



Juridical Analysis of the Presidential Instruction No. 2 of 2022 Concerning the Purchase of Goods and Services

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Abstract

The COVID-19 pandemic has been addressed in a number of ways, including the recommendation to stay at home. This has led to the closure of numerous public spaces, which has caused many local business owners to experience a decline in income or even to close their doors. For the success of the Proud Made in Indonesia National Movement (Gernas BBI) in the implementation of procurement of goods and government services, President Joko Widodo formally signed Presidential Instruction (Inpres) No. 2 of 2022. This will increase the use of domestic products as well as products from MSMEs (Micro, Small, and Medium Enterprises) and cooperatives. Finding out and analyzing how urgent it is to follow Presidential Instruction Number 2 of 2022 in the execution of government procurement of goods and services is the goal of this study. The normative-juridical analysis approach is the analytical technique applied. According to the study's findings, if the president's directives are carried out as intended by all parties, they would inevitably help to lower local business actors' incomes and boost the competitiveness of domestic goods. As a result of the protracted COVID-19 epidemic, this application may help the nation's economy expand in a more positive manner.

Keywords: *Presidential Instruction; Procurement; Purchase of Goods and Services*

Introduction

On May 14, 2020, President Joko Widodo launched the Proud Made in Indonesia National Movement (Gernas BBI), a movement that aims to foster a sense of pride in using domestic products so that it can encourage and awaken micro, small, and medium enterprises, improve the national economy, and reduce dependence on imported products. The main goals of Proud Made in Indonesia include (Zaelani et al., 2022):

1. accelerating the rotation of the local economic cycle, improving people's purchasing power, and encouraging a post-pandemic economic revival;
2. strengthen the business continuity and marketing of MSMEs more quickly and broadly;
3. Growing a sense of pride and supporting local products for Indonesian consumers;

4. Encouraging national branding of superior local products through the curation of MSME Top Brands that rise and grow, thus creating new industries and driving economic growth; and
5. increasing the number of Indonesian artisan units (UMKM and IKM) to 30 million.

RI President Joko Widodo (Jokowi) issued Presidential Instruction of the Republic of Indonesia (Inpres) Number 2 of 2022 concerning Accelerating the Increase in the Use of Domestic Products and Products of Micro, Small Enterprises, and Cooperatives in the Framework of the Success of the Proud Made in Indonesia National Movement in the Implementation of Procurement of Goods and Services by the Government.

The Presidential Instruction, which was signed by President Jokowi on March 30, 2022, and can be accessed on the Cabinet Secretariat JDIH website, is addressed to the Ministers of the Advanced Indonesian Cabinet, Cabinet Secretaries (Seskab), Presidential Chief of Staff (KSP), Heads of Non-Ministerial Government Agencies (LPNK), Attorney General of the Republic of Indonesia, Commander of the Indonesian National Armed Forces (TNI), Head of the Indonesian National Police (Kapolri), Secretariat Leaders of State Institutions, Governors, and Regents/Mayors (Humas, 2022).

In order to accelerate the increase in the use of domestic products and products of micro, small businesses, and cooperatives to make the National Proud Made in Indonesia Movement (Gernas BBI) successful in the implementation of government goods and services procurement, the President instructed all ranks mentioned in the Presidential Instruction to:

1. produce the right goods and services from every dollar spent, measured from the aspects of quality, quantity, time, cost, location, and provider;
2. increase the use of domestic products; increase the participation of micro-, small-, and cooperative enterprises;
3. increase the role of national business actors;
4. support the implementation of research and utilization of goods and services resulting from research;
5. increase the participation of creative industries;
6. realize economic equality and provide expansion of business opportunities; and
7. improve sustainable procurement (Sugiaro & Taufik, 2019).

A number of relevant authorities also received specific instructions from the President. The Coordinating Minister for Maritime Affairs and Investment (Menko Marves) and the Coordinating Minister for the Economy (Menko Ekon) were given specific instructions, among other things, to coordinate changes to the laws and ecosystems in their respective fields in order to hasten the growth of the use of domestic and commercial products. Gernas BBI's execution of government products and services procurement depends on the success of micro, small firms, and cooperatives. In order to make Gernas BBI successful in implementing government procurement of goods and services within local governments, the Minister of Home Affairs (Mendagri) was then given the instruction to update policies in order to accelerate the increase in the use of domestic products and products of micro, small businesses, and cooperatives. One of them is urging governors, regents, and mayors to offer local tax breaks and levies to microbusiness, small business, and cooperative business owners (Kuasa et al., 2022).

