Implementation Of Good Governance In The Procurement Of Goods And Services To Anticipate State Financial Losses

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Abstract
Procurement of government goods and services is one of the activities that is very prone to corruption, collusion, and nepotism (KKN). In addition to carrying out law enforcement, to overcome KKN in the procurement of goods and services, various supporting policies are established that are enforcement and prevention. The research conducted is normative juridical or research that analyzes written law, jurisprudence, and norms that live in society. The descriptive-analytical approach aims to take systematic, factual, and accurate data on a problem based on applicable laws and legal norms. The results of this study show that Good Governance can anticipate state financial losses in the Government BJP through the implementation of the principles of participation, rule of law, transparency, effectiveness and efficiency, and accountability. The forms of policies in the procurement of fair goods and services are the establishment of integrity pacts by both relevant agencies and PJB participants, the E-Procurement System, the procurement of goods and services through electronic tenders that are spared, and a comprehensive audit system to find indications of violations.
1. Introduction

The great goal of the Indonesian state is challenged in the Preamble to the 1945 Constitution, which is to protect the entire Indonesian nation and all Indonesian bloodshed, to promote general welfare, educate the life of the nation. To achieve this noble goal, state administration must not deviate from normative rules or laws and regulations. However, the reality of government administration is that there are still many irregularities, especially the corruptive behavior of the bureaucratic system that is very detrimental to the state and society.1

Indonesia adheres to the concept of a welfare state that aims to provide welfare for all citizens, to complete the principle of legality where all government activities must be based on laws and regulations.2 That's why a good governance system was formed. Good governance can only be achieved through the mentality of the apparatus and bureaucratic system that is based on corruption, collusion, and nepotism (KKN).3 The practice of KKN is still rife in various joints of our government to this day. Based on the 2020 Corruption Perception Index (CPI), Indonesia is ranked 102 out of 180 countries with a score of 37 out of 100. This ranking shows that KKN is still rife and has not received optimal handling, both in terms of prevention and law enforcement.4

ICW's findings in 2022 stated that there were 579 cases of corruption from various sectors with 1,396 suspects with a total state financial loss of Rp. 42.747 trillion. KKN in the field is certainly more than the number of cases that have been revealed. This can be proven by the discrepancy between the number of mandatory asset reports and the number of reports made by public officials. In the Official Asset Report (LHKP) as of March 2021, there are still more than 100,000 officials who have not reported their assets.5

Corruption has a very bad impact on the life of the nation, including disrupting economic stability, undermining the order of justice, reducing public trust, and weakening the law enforcement system. Corruption creates a negative image of the government and public institutions, eroding the foundation of public trust in the administration of government which is a vital aspect in maintaining the stability of the country.

The general principles of good governance (AUPB) are born from the practice of state administration and governance so they are not formal products such as laws. AUPB is understood as a general principle that is used as a procedure for administering a fair, and honorable government, free from tyranny, violation of

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regulations, abuse of authority, and arbitrary actions, especially in the process of procurement of government goods and services (BJP).\textsuperscript{6}

According to Kaufmann, the BJP is the government's most vulnerable activity to corruption, and this happens everywhere in the world. There are many vulnerable points in the procurement of goods and services, from the planning process to the handover.\textsuperscript{7} For example, in the planning process, there are still many prospective suppliers who have been directed, to packaging engineering to avoid auctions, to outside interference. If deviations have occurred at the beginning, then the next process will also be problematic which ultimately results in the quality of work not according to specifications and contracts and payments not in accordance with the realization of work.\textsuperscript{8}

To realize good governance and anticipate the occurrence of KKN which results in state financial losses, the administration of the Government BJP needs to determine effective policy formulation and division, one of which is through electronic procurement. E-procurement as a procurement system for goods and services using information technology and electronic transactions in accordance with laws and regulations is carried out through Electronic Procurement Services (LPSE)).\textsuperscript{9} This electronic procurement process will further improve and ensure efficiency, effectiveness, transparency, and accountability in spending state money. In addition, the E-Procurement process can also ensure the availability of information, and business opportunities, and encourage healthy competition and the realization of justice (non-discriminative) for all business actors.\textsuperscript{10}

Procurement of credible and accountable goods can be carried out if all parties involved are guided by legal provisions and based on the ethical principles of procurement. All stages of procurement of goods and services from planning, preparation, selection, and contract signing to the final handover of work are carried out carefully, precisely, and honestly, to produce a good system free from KKN.\textsuperscript{11}

