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Transparency in the Tender Process of Regional Drinking Water Companies Amidst Unfair Competition

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Abstract: The tender procurement system in Indonesia is frequently tarnished by unfair business competition practices such as tender monopolies. These actions hurt society and the government while also impeding the efficacy and efficiency of purchasing products and services. This study takes a qualitative approach, analyzing KPPU decisions and doing literature reviews. The research findings indicate various factors contributing to the complexity of unfair business competition within tender monopolies, including a lack of accountability and transparency, lax regulation and law enforcement, entrepreneurial collusion, and external political and economic influences. Additionally, this research proposes solutions for these problems, such as boosting accountability and transparency, fortifying legal frameworks and law enforcement, and encouraging public and business education about fair competition, and establishing an effective monitoring and evaluation system to prevent unfair practices

Keywords: Unfair business competition, Tender monopoly, Tender procurement system, Law enforcement, Business Competition Supervisory Commission (KPPU).

INTRODUCTION

Water to drink is a basic human necessity that is essential to day-to-day existence. Drinking water is defined as any untreated or treated water that satisfies health regulations and is suitable for direct consumption. As part of natural resources, water is an important branch of production that controls the vital needs of many people and is controlled by the state to be used for the greatest prosperity of the people in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution. The management of water resources in Indonesia is based on this regulation as the legal foundation. Every Indonesian person is entitled under the constitution to a decent and healthy living environment. This is a fundamental human right. To fulfill the goals of the 1945 Constitution, the government and relevant parties must thereby put into practice the management and preservation of water resources. For the community, having access to reasonably priced, high-quality drinking water is essential. Regional Drinking Water Companies (PDAM) are generally responsible for providing drinking water. A Regional Owned Enterprise (BUMD) providing drinking water services is called PDAM. Public water distribution is the responsibility of PDAM in

each province, district, and city across Indonesia. At the regional level, PDAM is overseen and controlled by the legislative and executive branches. In Indonesia, drinking water services are generally managed by PDAM and private companies. In rural areas, drinking water services are often managed by the community through communal wells, water pumps, and village clean water systems. (Indonesia, 2023), (Indonesia, 1945), (Cakrafaksi, 2021), (PDAM)

PDAM is theoretically close to a monopoly, especially after the Constitutional Court (MK) annulled Law No.7 of 2004 concerning Water Resources which was submitted by the Central Leadership (PP) of Muhammadiyah et al. The reason is, the policy is considered not to guarantee the limitation of water management by private parties, so it is considered contrary to the 1945 Constitution, which gives the state a mandate to manage water as mandated by Article 33 paragraph (3) of the 1945 Constitution which is carried out by the government or regional government remains and is not transferred to the business world or the private sector. The role of the government in providing drinking water is becoming increasingly important. From the technical side, the provision of drinking water with a piping system is also a consideration for the implementation of a monopoly. The tariff-setting system that requires consideration from the executive and legislature makes the monopoly market even stronger. It can be concluded that the structure of the drinking water market in Indonesia can be categorized as a monopolistic market. Monopoly theoretically can cause losses in many aspects or often called deadweight loss. (Made, 2022), (Raharja, 2017)

Monopoly companies can control the price and quantity of products in the market, so that they can generally harm consumers in accordance with Law No. 17 of 2019 concerning Water Resources. Therefore, the operation of monopolies tends to be prohibited, limited, or controlled by the government. This government control, theoretically, has a balanced goal, between providing services to consumers and ensuring the sustainability of the company. In order to be able to establish appropriate regulations, a good understanding of the costs involved (cost) is needed.

Effective regulatory frameworks hinge on a comprehensive understanding of cost structures. By optimizing operational efficiency, companies can enhance output while minimizing expenses. This underscores the importance of cost curve analysis for all enterprises, including monopolies. This effort is known as cost curve analysis" to introduce the term "cost curve analysis. As Carlton and Perloff (2000) aptly state: "A cost curve summarizes an enormous amount of information. A firm's average cost may remain constant, rise, or fall as its output expands. If the average cost falls as output increases, the firm is said to have economies of scale (or increasing return to scale). If a firm enjoys economies of scale at all output levels, then it is efficient for one firm to produce the entire market output." (Lubis, 2017)

Efficient costs are inextricably linked to the concept of economies of scale. Once a firm's cost curve is established, it becomes possible to identify its economies of scale. This analysis have a pivotal role in determining the optimal production quantity that minimizes average cost. As Carlton and Perloff (2000) elucidate: "Economists often estimate firms' cost curves and economies of scale. Because economies of scale refer to cost savings that arise as output increases, it is important in any study of economies of scale to verify that output is the only variable accounting for cost differences among firms (or for the same form over time). Large firms differ from small firms in many ways, for example, they may produce more products or perform different functions, such as marketing. To maximize profit, a firm must minimize the cost of producing a given level of output. A cost function shows how much it costs the firm to produce various amounts of outputs. A cost function depends not only on the output produced, but also on the price of factors of production such as wages of workers and the price of raw materials." (Lubis, 2017)

