

## **Application of the Principles of Transparency and Accountability in the Use of Public Funds: Legal Review of Law no. 2 of 2017**

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### **Abstract**

*Management of public funds in infrastructure projects in Indonesia is an important aspect that influences national development. Transparency and accountability in the use of public funds are the main focus, especially in accordance with Law no. 2 of 2017 concerning Construction Services. This article aims to analyze the application of these principles in the management of public funds. The research method used is normative research, which includes literature studies, legal document analysis, and case studies to evaluate the effectiveness of regulations in increasing transparency and accountability. The discussion includes an analysis of the legal norms governing the management of public funds as well as the challenges faced in their implementation. The research results show that although Law no. 2 of 2017 provides a clear legal framework, there are still weaknesses in implementing the principles of transparency and accountability, which could potentially lead to misuse of funds. The conclusion of this article emphasizes the need to strengthen regulations and more effective monitoring mechanisms to ensure efficient and responsible use of public funds, as well as increase public trust in the management of public funds.*

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## **1. INTRODUCTION**

Management of public funds in infrastructure projects is one of the crucial aspects in a country's development. In Indonesia, transparency and accountability in the use of public funds is a major concern, especially in the context of Law no. 2 of 2017 concerning Construction Services. This law aims to create a better, more efficient and responsible management system, so as to prevent misuse of public funds which often occurs in infrastructure projects (Sari & Rahman, 2023).

In recent years, the Indonesian government has allocated significant budgets for infrastructure projects as part of efforts to encourage economic growth and improve people's quality of life. According to the Ministry of Finance, the budget for infrastructure in 2025 is estimated to reach IDR 400 trillion, which includes various strategic projects such as building roads, bridges and other public facilities (Ministry of Finance, 2025). However, with the large amount of funds allocated, challenges in terms of transparency and accountability are increasing (Halim et al., 2022).

The principle of transparency in the management of public funds requires the government to provide clear and open information regarding the use of these funds. This is important to build public trust and prevent corrupt practices (BPK, 2024). For example, the Inspectorate General of the Ministry of Maritime Affairs and Fisheries (KKP) has implemented a probability audit to ensure that each stage of infrastructure project activities meets applicable regulations and avoids potential irregularities (Halim & Sari, 2022). This

audit aims to ensure that the use of public funds is carried out efficiently and effectively, and has a positive impact on society.

Accountability is also an important aspect in managing public funds. The government must be responsible for every decision taken in the use of funds, including in terms of project planning, implementation and evaluation. In this context, Law no. Law No. 30 of 2014 concerning Government Administration emphasizes the importance of accountability in managing state finances, which includes the obligation to account for the use of funds to the public (Law No. 30, 2014).

However, even though there are regulations in place, there are still many challenges faced in implementing these principles. According to a report by the Supreme Audit Agency (BPK), there are still a number of infrastructure projects that do not meet accountability and transparency standards, which has the potential to cause waste and misuse of funds (BPK, 2024). Research by Sari and Rahman (2023) also shows that many infrastructure projects experience cost overruns and delays due to a lack of supervision and transparency in fund management. Therefore, more serious efforts are needed to strengthen regulations and supervisory mechanisms in the management of public funds (Mardiasmo, 2021).

One of the main challenges in implementing the principles of transparency and accountability is the lack of understanding and awareness among stakeholders, including the government, contractors and the community. Thus, it is important to examine further how the principles of transparency and accountability in Law no. 2 of 2017 can be implemented effectively to prevent misuse of public funds in infrastructure projects. It is hoped that this research can contribute to the development of better policies and practices in managing public funds, as well as increasing public trust in the government.

## **2. RESEARCH METHOD**

This research uses normative legal methods to analyze the application of the principles of transparency and accountability in the use of public funds in accordance with Law no. 2 of 2017. This research examines the legal norms governing the management of public funds, as well as evaluating the implementation of these principles in practice. Data was collected through literature studies, analysis of legal documents, and case studies related to the use of public funds, to provide a comprehensive understanding of the effectiveness of regulations in increasing transparency and accountability.

## **3. RESEARCH RESULTS AND DISCUSSION**

### **1.1. Application of the Principles of Transparency and Accountability in the Use of Public Funds According to Law no. 2 of 2017**

Transparency and accountability in the management of public funds for infrastructure projects in Indonesia are very important aspects and have a big influence on national development and community welfare. In this context, transparency and accountability are the keys to ensuring that public funds are used effectively and efficiently, and provide maximum benefits for society. The success of infrastructure projects, whether large or small, depends on the consistent and effective application of these principles.

Law Number 17 of 2003 concerning State Finance (State Finance Law) is the main legal basis for managing state finances, emphasizing the principles of transparency, accountability, efficiency, effectiveness and economics (Law No. 17 of 2003). Law Number 1 of 2004 concerning the State Treasury (State Treasury Law) stipulates procedures for managing state finances in an orderly, principled, efficient, effective,

transparent and accountable manner (Law No. 1 of 2004). These two laws form the basic framework for managing infrastructure project funds.

