

## **The Regulation of Information Transparency in Local Government Procurement of Goods and/or Services for the Realization of Good Local Governance**

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### **ABSTRACT**

The state or government has a primary duty to ensure the well-being of its citizens. One of the efforts to achieve this is by conducting development activities, both at the national and local levels. Government procurement of goods and/or services is a crucial part of development efforts. Transparency in the execution of government procurement of goods and/or services is imperative. This paper aimed to describe the regulations concerning information transparency in the procurement of goods and/or services and its correlation with good local governance. This research was qualitative in nature, with a specific focus on doctrinal legal research. The research methodology employed a legislative approach.

### **I. INTRODUCTION**

The Indonesian nation has formulated its primary state objectives, as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) in paragraph IV, which reads as follows:

The state of Indonesia which shall protect all the people of Indonesia and all the independence and the land that has been struggled for, and to improve public welfare, to educate the life of the people and to participate toward the establishment of a world order based on freedom, perpetual peace and social justice[1]

Based on these provisions, the establishment of the Indonesian government is directed towards realizing the general welfare through the implementation of development and public services and social services. In order to achieve the state objectives as articulated in the Preamble of UUD NRI 1945 paragraph IV, the government is required to perform various functions and tasks, typically comprising regulatory and administrative duties.[2]

National development consists of a series of efforts and actions undertaken to achieve national goals and aspirations. National development is always supported by regional development conducted by Regional Governments. The success of regional development is also the success of national development, and conversely, the failure or lack of success in national development will have repercussions on regional development. Procurement of goods and services plays a crucial role in the implementation of national and regional development, particularly in enhancing and optimizing public services as well as the development of the national/central and regional economies.[3] Service in the execution of government procurement of goods and services is of utmost importance.

The procurement of goods and/or services by the government in Indonesia is currently based on Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods and/or Services (Perpres PBJP 2018) and its amendment, Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods and/or Services (Perpres PBJP 2021). One of the issues frequently encountered in practice pertains to the transparency of information related to government procurement of goods and/or services.

Participants in government procurement of goods and/or services often raise concerns regarding information concerning tender or auction documents. Information transparency in government procurement of goods and/or services is an effort to prevent the occurrence of corrupt practices, collusion, and nepotism. However, on the other hand, attention must also be given to the confidentiality of government procurement documents related to copyright, trade secrets, company secrets, unhealthy business competition, and other similar matters.

The Information Commission, as an independent body authorized by Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP), has established regulations and policies related to public

information disclosure and information that is exempt from government procurement of goods and/or services. Regulation of the Information Commission of the Republic of Indonesia Number 1 of 2021 on Public Information Service Standards (PerKI 1 of 2021) serves as the legal foundation for information that is exempt from government procurement of goods and/or services. This regulation has revoked Regulation of the Information Commission Number 1 of 2010 on Public Information Service Standards and Regulation of the Information Commission Number 1 of 2017 on Information Classification. Furthermore, the governance of government procurement of goods and/or services also needs to realize good local governance, involving the private sector and non-state actors as key participants in government procurement of goods and/or services. Based on these considerations, this article is titled “**The Regulation of Information Transparency in Local Government Procurement of Goods and/or Services for the Realization of Good Local Governance.**” The research questions that can be formulated in this study are as follows: (1) What is the regulation of information transparency in government procurement of goods and/or services in Indonesia?; and (2) What is the correlation between information transparency in the procurement of goods and/or services by local governments in realizing good local governance?

## II. RESEARCH METHOD

This study is a qualitative research with a doctrinal legal research specification. The research approach employed in this study is the statute approach. The statute approach prioritizes legal materials in the form of legal regulations as the fundamental reference for conducting research.[4] Kadek Wibawa dan Sri Nurhari lebih lanjut menyatakan bahwa: “Doctrinal law research is carried out by searching and analyzing legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials”.[5] Data collection and legal materials were conducted through literature studies or document analysis.[6] The analysis in this research is qualitative in nature, as the research process is inductive, and the final outcomes are descriptive.[7]

## III. RESULT AND DISCUSSION

### a. *Regulation of Information Transparency in Government Procurement of Goods and/or Services in Indonesia*

Article 28F of the 1945 Constitution of the Republic of Indonesia states that “Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.” In order to provide guarantees to everyone in obtaining information, laws have been enacted to regulate public information disclosure, as stipulated in Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP 14/2008). This is necessary because the right to obtain information is a fundamental human right and one of the manifestations of democratic nationhood.