The general management quality of Indonesia's state-owned enterprises (SOEs) and regional water supply corporations (PDAMs) is still inferior to that of its private counterparts, notwithstanding the impressive success stories of a select few. This disparity can be attributed to several persistent challenges, as outlined by Kuncoro (2009) and various studies on PDAM performance. Politicians and bureaucrats frequently exert undue influence over SOEs, impairing their independence and ability to make wise decisions; Many state-owned enterprises (SOEs) face challenges such as antiquated and ineffective manufacturing facilities, antiquated management methods, and an overabundance of low-skilled employees and a shortage of competent and qualified workers; Because of the government's limited ability to provide sufficient funds, especially for faltering businesses, SOEs frequently suffer financial restraints; In certain SOEs, corruption (KKN) is still a major problem that squanders resources and threatens accountability and transparency; Similar issues with PDAM leadership selection exist, with political appointments occasionally giving loyalty precedence over skill; SOEs frequently overlook chances for cooperation and synergy, which impedes their overall development and competitiveness; (Raharja, 2017), (Lubis, 2017)

The challenges faced by state-owned companies (SOEs) in Indonesia are comparable to the poor performance of regional water supply companies (PDAMs). The Ministry of Finance (1997), Kamaludin (2000), Purwadi (2000), and Mandala (2010) are just a few of the studies that have highlighted 11 common challenges that affect PDAMs, which are similar to the problems experienced by SOEs. Local governments frequently intervene with PDAMs, which results in inefficient decision-making and resource allocation; PDAMs are saddled with antiquated machinery and equipment, which impedes effective operations and raises maintenance costs; PDAMs battle with overstaffing with low-skilled workers in addition to a lack of qualified and competent workers; Some PDAMs are kept up despite their financial limitations, even when they continuously turn a loss, consuming resources and impeding the effectiveness of the whole; Effective decision-making is hampered by the absence of a clear and complete legal framework governing PDAMs, which breeds confusion; PDAMs frequently lack the managerial knowledge and abilities required to oversee operations, finances, and human resources successfully; PDAMs' capacity to invest in infrastructural improvements, technological breakthroughs, and human resource development is hampered by limited access to cash; PDAMs have trouble selling their services efficiently, which results in unhappy customers and lost sales opportunities; Examples of corruption in the PDAM leadership selection process erode public confidence and obstruct accountability and transparency; Many PDAMs are burdened with heavy debt, which restricts their capacity to invest and innovate; The absence of adequate supervision by supervisory bodies leads to problems within PDAMs that cannot be resolved through appropriate intervention or remedial measures. (Lubis, 2017)

Regional water supply companies (PDAMs) in Indonesia are in a unique position where they must balance their obligations as public utilities, public servants, and profit-making enterprises. To excel in these roles, enhancing their performance is crucial. As Rondinelli (2005) aptly states, improving the performance of state-owned enterprises (SOEs) like PDAMs requires not only internal governance and management reforms but also a focus on commercialization and marketization. To effectively operate within market criteria and compete with private companies and public service providers, PDAMs need to undergo corporatization and acquire a specific legal business status. This transformation empowers them to embrace commercial principles, optimize resource allocation, and enhance efficiency. (Lubis, 2017)

To improve public access to high-quality water, PDAM Way Rilau, a local water provider in Bandar Lampung, developed a management plan that included both infrastructure upkeep and the purchase of state-of-the-art technology. PDAM Way Rilau, however, blatantly violated the rules of fair competition by engaging in bid-rigging operations with PT

Bangun Cipta Kontraktor and PT Bangun Tjipta Sarana during the procurement process. The vertical bid-rigging method implemented by PDAM Way Rilau and KSO II & III is classified as such since it involved the tender committee making a number of concessions to KSO II & III's bidding conditions in order to help them win the contract. This action clearly contravenes Article 22 of Law No. 5 of 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition, which prohibits monopolistic and unfair business practices. The Indonesian Competition Commission (KPPU) was established under Presidential Decree No. 75 of 1999 and is mandated to oversee and enforce the implementation of the Competition Law. In carrying out its duties, KPPU has several functions, including: Preventing and monitoring the occurrence of monopolistic and/or unfair business practices; Enforcing the law by prohibiting monopolistic and/or unfair business practices. KPPU uses two methods to identify barriers in the market: Per se Illegal Approach: To give firms clarity, enacting a complete prohibition on monopolistic and unjust business practices; Rule of Reason Approach: Assessing the degree of harm caused by an illegal behavior that a company engages in. Based on the Indonesian Competition Commission Decision No. 14/KPPU-L/2019, PDAM Way Rilau was found to have engaged in bid-rigging with PT Bangun Cipta Kontraktor and PT Bangun Tjipta Sarana. This act violates the Competition Law and inflicts harm on the public due to a non-transparent and unfair tender process. (Competition Law), (Indonesia, 1999), (Commission, 2019)