As explained in Law Number 14 of 2008 concerning Openness of Public Information (UU KIP), it provides the public with the right to access information, including information regarding infrastructure projects (UU No. 14 of 2008). This is important to encourage public oversight and prevent corruption. However, effective access to information is still hampered by various factors, including the public's lack of understanding of their rights and the complexity of the information available. Reports from the Corruption Eradication Commission (KPK) often reveal cases of corruption related to a lack of transparency in the procurement of goods and services for infrastructure projects.

In addition, Presidential Regulation Number 54 of 2010 concerning Government Procurement of Goods/Services (Perpres 54/2010) regulates the process of procurement of government goods and services, emphasizing the principles of healthy competition, transparency and accountability (Presidential Decree No. 54 of 2010). This presidential regulation aims to prevent corrupt practices, but its implementation often faces obstacles, such as weak supervision and lack of human resource capacity. The Financial Audit Agency (BPK) regularly audits state financial management, including funds allocated for infrastructure projects, and often finds findings indicating irregularities and non-compliance with regulations. The absence of transparency and accountability can lead to misuse of funds, corruption, inefficiency, and decreased public trust in the government.

The complexity of infrastructure projects, involving many parties and stages of work, makes it difficult to monitor and track the use of funds. The lack of community participation in supervision, despite the KIP Law, is also an obstacle.

One of the main challenges is limited human resource capacity in managing state finances and monitoring infrastructure projects. The lack of trained and experienced human resources causes weak supervision and increases the risk of misuse of funds. Weaknesses in the monitoring system, both internal and external, are also a factor that exacerbates the problem. Coordination between supervisory institutions is often less effective, so that gaps in supervision are easily exploited.

Apart from that, the low culture of integrity among officials and construction business actors worsens the situation. The use of information technology in managing and supervising infrastructure projects is still not optimal in several areas. An integrated and transparent information system still needs to be improved to increase accountability.

Examples of corruption cases in infrastructure projects are often revealed through KPK and BPK reports. These cases demonstrate weak supervision and low accountability. One example of a case involving the former Minister of Agriculture, Yahrul Yasin Limpo, was arrested by the Corruption Eradication Commission (KPK) in 2024 due to alleged corruption in the procurement of goods and services at the Ministry of Agriculture. He was accused of accepting bribes and gratuities from various parties related to procurement projects in his ministry. This case reflects how abuse of power can occur at high levels of government, where public officials use their positions to gain personal advantage from infrastructure projects that are supposed to benefit society.

Therefore, it is important to take strategic steps to overcome the problem of corruption and abuse of authority in infrastructure projects by increasing transparency and accountability in the use of public funds in Indonesia.

One concrete effort to increase transparency and accountability in the use of public funds is through the implementation of an e-procurement system. E-procurement is an electronic procurement system for goods and services that allows the procurement process to be carried out openly and transparently. By using e-procurement, all information related to procurement, starting from auction announcements, tender documents, to evaluation results, can be accessed by the public. This not only increases transparency, but also allows the public to participate in oversight of the procurement process.

The E-Procurement mechanism in the procurement of government goods and services in Indonesia is regulated in detail in Presidential Regulation no. 16 of 2018 concerning Procurement of Goods/Services. According to the Presidential Regulation, procurement of goods and services must be carried out electronically to minimize corrupt practices and increase accountability. This process begins with procurement planning which must be carried out in a planned and measurable manner, where each government agency is required to prepare a General Procurement Plan (RUP) which contains information about the goods and services to be procured.

After the RUP is prepared, the next step is the procurement announcement which will be made via the e-procurement portal. This announcement aims to provide information to providers of goods and services regarding available procurement opportunities. Interested providers can then register and bid electronically. The bid evaluation process is carried out by an appointed procurement committee, with predetermined criteria. The procurement winner's decision is announced openly through the same portal, so that all parties can access this information.

According to experts, e-procurement mechanisms not only increase efficiency, but also make it easier for providers to access information and follow the procurement process. For example, research by Sari and Prabowo (2020) shows that the use of e-procurement can reduce the time and costs incurred by providers in participating in tenders. Apart from that, e-procurement also allows better monitoring of the procurement process, thereby reducing the potential for irregularities.

Apart from that, supervision by the Financial Audit Agency (BPK) is also an important step in increasing accountability in the use of public funds. The BPK has the authority to audit state financial management, including the use of funds for infrastructure projects. Law no. 15 of 2004 concerning Audits of State Financial Management and Responsibility provides the legal basis for the BPK to conduct audits and provide reports to the public regarding the results of the audit. This BPK report is an important control tool to ensure that public funds are used according to their intended purpose and that no misuse occurs.