2. Research Methods

Legal research conducted is normative juridical research or research that analyzes written law, jurisprudence, and norms that live in society. The descriptive-analytical approach aims to take systematic, factual, and accurate data on a problem based on applicable laws and legal norms. Data collection techniques are carried out through literature research, namely obtaining data by reviewing library materials or secondary data which include primary legal materials, secondary legal materials which can be in the form of laws and regulations, books and works, or other scientific

\textsuperscript{6} Solechan., \textit{op. cit} hlm 542.
\textsuperscript{7} Richo Andi Wibowo, "Preventing Corruption in Service Procurement (What Has Been and Still Needs to Be Done?)," \textit{INTEGRITY} 1, no. 1 (April 19, 2018): 37, https://doi.org/10.32697/integritas.v1i1.113.
\textsuperscript{8} Ibid.,
journals or university legal materials in the form of dictionaries, magazines, newspapers, and articles.  

3. Results and Discussion

The Effect of Good Governance in Preventing State Financial Losses in the Procurement of Goods and Services

Corruption is analogous to a chronic disease that is difficult to cure. Corruption cases continue to increase significantly. Starting from the executive, legislative, and judiciary, at any time some are entangled in corruption cases both on a small and large scale. Based on data from Indonesia Corruption Watch (ICW) during the 2013-2022 period, state financial losses due to corruption reached Rp238.14 trillion. More details in 2016-2020, of the 2,227 corruption cases handled by law enforcement (Police, Prosecutor's Office, and KPK), 49.1% or as many as 1,093 cases came from the procurement of goods and services with total state financial losses reaching Rp. 5.3 trillion. The rise of KKN in the government bureaucracy will hinder economic growth and national development, so it must be eradicated to realize a just and prosperous society.

State financial losses occur due to violations of the law or negligence of officials/civil servants in carrying out their duties and authorities (especially administrative ones). In determining state financial losses, Supreme Court Circular Number 4 of 2016 Point 6 states that the agency authorized to declare the presence or absence of state financial losses is a Financial Agency that has constitutional authority while other agencies such as the Financial and Development Supervision Agency or the Inspectorate or Regional Apparatus Work Unit remain authorized to declare or declare state financial losses.

The state financial losses in Law Number 31 of 1999 as amended into Law Number: 20 of 2001 concerning the Eradication of Corruption are:

a. Expenditures sourced from state/regional wealth in the form of money, goods that should not be issued;

b. The expenditure of a country/region's resources/wealth is greater than it should be according to applicable criteria;

c. Loss of state/regional resources/wealth should be received (including receipts by the use of counterfeit money and/or fictitious goods);

d. State/regional revenues are smaller or lower than the calculation of revenues that should be received (including receipts of damaged goods and/or inappropriate quality);

e. The emergence of a state/regional obligation that should not exist or be fictitious;

f. The emergence of a state/regional obligation that is greater than it should be or exceeds the standard of propriety;

g. The rights of the state/region received are smaller than what should be the revenue income.


15 Tiarma Rosa Sinaga. Audit Penghitungan Kerugian Keuangan Negara (Studi Kasus Kegiatan Pembangunan Sarana Dan Prasarana Gedung Olah Raga Pada Dinas
Supporting the realization of good governance in governance, state financial management needs to be carried out professionally, openly, and responsibly by applying the principles of:

a. The Annual Principle provides a requirement that the state budget be made on an annual basis which must receive approval from the legislature (DPR);
b. The principle of universality (completeness), provides a limitation that there is no mixture of state revenue and state expenditure;
c. The Unity Principle, retaining the budget rights of the council in full, means that all expenditures must be included in the budget;
d. The Principle of Specialization requires that the type of expenditure be contained in a specific/individual budget and organized consistently both qualitatively and quantitatively. Quantitatively, it means that the amount that has been set in a certain budget currency is the highest limit and must not be exceeded. Qualitatively it means that the use of the budget is only justified for the predetermined budget currency;
e. The principle of Accountability is oriented towards basil, meaning that each budget user is obliged to answer and explain the performance of the organization for the success or failure of a program for which he is responsible;
f. The principle of professionalism requires that state financial management is handled by professional personnel;
g. The principle of proportionality; Budget allocation is carried out proportionally to the functions of ministries/agencies in accordance with the level of priority and objectives to be achieved;
h. The principle of openness in state financial management requires openness in the discussion, determination, and calculation of the budget as well as in the results of supervision by an independent audit institution;
i. Financial Audit by an independent and independent audit body gives greater authority to the Audit Board to carry out audits on state financial management objectively and independently.16