This study is to investigate collusive behavior and the importance of openness in preserving fairness and integrity in the tender process against the backdrop of the aforementioned problems. The main points of interest are the purported anti-competitive actions taken by the PDAM Way Rilau Procurement Committee and the monopolistic tactics used in the purchase of Bandar Lampung City's drinking water delivery system. The anti-monopoly and unfair business competition legislation of Indonesia will be consulted in this research. The research will specifically examine Decision No. 14/KPPU-L/2019 of the Indonesian Competition Supervisory Commission (KPPU), which addresses the purported infringement of Article 22 of Law No. 5 of 1999 on Anti-Monopoly and Unfair Business Competition (Anti-Monopoly Law). Respondents I, II, and III in the case are PDAM Way Rilau City of Bandar Lampung, PT Bangun Cipta Kontraktor, and PT Bangun Tjipta Sarana. The following inquiries will be investigated by the study:

1. How did the tender process violations occur in the PDAM Way Rilau case?
2. What are effective solutions to prevent and address future tender process violations?

The research will draw upon KPPU Decision No. 14/KPPU-L/2019 and relevant regulations to develop comprehensive insights and recommendations.

METHOD

The research method used in this study is normative juridical research with a statutory approach and a case approach. Data collection was conducted through library research aimed at obtaining secondary data. The secondary data used includes primary legal materials and secondary legal materials. The primary legal materials used in this study include Law Number 5 of 1999 on the prohibition of monopolistic practices and unfair business competition, Law Number 32 of 2004 on Regional Government, Law of the Republic of Indonesia Number 14 of 2008 on Public Information Disclosure, and Government Regulation of the Republic of Indonesia Number 61 of 2010 on the Implementation of Law Number 14 of 2008 on Public Information Disclosure, Presidential Regulation (*Perpres*) Number 12 of 2021 on Amendments to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods/Services, and the decision of the Business Competition Supervisory Commission (KPPU) Number 14/KPPU-L/2019. The secondary legal materials used in this research consist of books on business law, books on business competition law and monopoly, scientific works such as scientific journals, and theses related to the issue, and other materials

related to the subject matter, and by data search activities using the internet. The data collected was then analyzed using qualitative methods.

RESULTS AND DISCUSSION

Provisions Regarding Transparency in the Tender Process

In accordance with Article 47 of Law Number 5 of 1999, PDAM Way Rilau of Bandar Lampung City was fined IDR 1.747.000.000,00 (one billion seven hundred forty-seven million rupiah), Rp3.843.000.000,00 (three billion eight hundred forty-three million rupiah), and Rp3.843.000.000,00 (three billion eight hundred forty-three million rupiah). For demonstrated monopolistic behaviors and unfair business competition during the Bandar Lampung City SPAM project tender process, a sum of Rp9.437.000.000,00 (nine billion four hundred thirty-seven million rupiah) has been levied in administrative sanctions. The tender process's lack of transparency was one of the infractions. The dire repercussions could result from an opaque procurement process, as mentioned explicitly in KPPU Decision Number 14/KPPU-L/2019. Respondent I broke the rules of transparency in this case by evaluating the tender objectively and by not distributing the notice of the tender widely enough (it was posted on the LPSE website, not in the media or on bulletin boards). (Commission, 2019)

Additionally, Respondent did not make the tender documents easily accessible (they were only available to registered participants in the tender). Transparency is required by Law Number 32 of 2004 on Regional Government, Article 23 Paragraph 2, which says the following. "The management of regional finances as referred to in paragraph (1) shall be conducted efficiently, effectively, transparently, accountably, orderly, fairly, properly, and in compliance with the regulations," is a requirement that is violated in the case of Respondent I, PT PDAM Way Rilau of Bandar Lampung City. This requirement is similar to Law of the Republic of Indonesia Number 14 of 2008 on Public Information Disclosure and Government Regulation of the Republic of Indonesia Number 61 of 2010 on the Implementation of Law Number 14 of 2008 on Public Information Disclosure, Article 14(h), which stresses the governance and execution components, but it also states: "Guidelines for implementing good corporate governance based on the principles of transparency, accountability, responsibility, independence, and obligations."

