could damage transparency, such as collusion, corruption, and nepotism. Thus, procurement of goods/services can run well, produce optimal value, and support sustainable development (Rizan et al., 2022).

2. Research Method

This study uses a normative legal research method with a statutory approach and case study. The normative approach is used to analyze legal rules relevant to the procurement of goods and services, especially related to the authority of the Selection Working Group in implementing the direct appointment method in the procurement of consulting services at the Palembang Aviation Polytechnic (Muhaimin, 2016).

3. Results and Discussion

Procurement of goods/services is a vital activity in supporting the operations of government institutions, including at the Palembang Aviation Polytechnic. This procurement is carried out with the aim of obtaining the required goods or services in accordance with the available budget. One of the procurement methods that can be applied in this process is Direct Appointment, which is regulated by various laws and regulations, especially Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services (Herniwati, 2015).

The Selection Working Group has a very important authority in carrying out the service provider selection process, especially when using the Direct Appointment method. The main task of the Selection Working Group is to ensure that the procurement process runs in accordance with good procurement principles, such as efficiency, transparency, accountability, and compliance with regulations.

In the context of Palembang Aviation Polytechnic, procurement of consulting services through direct appointment is carried out based on specific needs that do not allow for more open selection methods (such as tenders). Therefore, the Selection Working Group is expected to be able to exercise its authority professionally and in accordance with applicable legal provisions.

a. Legal Basis for Procurement of Goods/Services

The legal basis governing the authority of the Selection Working Group in implementing direct appointment in the procurement of consulting services in Indonesia, including at the Palembang Aviation Polytechnic, is as follows:

1. Law Number 2 of 2017 concerning Construction Services It is the legal basis for procurement of construction services in Indonesia, but also influences general procurement principles, including procurement of goods/services in educational institutions.
2. Presidential Regulation of the Republic of Indonesia Number 16 of 2018 concerning Government Procurement of Goods/Services It is the main basis for regulating all procedures for government procurement of goods/services, including in educational institutions such as the Palembang Aviation Polytechnic. This Presidential Regulation regulates various methods of selecting providers, including Direct Appointment.
3. Regulation of the Government Goods/Services Procurement Policy Agency (LKPP) Regulate the technical implementation of procurement of goods/services by government agencies, including the Palembang Aviation Polytechnic. LKPP regulations provide more detailed guidelines on the implementation of higher regulations, such as Presidential Regulation 16/2018.

4. Regulation of the Head of LKPP Number 12 of 2021 concerning Procedures for Procurement of Government Goods/Services It is a further guideline for the procedure for selecting providers of goods/services by the government and contains mechanisms and procedures regarding Direct Appointment.

Direct Appointment is a method of procurement of goods/services in which the service or goods provider is selected directly without going through an open auction process or complex selection. This method can be applied in certain situations, for example for emergency procurement, or procurement of services that can only be carried out by one particular provider. Direct Appointment is basically carried out with the aim of accelerating the procurement process, but must still consider the principles of transparent and accountable procurement (Putri et al., 2023).

b. Authority of the Selection Working Group in Direct Appointment

The Selection Working Group has very broad authority in implementing the procurement process, including in the application of the direct appointment method. This authority is regulated in Presidential Regulation 16/2018 and other relevant regulations. The following are the authorities held by the Selection Working Group:

1. Preparing a Goods/Services Procurement Plan

The Selection Working Group is responsible for planning the entire procurement process of goods/services, starting from identifying needs, preparing the budget, to selecting the method for selecting service providers. If procurement is through direct appointment, the Working Group must determine clear reasons and basis for selecting the method.

2. Selection of Selection Method

The Working Group must determine whether direct appointment is the most appropriate method, based on the needs and nature of the procurement. Direct appointment is usually chosen for procurements that are urgent or can only be carried out by certain providers.

Appointment of Service Provider:

1. Choosing the Right Provider

The Selection Working Group has the authority to evaluate providers who will be directly appointed. The selected provider must meet the specified qualifications, both in terms of competence, experience, and finance.

2. Provider Qualification Verification

Even though direct appointment is used, the Selection Working Group is required to verify the suitability of the selected provider to prevent deviations

in project quality and management.

Contract Document Preparation and Negotiation:

1. Drafting and Signing of Contracts

Once a service provider is selected, the Selection Working Group is responsible for drafting and signing a procurement contract with the selected provider. The contract includes the scope of work, implementation time, budget, and other terms and conditions that bind both parties (Faizal & Suryono, 2020).

2. Negotiate Price and Terms

Even though direct appointment is used, the Selection Working Group can negotiate the price or other terms in the contract, to ensure that the agreed value is in accordance with the available budget and desired technical requirements (Hernoko, 2016).

Monitoring and Evaluation:

1. Contract Implementation Supervision

Once the contract is signed, the Selection Working Group has the authority to supervise the implementation of the procurement. The Working Group must ensure that the service provider carries out the work in accordance with the agreed contract.

2. Procurement Results Evaluation

The Working Group is also responsible for evaluating the procurement results. This evaluation aims to ensure that the procurement carried out has met the specified quality, time, and budget standards.

Reporting and Accountability The Selection Working Group is required to prepare a report outlining the entire procurement process, from the planning stage to implementation. This report must include documentary evidence that shows that the procurement was carried out in accordance with good procurement regulations and principles (Oratmangun, 2016).