In Article 1, paragraph 1, of Presidential Regulation of the Republic of Indonesia Number 16 of 2018 (Perpres 16/2018), as amended by Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods/Services, it is stated that “Government Procurement of Goods/Services, hereinafter referred to as Procurement of Goods/Services, is the activity of Procuring Goods/Services by Ministries/Institutions/Regional Devices funded by the State Budget/Regional Budget, the process of which starts from the identification of needs, up to the handover of the work results. Government procurement of goods/services is intended to obtain goods/services with the right price, the right quality, the right quantity (volume), the right vendor, and the right procurement method, as well as other agreements in accordance with the contract made so that users can utilize the intended goods/services. To obtain the said goods/services, there are fundamental principles that must be adhered to. The principles in the procurement of goods/services are efficiency, effectiveness, openness and competitiveness, transparency, fairness, non-discrimination, and accountability. Therefore, these fundamental principles serve as the legal basis for the parties involved (providers and users), and if they do not follow these fundamental principles, they may face legal enforcement.

Regarding Government Procurement of Goods/Services, the procurement of goods/services as regulated in Presidential Regulation No. 16 of 2018, when viewed in the context of the Law on Public Information Disclosure, falls within the category of information available at all times as specified in Article 11, paragraph (1), which states that: Public Bodies are obliged to provide Public Information at all times, including:

- a. a list of all mandatory Public Information under their control, excluding exempted information;
- b. the outcomes of Public Body decisions and their considerations;
- c. all existing policies and their supporting documents;
- d. project work plans, including the estimated annual expenditures of the Public Body;
- e. agreements between the Public Body and third parties;
- f. information and policies communicated by Public Officials in open meetings for the public;
- g. employee work procedures related to public service within the Public Body; and/or

h. reports regarding access to Public Information services as regulated in this Law.

In Article 14 paragraph (2) in conjunction with Article 15 paragraph (9) of the Information Commission Regulation Number 1 of 2021, it is stipulated that information pertaining to government procurement of goods and services shall consist of, at a minimum, the following elements: (a) **the planning phase**, including the General Procurement Plan (RUP); (b) **the selection phase**, including the Work Reference Framework, Estimated Self-Price (HPS); Technical Specifications; Draft Contract; Provider Requirement Documents; Selection Process Requirement Documents; Quantity and Price List; Work Execution Schedule and location data; Draft Work Design; Feasibility Study Documents and Environmental Documents; Offer Documents; Provider Offer Letters; Valid Certificates or Licenses; and others; (c) **the implementation phase**, including signed contract documents and contract amendments; contract summaries; Work Commencement Orders; and others.

***b. The Correlation of Information Transparency in Local Government Procurement of Goods and/or Services to Achieve Good Local Governance***

It has been over 13 years since the Law on Public Information Disclosure was enacted and implemented. However, in practice, many public bodies or government agencies still lack a uniform understanding and perspective regarding public information transparency, particularly in the sector of procurement of goods and services. In general, public bodies tend to consider information in the procurement process, especially in the provider evaluation phase, as exempted information that cannot be accessed by the public.

Good governance or what is commonly known as good governance is a form of responsible and well-managed development administration that aligns with democratic and efficient market principles. It aims to prevent misallocation of investment funds and corruption, both politically and administratively, while adhering to budget discipline and creating a legal and political framework for business activities to thrive. The key to understanding good governance lies in its underlying principles. It is from these principles that one can gauge the performance of a government.[8]

Transparency in government procurement of goods and services is one of the efforts to realize good governance. At the local government level, transparency accelerates the attainment of good local governance. This is because a fundamental principle of good governance involves involving actors or parties outside the government, and emphasizing openness and transparency. The principle of transparency in government procurement of goods and/or services in local governments should be further enhanced. The concept that procurement of goods and/or services is a secretive matter is no longer relevant. There has been a shift in thinking, and today, everything is considered open, except for public information that is specifically exempted from disclosure.

#### **IV. CONCLUSION**

The administration of government demands the necessity of public information transparency, including in the procurement of government goods and/or services. The conduct of government procurement of goods and/or services in an open manner is a part of fulfilling the public's right to access public information. Regulations concerning transparency in government procurement of goods and/or services are stipulated in the Information Commission Regulation Number 1 of 2021. Information transparency in government procurement of goods and/or services is one of the efforts to achieve good governance, especially focusing on good local governance in the execution of procurement of goods and/or services in local governments. The concept of good governance prioritizes the principles of openness and transparency, as well as the involvement of the private sector and the community in governance, including in government procurement activities.

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