KPPU Decision 14/KPPU-L/2019 states that PDAM Way Rilau participated in collusion during the post-bidding process by submitting technical and administrative documents that did not satisfy PDAM Way Rilau's initial requirements, which were evidently different from those for other participants. Examples of these documents include the original offer guarantee letter from KSO Respondent II and Respondent III. For instance, because the participant in the Maynilad-WIKA case failed to submit all required bid documents, the committee decided not to do a technical examination. Respondent II did, however, declare during the hearing on December 12, 2019: "I seem to remember that the committee turned down a bid from WIKA that sought to submit documents after 14:00 WIB. There was a request from WIKA to submit additional documents because they were still on the way, but the committee insisted that 14:00 WIB was the closing time and documents had to be submitted by then."

Furthermore, Presidential Regulation (Perpres) Number 12 of 2021 on Amendments to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods/Services, Article 27A states: "PPK may use contract types other than those referred to in Article 27 under the characteristics of the work to be performed." And paragraph 2 states: "PPK, in determining the type of contract as referred to in paragraph (1), must consider efficiency, effectiveness, and compliance with the regulatory provisions." In the PDAM Way Rilau water project case, the tender process involved unfair business practices, including granting exclusive rights to KSO Respondent I and Respondent II, under the jurisdiction of regional government procurement. This lack of transparency can also indicate collusion,

which is prohibited under the Anti-Monopoly Law, as decided by the KPPU. This instance emphasizes how crucial it is to include provisions for transparency in the bidding process. Transparency can guarantee that all interested parties have an equal chance to participate in the tender by preventing corruption and collusion. To promote transparency in the tender process, various actions should be followed, including; To enhance transparency in the tender process, numerous procedures should be taken. First, tender announcements should be published in various media, such as mass media, the LPSE website, and bulletin boards. Second, tender documents should be easily accessible to all interested parties, both online and offline. Third, the evaluation criteria should be published to all tender participants, and the evaluation results should be officially announced to increase objectivity in the tender evaluation. Fourth, there should be an objective and competent handling of concerns, and complaint procedures should be easily accessible and instructive. Finally, to guarantee accountability and openness, the tendering process needs to be routinely reviewed and monitored.

Effective Regulations and Law Enforcement

The prevalence of bid-rigging and bribery in tenders raises the price of products and services. This fraud burdens taxpayers and erodes public trust in the government. Beyond just monetary losses, contracting with unfit companies can lead to project quality problems, safety risks, and long-term economic harm. It is imperative to use a multifaceted approach to address this. To guarantee public funds are used efficiently for excellent projects that benefit everyone, it is crucial to strengthen oversight agencies, promote transparency through open bidding and public access to information, enforce stricter penalties, and cultivate an integrity-driven culture throughout institutions.

The PDAM Way Rilau tender violation case reflects a wider problem of systematic misconduct, mirroring similar cases across regions. While project specifics like type and value influence the methods used, core tactics include bid rigging (companies colluding on prices or splitting projects), price mark-ups (winners inflating costs), and bribery (officials influenced by bribes). These practices stifle competition, inflate prices, and erode public trust in the procurement process. Tender violations inflict a ripple effect of harm beyond immediate financial losses. Public funds meant for essential programs are siphoned away while awarding contracts to unqualified firms risks shoddy projects that endanger safety and incur long-term economic costs. Ultimately, the public loses trust in a government that seems to tolerate unfair and non-transparent procurement practices.

KPPU, as an independent competition Supervisory institution, plays a pivotal role in addressing tender violation cases. Through investigations and evidence gathering, KPPU identifies and penalizes violators. Sanctions may include financial penalties commensurate with the severity of the offense, corrective orders mandating the rectification of misconduct, and in extreme cases, the severing of business ties between offending companies and government agencies. These measures aim to deter future violations, safeguard public funds, and promote fair competition in procurement processes. (Ristiyanto, 2013)

A Concrete Case of Tender Violation and Its Handling we can take, a compelling example of tender violation and its handling can be drawn from the procurement of goods and services for the Construction of Ngajam - Apulea Road Section III (Ngajam-Apulea Village) in 2019 with a project value of Rp 100 billion. The Kediri City Education Office conducted a tender process for the procurement of goods and services worth Rp 67.453.657.000,00 (Sixty-seven billion four hundred fifty-three million six hundred fifty-seven thousand rupiah). Subsequently, the KPPU (Business Competition Supervisory Commission) discovered that several companies participating in the tender colluded to win the project, including Respondent I, PT Ikhlas Bangun Sarana, with Respondent II, PT Hapsari Nusantara Gemilang, Respondent III, PT Cipta Aksara Perkasa, and Working Group