At least 10 requirements must be met for policy implementation to be successful, according to Brian W. Hogwood and Lewis A. Gunn. The agency wants confirmation that external implementation circumstances won't have an influence on it in the initial request. The availability of adequate resources for execution is the second demand. Third, there are in fact interconnected resources. Fourth, it covers the issue of whether the established policies are supported by compelling causal arguments, such as the proposition that if "X" is done, "Y" would follow. Fifth, how many causative factors are there? Sixth, how

tenuous is the link between the variables? Seventh, in reference to the breadth of policy aims, The eighth is to wonder if the work has been defined and stated in the proper sequence. The ninth need is that there must be professional coordination and cooperation. And tenth, the implementing agency can demand total compliance (Mutiarin & Misran, 2021).

Based on the description above, the purpose of this research is to find out and analyze the urgency of implementing Presidential Instruction Number 2 of 2022 in the implementation of government procurement of goods and services.

Research Method

The research used in this research process uses a type of normative legal research (Soekanto & Mamudji, 2015). By using library materials or secondary materials that have been collected. Legal research is also a process to determine legal rules, legal principles, and legal doctrines in order to answer the legal issues faced. The data used are primary data obtained from field studies as well as secondary data obtained from literature studies by reading, quoting, and reviewing literature, research results, laws and regulations, and other information related to problem identification in this study, namely those relating to the implementation of the procurement of government goods and services.

Result and Discussion

According to Merrie Grindle (1990), determining whether a program is being implemented in accordance with what has been decided upon entails first examining the action plans of individual projects, and then determining whether the program's objectives have been met. In the meanwhile, Chief J.O. Udoji clarified that policy execution is crucial, maybe even more so than policy creation. If policies are not put into action, they will simply exist as wishes or admirable ideas kept in orderly archives. Procurement of goods and services is basically the government's way of shopping for government household needs, the provision of public facilities, and services to the community to be handed over to the community.

According to Sopian (Sopian, 2014), there are four types of goods and services needed by government agencies, namely:

1. Goods
Goods are any object, whether tangible or intangible, movable or immovable, that can be traded, used, utilized, or exploited by the user of the goods, whether in the form of raw materials, semi-finished goods, finished goods, equipment, or living things;
2. Construction work
Construction work is all work related to the implementation of building construction or the creation of other physical forms, namely architectural, civil, mechanical, electrical, and environmental planning work, along with its accessories, to construct a building, including all or part of a series of implementation activities that include work to realize other than building;
3. Consulting services
Consultancy services are professional services that require certain expertise in various scientific fields and prioritize brainware.
4. Other services
Other services are services that require certain abilities that prioritize skills in a governance system that is widely known in the business world to complete a job or all work and/or provide services other than consulting services, implementation of construction work, and procurement goods.

In Indonesia, entities are basically divided into two categories: public sector entities and private sector entities. Although different in ownership, both have some characteristics in common. The two entities are equally divided into two parties, each of which has an interest; these are called principals and agents. The two parties are often involved in conflicts of interest, giving rise to agency costs. In accordance with the previous theory, these two parties are sometimes involved in conflicts of interest, which can cause losses in the form of money, time, or specifications of goods or work that are not as they should be. In order to regulate the procurement of government goods and services, clear legal arrangements are needed that are able to meet market developments, so that the principle of legal certainty is obtained by the parties involved in the procurement process. Procurement of government goods and services, both based on national and international law, must be based on fair competition, transparency, efficiency, and non-discrimination. In this regard, law is something that must exist and apply in a society (Pane, 2017).

The acquisition of goods and services must adhere to at least five pillars, namely: first, compliance with applicable regulations; second, institutional strengthening of the acquisition of goods and services; third, increasing the professionalism and competence of human resources (HR); fourth, the accuracy of market operations in the acquisition of goods and services; and fifth, increasing integrity and use of information technology. Government products and services procurement is now more than simply a normal process; it serves a strategic purpose as a Center of Excellence (COE) (Suarsana et al., 2020). Procurement of goods and services for the benefit of the government is one of the tools to drive the wheels of the economy in order to improve the national economy for the welfare of the Indonesian people, because the procurement of goods and services, especially in the public sector, is closely related to the use of the state budget.

One of the Presidential Instructions Number 2 of 2022 is to encourage the realization of at least 40% (forty percent) of the value of the goods/services expenditure budget using domestic products, supporting the achievement of spending targets for the State Revenue and Expenditure Budget and the Regional Revenue and Expenditure Budget for the Fiscal Year 2022 at least IDR 400,000,000,000,000.00 (four hundred trillion rupiahs) for domestic products with priority on Micro Enterprises, Small Businesses and Cooperatives, with a large number of goods/services expenditure budget realization from the State Income and Expenditure Budget and Revenue Budget and Regional Expenditure which is used to purchase domestic products means that more money comes in as income for local business actors and of course can have a positive impact on local business actors.

