

Pengadaan Barang/Jasa Dengan Metode Penunjukan Langsung Pada PT Angkasa Pura I (Persero) Dalam Pelaksanaan Investasi Pembangunan Bandara Dari Perspektif Hukum Persaingan Usaha = Procurement of Goods and Services By Direct Appointment Method To PT Angkasa Pura I (Persero) In The Implementation Of Airport Development Investment From The Perspective Of Business Competition Law

Bernat S Turnip, author

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Abstrak

Dalam pelaksanaan sinergi pada entitas bisnis berupa Badan Usaha Milik Negara (BUMN) seringkali dilakukan dengan metode menunjuk langsung penyedia/vendor barang dan jasa dimana penunjukan tersebut biasanya di serahkan kepada UMN lainnya maupun anak perusahaan BUMN (subsidiary) serta perusahaan terafiliasi BUMN, kondisi tersebut diperbolehkan sepanjang telah sesuai prosedur/peraturan pengadaan barang dan jasa yang diatur dalam peraturan pengadaan barang/jasa masing-masing perusahaan dan tidak bertentangan dengan peraturan presiden dan peraturan menteri mengenai pengadaan barang dan jasa dan tidak melanggar prinsip-prinsip persaingan usaha yang tidak sehat khususnya pelanggaran terhadap praktek diskriminasi dan persekongkolan dalam tender.

Kondisi pengadaan barang/jasa di lingkungan PT Angkasa Pura I (Persero) yang dilakukan dengan metode penunjukan langsung kepada anak perusahaannya terbukti telah dilakukan praktek diskriminasi dan persekongkolan karena penerapan sinergi BUMN tidak menciptakan efisiensi bagi perusahaan dan terbukti memenuhi seluruh unsur dalam ketentuan pada "Pasal 19 d dan Pasal 22 UU Nomor 5 Tahun 1999 tentang larangan praktek monopoli dan persaingan usaha tidak sehat", namun tidak otomatis mengakibatkan batalnya kontrak investasi pembangunan sarana pada bandara yang berada di lingkungan PT Angkasa Pura 1 oleh karena para pihak yang merasa dirugikan harus memintakan permohonan batalnya kontrak tersebut kepada Pengadilan Negeri sesuai ketentuan yang berlaku.

.....In the implementation of synergies in business entities in the form of State-Owned Enterprises (BUMN) it is often carried out by the method of directly appointing providers/vendors of goods and services where the appointment is usually handed over to other UMNs as well as BUMN subsidiaries (subsidiaries) and BUMN affiliated companies, this condition is allowed. as long as it complies with the procedures/regulations for the procurement of goods and services regulated in the regulations for the procurement of goods/services of each company and does not conflict with presidential regulations and ministerial regulations regarding the procurement of goods and services and does not violate the principles of unfair business competition, especially violations of discriminatory practices and conspiracy in tenders.

The condition of the procurement of goods/services within PT Angkasa Pura I (Persero) which is carried out by the method of direct appointment to its subsidiaries is proven to

have carried out discriminatory practices and conspiracy because the implementation of SOE synergy does not create efficiency for the company and is proven to meet all the elements in the provisions in "Article 19 d and Article 22 of Law Number 5 of 1999 concerning the prohibition of monopolistic practices and unfair business competition", but it does not automatically result in the cancellation of the investment contract for the construction of facilities at the airport located within PT Angkasa Pura 1 because the parties who feel aggrieved must request the cancellation request. the contract to the District Court in accordance with the applicable provisions.