I of the Halmahera Utara Regency Procurement Service Unit in 2018 (Pokja I ULP). These companies agreed to divide the project and determine the tender winner. As a result, the tender process was not conducted competitively, and the state suffered losses due to having to pay a higher price. In its handling, the KPPU conducted an investigation and gathered evidence of the tender collusion committed by several companies. The KPPU then imposed a fine on Working Group I of the Halmahera Utara Regency Procurement Service Unit in 2018 and the companies proven to have committed violations. The KPPU also ordered Working Group I of the Halmahera Utara Regency Procurement Service Unit in 2018 and the companies proven to have committed violations to rectify the tender process and conduct a re-tender in a transparent and accountable manner. The handling of this case also had a deterrent effect on companies that wanted to commit tender violations in the future. In addition, public trust in the government's goods and services procurement process increased. (Commission, 2019)

A multi-pronged approach is recommended to tackle tender violation prevention and handling. This includes stronger regulations with online information disclosure, stakeholder involvement, and transparency; detailed national and international standard guidelines; and harmonized local regulations with reinforced transparency. Law enforcement can be improved by increasing KPPU's budget and capacity, fostering collaboration with law enforcement and BPK, and empowering KPPU to seize assets. Oversight can be strengthened through online reporting platforms, NGO partnerships, and regular coordination with BPK and the Inspectorates General. Public engagement should involve educational campaigns, encouraging public participation in monitoring, and promoting online platforms for information access and reporting. Local governments can contribute by implementing online reporting systems, collaborating with NGOs and universities, coordinating with KPPU, imposing sanctions on local officials, and finally, performance measurement can be achieved through defining measurable indicators, conducting regular monitoring and evaluation with published results, and encouraging civil society and media to monitor the process. This comprehensive approach will lead to a transparent, accountable, and efficient tender system. (Yusdiyanto, 2012)

To effectively eradicate tender violations, a multi-layered strategy is essential. First, strengthening KPPU's institutional capacity is paramount. This involves allocating adequate funding to enhance their operational capabilities, investing in targeted training programs for staff to elevate their expertise, and upgrading their Information and Communication Technology (ICT) infrastructure to expedite investigations and data analysis. Additionally, establishing a dedicated task force with the Attorney General's Office, the Indonesian National Police, and the Supreme Audit Board (BPK) would streamline investigations and prosecutions by fostering inter-agency collaboration and information sharing. Secondly, fostering transparency and accountability is critical. This can be done by creating an extensive web portal that makes tender information, such as project specifications, bidding guidelines, and contracts awarded, freely available to all parties involved. The use of an electronic tendering system would augment transparency and efficiency by mechanizing the processes involved in bid submission and review. It is also important to promote public participation, which may be done in a number of ways, including by hosting open tender meetings, letting the public ask questions and provide comments at any point during the process, and being more open about how procurement funds are spent. Thirdly, it is imperative that procurement authorities develop their ability and honesty. Regular training and education programs focused on tender regulations and best practices are essential to equip officials with the necessary knowledge. Addressing the risk of bribery requires improving compensation and benefits packages for procurement officials and staff. Implementing a robust rotation system would further mitigate collusion risks by preventing the formation of long-term relationships with specific companies. Cultivating a culture of

integrity within government agencies involved in tender processes is vital. This can be achieved by establishing a whistleblowing system that protects witnesses and whistleblowers from threats and intimidation, encouraging ethical conduct, and promoting a zero-tolerance approach to corruption. Fourthly, engaging the private sector and the public is vital. Encouraging the private sector to adopt best practices in tender processes is crucial. This can be achieved by promoting adherence to ethical codes of conduct and sound corporate governance standards. Civil society participation in monitoring and overseeing tender processes should be actively supported. This can be facilitated through the creation of independent tender monitoring organizations that advocate for government reforms and ensure transparency. Public awareness campaigns are crucial to educate the public about tender regulations, best practices, and the importance of reporting suspected violations to the authorities. Last but not least, maintaining rigorous and uniform law enforcement is essential to preventing more infractions. This calls for the imposition of harsh punishments appropriate to the seriousness of the violations, such as hefty fines, incarceration for those found guilty, and even the cancellation of business licenses for organizations found guilty of bribery or bid-rigging. To promote cooperation and guarantee successful investigations, it is crucial to shield witnesses and whistleblowers from threats and intimidation. Additionally, enhancing transparency in law enforcement processes through public reporting of case progress would build public trust and strengthen the fight against corruption. Expediting the resolution of tender violation cases is also crucial to ensure swift consequences and prevent prolonged legal battles that hinder economic development. Last but not least, continuous monitoring and evaluation are instrumental in assessing the effectiveness of these measures. Measurable performance indicators, like the quantity of cases examined, the severity of sanctions enforced, and the degree of public satisfaction, should be established in order to measure advancement and pinpoint areas in need of improvement. Transparency and accountability are promoted by the government's regular release of the findings of monitoring and evaluation initiatives, both internally and externally, through the previously mentioned online platform and public reports. This enables stakeholders to follow the government's progress toward ending tender violations. We can establish a strong, transparent, and effective tender system that encourages fair competition, deters corruption, and eventually advances Indonesia's sustainable development by putting this thorough and methodical approach into practice. (Kostyó, 2006), (Indonesia, 1999)