In order to prevent state financial losses in the BJP government, as well as to realize good and clean governance through good governance according to the United Nations Development Program (UNDP) including:

a) Participation

Participation in realizing good governance in the BJP process is supported by internal and external community participation. Internal communities participate through requests that are notified to leaders until priority needs are determined. External participation comes from LKPP registration which will then be verified for eligibility to participate in tenders or auctions. In addition, participants who want to participate in the tender must also create an account and register for an auction through LPSE.17

b) Role of Law

Presidential Regulation of the Republic of Indonesia Number: 12 of 2021 concerning Government PJB, regulates the technical process of procurement of...
goods or services. Starting from business actors, SOPs, preparation or planning stages, to the handover of procurement. In addition, BJP regulations regulate the standards of Election documents, terms of reference) and instructions to participants.

c) Transparency

Transparency means open access for all people to information related to the BJP process through public information system management. Government openness to public surveillance is critical. Openness can minimize the availability of KKN in government administration. One example of implementation in PBJ is through open announcements via the SPSE website (ps.e.kemkes.go.id) and the SIRUP (General Procurement Plan System) application.

d) Effectiveness and Efficiency

The effectiveness of the results-oriented or the objectives of a procurement has been achieved. Every procurement activity must be carried out based on careful planning and must achieve the expected results. Efficiency can be seen from inputs such as the absorption or use of budgets, human resources, and mechanisms or systems provided. The auction process has become more efficient because it has cut down the HPS determination process, and price surveys, and there is no need to exist.

e) Akuntabilitas

Accountability is a basic requirement to prevent abuse of authority so that development can be carried out evenly in accordance with its objectives. BJP should make a written accountability report to the center as a form of accountability for activities. In addition, it can also be seen from the responsibility of third parties contained in the contract. If the goods or services received are not following the agreement, they will be returned. The purpose of accountability is to encourage the creation of performance to realize a good and trusted system.

f) Equity

All participants or business actors have the equal, fair, and non-discriminatory opportunity to participate in electronic procurement as long as they meet the qualifications, the requirements are open, and can be seen through the SPSE application. This step is necessary to ensure that all providers of goods and services are qualified under clear provisions and procedures according to competitive principles.

There are four strategies for implementing e-government to anticipate the occurrence of KKN in the government BJP, including:

1) Prevention. The implementation of e-government can prevent corruption because the service system goes through simple, effective, and efficient

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19 Lati Praja Delmana, op. cit
22 Kesumadewi, “Penerapan E-Government Di Indonesia Sebagai Upaya Pemberantasan Korupsi.”
procedures, and reduces two-way processes with bureaucrats which become loopholes for authority discretion;

2) Law enforcement. Provide legal certainty and the establishment of laws and regulations that uphold accountability and transparency through published data/information. In addition, this also provides an opportunity for the community to participate in providing criticism and suggestions so that the services provided can be optimal;

3) Empowering access to information. The implementation of e-government makes it easier for the public to be able to access various data and information from the government. This is a manifestation of government transparency and accountability. As well as carrying out the function of community supervision of the use of state finances;

4) Increased capacity. Strengthening the government system by utilizing the capacity of government institutions to improve telecommunications infrastructure to realize the implementation of e-government. The formation of human resources is also needed so that it can maximize the potential of the government apparatus so that the implementation of e-government can run optimally.

Forms of Policy in the Procurement of Goods and Services that are Equitable

Discretion is one of the means for government officials to create breakthroughs to solve problems quickly, especially problems that do not yet have a clear rule of law. However, if discretion is not exercised based on clear objectives and principles of the AUPB, it will lead to abuse of power and arbitrary action.23 Article 23 of Law Number 30 of 2014 concerning Government Administration, states that the scope of discretion in decision-making or action is in accordance with laws that can provide choices for a decision or action in the public interest.

Globalization has encouraged the rapid development of information and communication technology, resulting in the latest innovations in government administration, especially the implementation of the BJP.24 One form of innovation and technology empowerment can be seen from E-government as the transformation of public services from paper-based manuals to digital through applications or websites.25

E-Government has four relationship models, namely: First, Government to Citizens (G2C). Is an online-based service that utilizes information and communication technology built by the government to improve the interaction between the government and the community. This service is to make it easier for people to reach the government in meeting needs related to services as a form of government transparency and ease of access. Second, Government to Government (G2G). Is an online service by the government to interact with other government....

agencies to facilitate cooperation in the process of diplomacy, trade administration, political relations, and others.26

Third, Government to Employees (G2E), is the provision of online services for government officials who work as public servants to improve the welfare and performance of government officials to continue to provide maximum services to the community. Fourth, Government to Business (G2B), is the creation of digital-based services by the government to make it easier for business people to interact with the government, to create a business environment from the community with a good, clean, and transparent government.27

Presidential Instruction Number 3 of 2003 concerning National Policy and Strategy for E-Government Development is a form of bureaucratic reform to realize a clean, transparent, effective, and efficient government system, especially to anticipate the practice of KKN. Through information transparency and integrated databases, the public can play an active role in supervising government administration.28

