

Kajian terhadap pembentukan badan usaha penjaminan infrastruktur = Review of the development of infrastructure guarantee facility

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Abstrak

Badan Usaha Penjaminan Infrastruktur dibentuk untuk meningkatkan kredibilitas atau kelayakan kredit (credit worthiness) jaminan infrastruktur serta untuk menerapkan pengendalian resiko keuangan dalam Anggaran Pendapatan Belanja Negara (APBN). Sebelumnya, dukungan dan jaminan diberikan tanpa adanya ketentuan yang membatasi, sehingga tidak ada kepastian hukum dan terdapat resiko kerugian yang mungkin ditimbulkan terhadap APBN. Sejak tahun 2006 jenis resiko yang dijamin oleh pemerintah dalam proyek kerjasama pembangunan infrastruktur dibatasi, namun dengan berdirinya Badan Usaha Penjaminan Infrastruktur, terdapat mekanisme satu pelaksana (single window) di mana seluruh rangkaian proses penjaminan dilakukan melalui Badan Usaha Penjaminan Infrastruktur, baik jika penjaminan dilakukan oleh Badan Usaha Penjaminan Infrastruktur, Pemerintah, atau merupakan penjaminan bersama. Kepastian hukum dapat diperoleh melalui ketegasan tidak hanya jenis resiko dan cakupan penjaminan, namun juga kriteria penjaminan, ketentuan dan tata cara pengajuan dan penyelesaian klaim. Selain itu, mekanisme regres dapat meningkatkan kredibilitas karena penjamin dapat meminta pertanggung jawaban Penanggung Jawab Proyek Kerjasama setelah jaminan dibayarkan. Penjaminan infrastruktur yang disediakan melalui BUPI yang didirikan dalam bentuk Persero merupakan pilihan yang diambil oleh pemerintah untuk membatasi terpaparnya APBN akibat resiko kontijensi penyediaan blanket guarantee dan meningkatkan kredibilitas proyek kerjasama antara pemerintah dan badan usaha swasta dalam pembangunan infrastruktur. Meski demikian, berbagai permasalahan yang dihadapi dalam proyek kerjasama antara pemerintah dan badan usaha swasta dalam pembangunan infrastruktur tidak dapat diselesaikan hanya melalui keberadaan BUPI. Upaya lain harus dilakukan agar BUPI dapat berperan dalam penjaminan infrastruktur. Agar BUPI dapat memainkan perannya, kebijakan yang terkait dengan pembangunan infrastruktur dan kapasitas pemerintah harus dibenahi. Kemampuan BUPI untuk melakukan due diligence, mendapatkan akses dan melakukan koordinasi antar instansi yang terkait sebaiknya dijamin.

.....Infrastructure Guarantee Facility is created to improve credibility or credit worthiness of infrastructure guarantee and to apply financial risk management in the State Budget. Prior to the creation of the facility, support and guarantee is provided without restricting provision, thus there is little legal certainty and the arrangement poses a risk to the State Budget. Since 2006 the types of risk to be guaranteed by the government in public private partnership infrastructure development is limited, but with the creation of Infrastructure Guarantee Facility, a single window is constituted whereby all guarantee processes are undertaken by the Infrastructure Guarantee Facility, in instances where guarantee is provided by the government or by the Facility, or is a joint guarantee. Legal certainty is improved not only through the better definition of the types of risks and coverage of guarantee, but also in the criteria of guarantee, the requirements and procedures of claim submission and processing. Apart from that, ability to request payment from contracting agency will improve credibility as Contracting Agency will have to account their conduct following the payment of guarantee. Infrastructure guarantee provided by IGF, set up as a limited

liability corporation is the choice made by the government to limit the contingency risk exposed to the state budget, attributed by the provision of blanket guarantees and to improve credibility of public private partnership in infrastructure development. However, a multitude of issues prevail which impede the success of public private partnership in infrastructure, and the presence of IGF in solitary will not be able to resolve such issues. Other efforts have to be made in order for IGF to effectively play its role in guaranteeing infrastructure projects. In order to ensure effective role of IGF, reforms are required for policies which affect infrastructure and capacity of public institutions need to be built. IGF's ability to perform due diligence, and to access and to play coordinating role between relevant institutions should also be effectively in place.