Eliminating tender violations necessitates a multifaceted strategy that empowers stakeholders, increases enforcement, and promotes transparency. First and foremost, increasing transparency is critical. Project specifics, bidding specifications, and awarded contracts are examples of public tender information that should be easily accessible on specialized websites such as <https://lpse.lkpp.go.id/> and <https://sikap.lkpp.go.id/>. Involving a wide range of stakeholders including the commercial sector and civil society through outreach initiatives and forums promotes inclusion and deters collusion. Enforcing e-tendering laws makes the process more efficient and reduces human error; additionally, making tender documents available to the public increases accountability and openness. Second, in order to discourage infractions, enforcement procedures must be strengthened. Stronger deterrents come from harsher punishments for violators, such as hefty fines, the cancellation of business licenses, and in extreme circumstances, criminal prosecution. Furthermore, establishing consistent coordination between KPPU, the Supreme Audit Board (BPK), and Inspectorates General of ministries/institutions speeds up information sharing and probes into possible infractions. By putting in place a reliable electronic monitoring system, authorities can oversee the tendering process in real-time and swiftly detect and resolve any irregularities. This system could include monitoring activity on e-tendering platforms and social media to detect suspicious patterns or communication. Thirdly, in order to establish an integrity-based culture, stakeholders must be empowered. By planning educational initiatives

to increase public knowledge of the risks associated with tender violations and the significance of procurement process transparency, civil society can play a critical role. Encouraging active public participation means letting people ask questions, report suspected irregularities to KPPU through other channels or dedicated online platforms, attend open tender meetings, and use online platforms to report violations and access tender information. The implementation of online reporting tools by local governments can play a crucial role in this endeavor by streamlining the reporting procedure for residents who wish to report potential infractions within their territories. Collaborating with NGOs and universities can help enhance public literacy regarding tender regulations and best practices. Furthermore, regular coordination with KPPU and other oversight bodies ensures a unified approach to addressing local tender violations. Ultimately, it is very evident that corruption will not be tolerated when municipal officials who violate tender agreements face severe consequences, such as termination from their positions and disciplinary action. Continuous monitoring and assessment are necessary for determining success and encouraging accountability. KPPU should regularly publish the results of their monitoring and evaluation efforts on websites, social media, and in annual reports. This transparency allows civil society and the media to effectively monitor and evaluate KPPU and government performance in preventing and handling tender violations. By holding these entities accountable, we can ensure that efforts to combat tender violations are implemented effectively and sustainably, ultimately fostering a fair and transparent procurement system that promotes economic development in Indonesia.

Combating tender violations demands a multi-pronged attack: clear regulations, strong enforcement (well-funded investigations, harsh penalties), empowered oversight (KPPU collaboration), and public participation (awareness, whistleblower protection, reporting). Continuous monitoring and data-driven decisions ensure ongoing improvement. For Indonesia's development, this all-encompassing strategy promotes an equitable and open procurement system.

An essential part of ensuring fair competition in Indonesia's ever-changing business environment is the Indonesian Competition Commission (KPPU). Since its establishment under Law No. 5 of 1999, KPPU has used a wide range of resources to monitor, look into, and decide instances concerning actions that can impede free and fair competition. Receiving reports about possible infractions from people or companies, looking into the matter thoroughly to guarantee a fair conclusion, and punishing violators appropriately are all part of this. (Indonesia, 1999)

KPPU's Broad Authority

In carrying out its functions as regulated in Article 3, KPPU (Indonesian Business Competition Supervisory Commission) has several important tasks, namely the prevention and supervision of monopolistic practices and unfair business competition, enforcement of laws related to the prohibition of monopolistic practices and unfair business competition, and assessment of plans for mergers, consolidations, or acquisitions of business entities, share or asset takeovers, or the formation of joint ventures that may result in monopolistic practices and unfair business competition. Additionally, KPPU is also tasked with providing advice and considerations on government policies related to monopolistic practices and unfair business competition, as well as supervising the implementation of partnership relationships (Kostyó, 2006).

Therefore, it is important for local governments to ensure that procurement of goods and services (PBJ) is conducted transparently, accountably, and fairly, as outlined in KPPU Decision No. 14/KPPU-L/2019 and various related regulations. In efforts to prevent violations, local governments must establish and enforce PBJ regulations, including provisions regarding tender announcements, participant qualifications, tender evaluations, and dispute resolutions to ensure transparency and accountability and to prevent corruption.