Former KPK Chairman Antasari Azhar identified several modus operandi of KKN in the government’s PJB, including: 29

a. Entrepreneurs influence regional heads/regional officials to intervene in the procurement process so that certain partners are won in tenders or appointed directly and the price of goods/services is marked up, then the difference is divided;
b. The procurement committee makes specifications of goods that lead to certain brands or products to win certain partners and mark-up prices;
c. The district head/district office orders his subordinates to dilute and use funds/budgets that do not correspond to his provisions and then hold the withdrawals accountable using fictitious evidence;
d. The regional head/regional official orders his subordinates to use regional funds/money for the personal benefit of his colleagues, or the personal interests of the regional head/regional official concerned or certain groups, then account for these expenses with fictitious evidence;
e. Request service fees (prepaid) to the winning bidder before executing the project;
f. The regional head received a sum of money from the partner by promising to be given a procurement project

Presidential Regulation of the Republic of Indonesia Number: 70 of 2012 jo Presidential Regulation Number 17 of 2023 concerning the Acceleration of Digital Transformation in the Field of Government BJP, electronic procurement is divided into two, namely e-tendering and e-purchasing.

E-tendering is an electronic tendering system where suppliers compete for contracts from public bodies. While e-purchasing is a public body buying goods directly to providers through an electronic system. The positive benefits of the system include breaking the chain of corruption motive for crime in the BJP and

27 Ibid.,
29 Tefa, op., cit
reducing fraudulent brokers or re-sellers. The e-tendering and e-purchasing systems have proven effective in anticipating the occurrence of KKN because, through electronic procurement, it can prevent officials from making direct appointments without meeting the requirements or violating procurement procedures.

Discretion in preventing KKN in the government’s BJP can be realized through:

1. Transparency, namely ensuring that the procurement process of goods and services is carried out openly and transparently so that KKN practices do not occur;
2. Conduct strict supervision of the entire procurement process of goods and services to prevent abuse of authority;
3. Enforce clear rules and regulations in the procurement of government goods and services to minimize the gap in the occurrence of KKN;
4. Involving independent parties such as supervisory agencies or external auditors to ensure integrity and transparency in the procurement process;
5. Imposing strict sanctions for KKN actors in the procurement of government goods and services as a preventive effort and as a deterrent effect for actors who have the potential to carry out KKN practices.

The discretion and policies set to prevent corruption in the BJP Government include:

a. Establishment of Integrity Pact

An integrity pact is a statement letter signed by the user or procurement committee/procurement official/provider of goods/services containing a pledge to prevent and not carry out KKN in the implementation of the procurement of goods/services. The integrity pact on the procurement of government goods/services is an effort to realize good governance and clean government. But what is more important is the material application of the pledge to prevent and not carry out KKN as stated in the integrity pact.

b. E-Procurement

E-procurement is a process of procurement of goods and services within the scope of the government that utilizes information technology in its website-based implementation process. E-procurement improves the control function against various deviations in the procurement process. The implementation of electronic procurement of goods and services was formed by a special unit of Electronic Procurement Services (LPSE), which functions as a liaison between the committee and providers of goods/services through e-procurement.

The Government BJP will increase transparency and accountability, improve the efficiency of the procurement process, create healthy business competition, and fulfill access to information in real-time to realize clean governance in the procurement of goods and services.

c. Audit System

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30 Richo Andi Wibowo., op., cit
33 Amareta Kristina Kesumadewi, op., cit.
Audit in the procurement of goods and services is one of the steps that can be taken to prevent corruption. This audit was conducted to assess the government's BJP's compliance with statutory provisions, as well as the application of procurement principles and ethics. If the auditor finds an indication of KKN in the procurement or based on complaint information from the community, a review of that indication will be carried out.\(^{34}\) Legal audits can be conducted to help government officials and management in SOEs or private companies avoid legal risks in making or implementing policies or business decisions.

4. Conclusion
The conclusions of this study are:

The effect of implementing Good Governance can anticipate the occurrence of state financial losses in the Government BJP through the implementation of the principles of participation, rule of law, transparency, effectiveness-efficiency, accountability, and equality. In addition, e-governance strategies are also needed in preventing KKN in Government BJP including prevention, law enforcement, empowering access to information, and capacity building.

Forms of policies in the procurement of goods and services that are fair and prevent the occurrence of KKN and/or direct appointment without fulfilling procurement provisions include the establishment of integrity pacts both by relevant agencies and PJB participants, the e-procurement system or goods and services through electronic tenders that are spared, and a comprehensive audit system to find indications of violations.

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