

ABSTRAK

PERTANGGUNGJAWABAN HUKUM PENGADAAN BARANG DAN JASA MELALUI SISTEM *E-PROCUREMENT*

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Pengadaan Barang/Jasa Pemerintah (PBJP) merupakan kegiatan yang rentan akan risiko penyimpangan dan kerugian negara. Dalam rangka meningkatkan efisiensi, transparansi, dan akuntabilitas, Pemerintah telah mengimplementasikan sistem elektronik pengadaan (*E-Procurement*) melalui Layanan Pengadaan Secara Elektronik (LPSE). Penelitian ini bertujuan untuk menganalisis dan mengetahui prespektif pertanggungjawaban hukum administrasi dalam pengadaan barang dan jasa pemerintah melalui sistem *E-Procurement*, menganalisis dan mengetahui prespektif pertanggungjawaban hukum perdata dalam pengadaan barang dan jasa pemerintah melalui sistem *E-Procurement*, menganalisis dan mengetahui prespektif pertanggungjawaban hukum pidana dalam pengadaan barang dan jasa pemerintah melalui sistem *E-Procurement*, serta menganalisis hubungan pertanggungjawaban antara hukum administrasi, perdata, dan pidana dalam PBJP melalui sistem *E-Procurement*.

Penelitian merupakan penelitian hukum normatif-empiris dengan menggunakan *statute approach*, *case approach*, dan *conceptual approach* yang berkaitan dengan Pertanggungjawaban Hukum Pengadaan Barang dan Jasa Melalui Sistem *E-Procurement* yang di analisis secara deskriptif kualitatif.

Hasil penelitian menunjukkan bahwa 1) Pertanggungjawaban Administrasi dalam PBJP berfokus pada pelanggaran prosedur administratif. Sanksinya berupa teguran, denda, daftar hitam, dan diselesaikan melalui sanggah, sanggah banding atau gugatan di PTUN. 2) Pertanggungjawaban Perdata timbul dari hubungan kontraktual yang biasanya berwujud wanprestasi (keterlambatan atau ketidaksesuaian spesifikasi). Penyelesaiannya melalui mediasi, gugatan perdata, arbitrase dengan ganti rugi berdasarkan KUHPperdata. 3) Pertanggungjawaban Pidana terkait Tindak Pidana Korupsi (suap, penggelapan, pemalsuan dokumen, atau gratifikasi) yang disertai niat jahat (*mens rea*), sanksinya pidana penjara dan denda (berdasarkan UU Tipikor), berlaku di semua tahapan PBJP. 4) Hubungan Ketiga pertanggungjawaban itu saling melengkapi, namun Aparat Penegak Hukum sering mendahulukan hukum pidana (mengalahkan administrasi dan perdata), sehingga hukum pidana menjadi *primum remedium* (pilihan pertama) alih-alih *ultimum remedium* (pilihan terakhir).

Kata Kunci : Pertanggungjawaban, PBJP, *E-Procurement*

ABSTRACT

LEGAL RESPONSIBILITY FOR PROCUREMENT OF GOODS AND SERVICES THROUGH THE E-PROCUREMENT SYSTEM

By

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Government Procurement of Goods/Services (PBJ) is a vital activity that is vulnerable to the risk of irregularities and state losses. In order to improve efficiency, transparency, and accountability, the Government has implemented an electronic procurement system (E-Procurement) through the Electronic Procurement Service (LPSE). This study aims to analyze and understand the perspective of administrative legal accountability in the procurement of government goods and services through the E-Procurement system, analyze and understand the perspective of civil legal accountability in the procurement of government goods and services through the E-Procurement system, analyze and understand the perspective of criminal legal accountability in the procurement of government goods and services through the E-Procurement system, and analyze and formulate the concept of the relationship of accountability between administrative, civil, and criminal law in PBJP through the E-Procurement system.

This study is a normative-empirical legal study using a statute approach, a case approach, and a conceptual approach related to Legal Accountability in Procurement of Goods and Services Through the E-Procurement System, which is analyzed using qualitative descriptive analysis.

*The results indicate that 1) Administrative Accountability in Procurement of Goods and Services focuses on violations of administrative procedures. Sanctions include warnings, fines, and blacklisting, and are resolved through objections/lawsuits with the State Administrative Court (PTUN). 2) Civil liability arises from contractual relationships and manifests as breach of contract (e.g., delays or non-conformity to specifications). It is resolved through civil lawsuits/arbitration with the remedy of compensation under the Civil Code. 3) Criminal liability relates to acts of corruption (bribery, embezzlement, document falsification, or gratuities) accompanied by malicious intent (mens rea). The sanctions are imprisonment and fines (based on the Corruption Law), applicable at all stages of the procurement process. 4) Relationship: These three forms of liability are complementary, but law enforcement officials often prioritize criminal law (overriding administrative and civil law), resulting in criminal law becoming a *primum remedium* (first resort) rather than an *ultimum remedium* (last resort).*

Keywords: *Accountability, Procurement of Goods/Services, E-Procurement*