Additionally, enhancing the capacity of PBJ personnel is crucial so that they have adequate knowledge and understanding of PBJ regulations and best practices in their implementation, which can be achieved through regular training and education. Local governments should also build a transparent and accountable PBJ system by widely publishing tender information through official websites, mass media, and bulletin boards, providing easy public access to tender-related information, offering public information services, conducting regular monitoring and evaluation of PBJ implementation, and involving the public and private sector in the PBJ process. Furthermore, increasing the integrity and commitment of PBJ personnel is also very important to prevent corruption and other violations in the tender process, which can be done by imposing strict sanctions for violations, fostering an anti-corruption culture within local governments, and rewarding PBJ personnel who excel.

To address violations in the tender process, local governments must take concrete steps that involve investigation, regulation enforcement, and public education. First, when there is a suspicion of violations in the tender process, local governments must conduct investigations and inquiries to gather the necessary evidence. If a violation is proven, local governments must process it according to applicable regulations, such as imposing sanctions on the violating parties, which could include administrative penalties, fines, or blacklisting, and reporting the violation to law enforcement agencies. Additionally, if the violation results in financial losses to the state, local governments must take steps to recover those losses. Beyond law enforcement aspects, local governments must also focus on educating and informing the public about the procurement of goods and services (PBJ) and their rights in overseeing the tender process. This can be done through public outreach, forming civil society communities to oversee the tender process, and establishing public complaint channels to report suspected violations in the tender process.

Local governments have the obligation to conduct procurement of goods and services (PBJ) that is transparent, accountable, and fair. This aligns with the principles of good governance. To enhance transparency and accountability in the tender process, local governments have undertaken various efforts, including:

1. Building an online platform for the procurement of goods and services. This platform allows the public to easily and quickly access tender information, such as tender announcements, tender documents, and tender evaluation results.
2. Implementing e-tendering. The e-tendering system allows the tender process to be conducted online, reducing the risk of manipulation and increasing the efficiency of the tender process.
3. Utilizing social media. Social media can be used to disseminate tender information to a wider audience.
4. Conducting public outreach and education on PBJ. This outreach and education aim to increase public understanding of the tender process and their rights in overseeing the tender process.
5. Forming monitoring and evaluation (Monev) teams consisting of community elements. These Monev teams are tasked with monitoring and evaluating the tender process and reporting their findings to local governments.
6. Encouraging public participation in the tender process. The public can participate as tender participants, witnesses, or reporters if they find indications of violations.
7. Providing training and education to PBJ personnel. This training and education aim to increase the knowledge and skills of PBJ personnel in conducting PBJ transparently and accountably.
8. Fostering a culture of integrity and anti-corruption within PBJ personnel. This culture is important to prevent PBJ personnel from engaging in unlawful and unethical actions.
9. Rewarding PBJ personnel who excel in conducting PBJ transparently and accountably.

10. Conducting internal supervision of PBJ implementation. This internal supervision is carried out by internal personnel of local governments.
11. Collaborating with law enforcement agencies to supervise the tender process. This collaboration aims to strictly enforce violations that occur in the tender process.
12. Conducting regular monitoring and evaluation (Monev) of PBJ implementation to ensure that PBJ is conducted in accordance with regulations and best practices.
13. Publishing tender information widely. Tender information should be published on official local government websites, mass media, and bulletin boards.
14. Providing easy public access to tender information. The public should be able to easily access tender information, such as tender announcements, tender documents, and tender evaluation results.
15. Providing public information services related to PBJ. These public information services can include call centers, websites, or social media.

Law enforcement agencies, such as the police, the prosecutor's office, and the Corruption Eradication Commission (KPK), have an important role in overseeing and handling violations in the tender process. They are responsible for conducting professional, transparent, and accountable investigations and inquiries into suspected violations. This process must be carried out by collecting relevant evidence and following up on every reported suspicion of violations. Through in-depth investigations, law enforcement agencies can identify actions that are not in accordance with the law and impose appropriate sanctions. If violations are proven, law enforcement agencies must process them according to applicable laws. This may involve the imposition of criminal sanctions, such as detention or fines, as well as administrative sanctions such as business license revocation or contract termination. Additionally, efforts to recover financial losses to the state are also a top priority, ensuring that losses arising from violations can be compensated with appropriate actions. Law enforcement agencies also have the responsibility to educate the public about the importance of law enforcement in preventing and addressing violations in the tender process. They can conduct outreach and education to the public to raise awareness about their rights and responsibilities in overseeing the tender process. By establishing accessible communication channels for the public, law enforcement agencies can help the public report suspected violations and ensure that every report is taken seriously.

The Role of Regional Governments According to KPPU Decision Number 14/KPPU-L/2019

Local governments are responsible for overseeing and monitoring the implementation of PBJ (Procurement of Goods and Services) in their respective regions. This includes providing training and technical guidance (bimtek) for Procurement Officials (PPK) and Procurement Services Units (ULP), as well as conducting monitoring and evaluation (Monev) of PBJ implementation, including document and tender examinations. If violations are found, local governments must take firm action against the PPK and ULP involved. An easily accessible PBJ information system must be established and maintained for public access. This system should contain information on procurement packages, tender requirements, the tendering process, tender results, and PBJ reports. This information's transparency promotes public trust and guarantees that the PBJ procedure is carried out in compliance with legal requirements.