The COVID-19 pandemic has changed many things in life, along with calls for social distancing, and the rapid development of internet technology has changed people's lifestyles to minimize face-to-face meetings, including shopping activities. Online trading is an alternative solution to keep shopping and follow the government's advice, so that it becomes a way out for business people to survive in this pandemic era. In line with this, in Presidential Instruction Number 2 of 2022, one of them states that in order to compile a strategic roadmap for increasing the use of domestic products and micro, small, and cooperative products, including a roadmap for increasing the number of domestic products to 1,000,000 (one million) of products displayed in the electronic catalog, as well as shifting the manual procurement process to electronic procurement no later than 2023.

To keep up with changing times, from closed to transparent, from tough to easy since it is done online, the formation of the LPSE (electronic procurement service) needs goods providers to engage in goods and services procurement activities. For all Indonesian entrepreneurs, especially those involved in the purchase of products and services, the LPSE system (electronic procurement service) is highly beneficial. Frauds in the LPSE system will cease to exist if all suppliers of products and the committee for the procurement of goods and services agree to be disciplined in implementing the principles of e-

procurement in compliance with Presidential Decree No. 50 of 2010 (Pangaribuan et al., 2022). Unlike manual procurement, the secrecy of bid papers between partners and suppliers of products and services may be preserved in e-procurement, specifically with the help of an encryption system. An encryption technique is used in the security system for electronic bid documents. The information, the key, and the ciphertext produced are the three parts of the cipher algorithm. The supplied date is the opening date for this encrypted document. In e-procurement, original papers are also maintained secure. The examiner or auditor can see the bid papers for the purchase of goods and services if there are allegations of fraud by parties involved in the procurement of goods and services (Aprizal; Jon Roi Tua Purba, 2013).

Furthermore, a number of instructions were also conveyed to the Head of LKPP (Government Goods and Services Procurement Policy Institute), namely to (Ihsanuddin, 2019):

- a. increase the number of products to one million in the Electronic Catalog, especially domestic products;
- b. providing access to data and information related to SiRUP, e-Tendering, e-Purchasing, non-e-Tendering, and non-e-Purchasing, as well as e-Contracts to be extracted earlier as an early warning system/monitoring mechanism;
- c. make improvements to laws and regulations and the government goods/services procurement system in order to accelerate the increase in the use of domestic products and products of micro, small businesses, and cooperatives for the success of Gernas BBI in the implementation of government goods/services procurement;
- d. increase the inclusion of domestic products, micro enterprises, small enterprises and cooperatives in the National Electronic Catalog and Online Shop;
- e. accelerating the formation of Sectoral Catalogs and Local Catalogs in more than 400 Ministries/Institutions and local governments;
- f. enter the 'Domestic Product' input menu on the E-Contract, to identify the amount of value of domestic products in K/L and regional government spending; and
- g. provide database access to related ministries and institutions and regional governments that need it for evaluation and monitoring, demand analysis, financial analysis, economic analysis, inspections, and audits.

Instructions were also given by the President to Governors, Regents, and Mayors, namely to add registration services for business actors as government goods and service providers (SPSE and SiKAP) at regional public service malls, including registration consultation services as merchants at Trade Operators Through the System (PPMSE); encourage the acceleration of domestic products and/or products of micro, small businesses, and cooperatives in each region to appear in the local catalog or online shop; as well as instruct regional apparatus organizations (OPD) to shop for domestic products through local catalogs or online shops (Triasti, 2021).

The Covid-19 pandemic, which had an impact on MSEs' declining sales and workers who lost their jobs, forced the government to promote the purchase of local goods and favor MSEs. This reaffirmed the government's role by encouraging an increase in the number of packages for MSEs and the ease of transparent and accountable transactions in order to aid UMK, the primary engine of the community's economy, in recovering from pandemic conditions.

Conclusion

There are several key points from Presidential Instruction Number 2 of 2022 that, if properly implemented by all parties who have received instructions from the President in the regulation, can, of course, make a positive contribution to reducing the increase in the use of domestic products and products

of micro, small businesses, and cooperatives. After being negatively impacted by the lengthy COVID-19 epidemic, the country's economic development may improve with the execution of the Presidential Instruction. In connection with the discussion that has been stated above, the suggestion, according to the researcher, is that all levels of government that have been mentioned in Presidential Instruction Number 2 of 2022 immediately carry out these instructions properly and make maximum efforts to participate in the success of the National Proud Made in Indonesia Movement in the implementation of goods procurement and government services in accordance with their respective roles.

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