Direct Appointment Procedure at Palembang Aviation Polytechnic procurement through direct appointment at the Palembang Aviation Polytechnic follows the procedures set by Presidential Decree 16/2018 and other regulations. In general, the procedure includes the following steps:

1. Identify Needs

Palembang Aviation Polytechnic must clearly identify the need for goods/services, to ensure that direct appointment is the right method.

2. Preparation of Procurement Documents

The Selection Working Group then prepares procurement documents that include the scope of work, supplier qualifications, and estimated prices.

3. Appointment of Provider

The Selection Working Group selects providers who meet the required qualifications and comply with the established specifications.

4. Negotiation and Contract Drafting

If necessary, the Working Group negotiates with providers to reach a fair agreement that fits within the available budget.

5. Monitoring and Evaluation

After the contract is signed, the Selection Working Group carries out supervision and evaluation to ensure that the procurement process runs smoothly according to the provisions.

In the context of state law and administration, the implementation of direct appointment by the Selection Working Group in institutions such as the Palembang Aviation Polytechnic must reflect the principles of transparency, accountability, and fairness. Each of these principles has an important role in ensuring that the procurement process for goods/services runs in accordance with applicable provisions and avoids abuse of authority. The following is a discussion of the legal perspective related to the three principles in the implementation of direct appointment:

1. Transparency

Transparency refers to the openness and accessibility of information in a decision-making process. In this case, to ensure that the direct appointment process carried out by the Selection Working Group at the Palembang Aviation Polytechnic can be accounted for, information regarding the procurement of goods/services must be clear and accessible to interested parties.

Legal Perspective:

a. Regulation of the Government Goods/Services Procurement Agency (LPSE)

Government procurement of goods and services in Indonesia, transparency is regulated in Presidential Regulation of the Republic of Indonesia Number 16 of 2018 concerning Government Procurement of Goods/Services. Articles 15 and 16 of this regulation require that the entire procurement process, including direct

appointment, be carried out with adequate transparency, so that all interested parties can know the stages, decisions, and reasons for selecting providers of goods/services.

b. Public Access

The direct appointment process by the Selection Working Group at the Palembang Aviation Polytechnic must be carried out by ensuring that relevant information (e.g. selection criteria, list of providers considered, and justification for appointment) is accessible to the public, either through digital platforms or documents provided in public spaces.

c. Legal Risks of Not Being Transparent

- a) Abuse of authority by the Selection Working Group, due to the absence of a monitoring or control mechanism for the decisions made.
- b) Potential for corrupt or collusive practices, which are detrimental to the state or related educational institutions.

2. Accountability

Accountability relates to responsibility for decisions and actions taken, as well as the ability to provide explanations and accountability for those decisions. In this case, the Selection Working Group at the Palembang Aviation Polytechnic must be able to account for the direct appointment process, both internally (to the Polytechnic leadership) and externally (to the community or supervisory institutions).

Legal Perspective:

a. Law Number 30 of 2014 concerning Government Administration

Article 2 states that one of the principles in government administration is accountability. This means that every decision taken in the procurement process of goods/services must be accountable and have a clear legal basis.

b. Government Regulation Number 12 of 2021 concerning Guidelines for Government Procurement of Goods/Services

The Selection Working Group must ensure that every decision regarding direct appointment is based on valid and adequate procedures, and can be accounted for in the form of adequate procurement reports and documents. In this case, the entire direct appointment process must be recorded and can be audited by an external supervisory body such as the Audit Board of Indonesia (BPK).

c. Legal Risks of Not Being Accountable

- a) Unaccountable actions have the potential to harm institutions, reduce public trust, and increase the legal burden on officials involved.

- b) An unaccountable procurement process can provide a loophole for corruption, collusion or nepotism.

3. Justice

Justice refers to fair and equal treatment for all parties involved in the direct appointment process. In this context, the Selection Working Group at the Palembang Aviation Polytechnic must ensure that there is no abuse of authority that leads to injustice, either against competing providers of goods/services or the community who are entitled to the best service or goods/services.

Legal Perspective:

- a. Article 33 of Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition

The procurement process must ensure that no provider is given an unlawful advantage or receives preferential treatment that is detrimental to other parties. The Selection Working Group must act objectively and fairly in evaluating potential providers of goods/services.

- b. Principle of Non-Discrimination and Fair Competition

In the direct appointment process, providers of goods/services must be given equal opportunity to participate, and decisions taken must be based on transparent, fair, and objective criteria. The Selection Working Group must also avoid any conflict of interest that could harm the principle of justice.

- c. Legal Risks if Unfair

- a) The occurrence of discrimination against other providers of goods/services, which can lead to dissatisfaction, legal protests, or lawsuits.
- b) The potential for abuse of authority that is detrimental to providers who are not selected, and has the potential to lead to violations of laws related to unfair business competition.

4. Conclusion

The authority of the Selection Working Group in implementing the Direct Appointment method is very important, because it is directly related to the success of the procurement of goods/services at the Palembang Aviation Polytechnic. Although direct appointment provides convenience in terms of time and faster processes, the authority of the Selection Working Group must still be carried out carefully and by paying attention to the principles of transparency, accountability, and efficiency in budget management. With the right authority, the Selection Working Group can ensure that procurement is

carried out correctly, avoiding potential irregularities, and providing maximum results for the institution and related parties. In the implementation of direct appointment by the Selection Working Group at the Palembang Aviation Polytechnic, the principles of transparency, accountability, and fairness must be upheld to ensure that the procurement process runs in accordance with applicable legal provisions. Deviations from these principles can pose legal risks, including abuse of authority, unfairness in procurement, and potential corrupt or collusive practices that are detrimental to the state or institution.

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