Public participation in the tendering process and broad dissemination of procurement package information are required. To guarantee that the community benefits as much as possible, PBJ budgets must be utilized successfully and efficiently. It is imperative for local governments to collaborate with pertinent organizations including BPKP, LKPP, and KPPU to guarantee that PBJ operating in the area adheres to rules and fair competition principles. To supervise and assess the PBJ implementation in the area and make sure that every

procedure is carried out in compliance with the rules, a capable and impartial PBJ Money team needs to be established. If infractions are discovered, appropriate penalties that correspond to the severity of the infraction must be applied, such as written warnings, fines, the cancellation of company licenses, or even criminal penalties. The example of KPPU actively maintaining transparency is PT PDAM Way Rilau Kota Bandar Lampung. In Decision Number 14/KPPU-1/2019, the Competition Supervisory Commission (KPPU) levied a fine for bid colluding tactics. Additionally, KPPU works with pertinent agencies to enhance the tendering process's accountability and openness. As demonstrated in the PT PDAM Way Rilau Kota Bandar Lampung case, collusion tactics are made possible by a lack of transparency in the contracting process. KPPU, through its authority, can act against these practices and ensure a fair and accountable tendering process.

The social impacts of tendering process violations are significant and have the potential to disrupt social order. One of the main effects is public mistrust of the government, as demonstrated by the Decision of KPPU Number 14/KPPU-L/2019 about PDAM Way Rilau Kota Bandar Lampung. The public's perception that local governments are not committed to growing their communities and enhancing their welfare is a result of the bidding process's lack of accountability and transparency, which ultimately impedes the government's attempts to accomplish its objectives. When SPAM (Drinking Water Supply System) projects are violated, the quality of the project suffers and public health is put at risk. This lowers the standard of living and fuels social unrest. Due to a sick and unproductive population, this reduction in quality of life not only exacerbates social inequality but also impedes economic development. The disparity between the rich and the poor gets wider as a result of state financial losses and increased project costs brought on by breaches in the tendering process.

This can lead to social discontent and impede economic growth. In one instance, KPPU found evidence of conspiracy in the SPAM procurement tendering process in Kota Bandar Lampung between Respondent 1, the local government, and Respondent 2, the contractor. Respondent 1 engaged in a conspiracy by giving Respondent 2 access to private tender information, so limiting Respondent 2's ability to meet the requirements and ultimately win the contract at a price much above the fair price. Consequently, the SPAM project, which should have provided maximum benefit to the community, became suboptimal and caused losses to the state and the community. The negative impacts of tendering process violations are highly detrimental. Firstly, there is a significant financial loss to the state, where the state must pay a SPAM price higher than it should. This loss hinders the allocation of funds for other programs that should benefit the community, such as infrastructure development, education, and health. Secondly, the quality of the constructed SPAM is feared to decline because the higher price does not guarantee improved quality, and instead, they may use materials that do not meet specifications to reduce costs. This has the potential to cause the project to be short-lived, easily damaged, and not provide maximum benefit to the community. Thirdly, public trust in the local government plummets due to violations in the tendering process, indicating a lack of transparency and accountability on the part of the government. This KPPU decision also underscores the importance of preventive measures and handling of future tendering process violations. Local governments must be more transparent and accountable in carrying out the tendering process and actively involve the community in monitoring. Stricter and clearer regulations on tendering process stages, participant requirements, and evaluation are essential.

CONCLUSION

This research investigates how tender process violations unfolded in the PDAM Way Rilau case and proposes effective solutions to prevent similar issues in the future. It suggests that the violations likely stemmed from PDAM Way Rilau's failure to uphold transparency

and accountability principles. This might have involved limited publication of tender announcements, restricted access to tender documents for potential participants, and potentially employing non-objective evaluation criteria, all of which could have disadvantaged qualified businesses and resulted in unfair competition.

To prevent future occurrences, the research recommends a multi-pronged approach. This includes strengthening and clarifying tender regulations, enforcing them with strictness, and enhancing the role of supervisory bodies to ensure proper oversight. Additionally, promoting public participation in the tender process is crucial for increased transparency. Furthermore, expanding the reach of tender announcements, guaranteeing accessibility of tender documents, and publishing objective evaluation results are suggested as essential measures. By implementing these solutions, we can create a more equitable and competitive business environment, deter corruption and collusion in tenders, and ultimately achieve transparency in public procurement. This transparency serves as a cornerstone for efficient regional development project management and contributes to sustainable growth.

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