Through audits conducted by the BPK, the public can find out to what extent the use of public funds in infrastructure projects has been carried out in a transparent and accountable manner. The results of this audit can also be a basis for the government to make improvements in the management of public funds in the future. Thus, transparency and accountability in the use of public funds do not only depend on existing regulations, but also on active community participation and strict supervision from relevant institutions.

Another important effort is involving the community in the planning and monitoring process of infrastructure projects. Through the development planning deliberation mechanism (*musrenbang*), the community can provide input regarding infrastructure needs in their area. Community involvement in this process not only increases transparency, but also ensures that the projects implemented are truly in line with community needs. Law no. 25 of 2004 concerning the National Development Planning

System regulates community participation in development planning, which is the basis for the government to actively involve the community. Public education and awareness regarding their rights in monitoring the use of public funds also needs to be improved. Outreach programs that involve the community in the planning and monitoring process of infrastructure projects can help create a culture of transparency and accountability. By increasing public understanding of the importance of supervision, it is hoped that active participation will emerge in maintaining the use of public funds to make it more effective and efficient.

In order to increase transparency and accountability, the government can also utilize information technology. Using digital platforms to publish information about infrastructure projects, including budgets, progress and final results, can make information easier for the public. With data that can be accessed online, the public can more easily monitor and provide constructive input.

Strengthening the legal and regulatory framework, increasing human resource capacity, strengthening supervisory systems, increasing community participation, enhancing a culture of integrity, and implementing information technology are key steps to increase transparency and accountability in the management of public funds for infrastructure projects in Indonesia. Strict law enforcement against perpetrators of corruption is also very important to provide a deterrent effect and build a strong culture of integrity. Accurate and up-to-date statistical data regarding project realization, budget and audit findings can be used to monitor progress and identify areas that need improvement. Continuous monitoring and regular evaluation are essential to ensure the effectiveness of efforts to increase transparency and accountability.

## **1.2. Legal Sanctions Against Parties Who Violate the Principles of Transparency and Accountability in Public Fund Management According to No. 2 of 2017**

In the context of managing public funds for construction projects, the principles of transparency and accountability are the two main pillars that must be adhered to by all parties involved, including the government, service providers and the community. Law no. 2 of 2017 concerning Construction Services clearly regulates the obligation to apply these principles at every stage of public fund management. Violations of the principle of transparency can occur in various forms, such as lack of clarity in budgeting, lack of information provided to the public, or concealment of relevant data regarding the use of funds. Meanwhile, violations of accountability can include abuse of authority, embezzlement of funds, or non-compliance with established procedures.

Legal sanctions that can be imposed on parties who violate these principles are regulated in various provisions in Law no. 2 of 2017 as well as other relevant laws and regulations. In general, these sanctions can be divided into two categories: administrative sanctions and criminal sanctions.

- 1 Article 66 regulates administrative sanctions that can be imposed on construction service providers who do not comply with the provisions of the law. This article states: "Construction Service Providers who do not comply with the provisions of this Law are subject to administrative sanctions in the form of: a. Written warning; b. Administrative fine; and/or c. Revocation of business permit." This administrative sanction aims to provide a deterrent effect and encourage compliance with applicable legal provisions. Written warnings are given for minor violations, while administrative fines are imposed based on the type and level of violations committed. If the violation is serious or repeated, the service provider's business license can be revoked, which shows how serious the violation is.
- 2 Article 67 states:

- 1) Any person who intentionally commits an act that is contrary to the provisions of this Law may be subject to criminal sanctions.
- 2) Criminal sanctions as intended in paragraph (1) are in the form of: a. The maximum prison sentence is 6 (six) years; and/or b. The maximum fine is IDR 1,000,000,000.00 (one billion rupiah).

This criminal sanction is aimed at enforcing the law and providing a deterrent effect against violations committed in the management of construction services. Violations that can be subject to criminal sanctions include various actions, such as:

- a. Corruption: Acts of abuse of authority by public officials or construction service providers that result in state losses. For example, if an official diverts project funds for personal interests or accepts bribes in the procurement process.
- b. Fraud: Actions carried out with the intention of defrauding other parties in the procurement process or implementation of a construction project. For example, if a service provider provides misleading information about its technical or financial capabilities to win a tender.
- c. Violation of technical provisions: If a construction project is carried out without complying with established technical standards, which may result in loss or danger to the public.

Criminal sanctions regulated in Article 67 include a prison sentence that can be imposed for up to six years and a maximum fine of one billion rupiah. This sanction aims to provide a deterrent effect and encourage all parties involved in construction services to comply with applicable legal provisions. With the existence of criminal sanctions, it is hoped that a better climate will be created in the management of public funds and implementation of construction projects, as well as increasing public trust in the integrity of the provision of construction services.

- 3 Article 68 explains that every person involved in violating the law in providing construction services may be subject to criminal responsibility. This article states: "Directors or administrators of business entities who commit unlawful acts in providing construction services may be subject to criminal sanctions." This means that if a company commits a violation, the director or management of the company can be subject to criminal sanctions if they are proven to be involved in the violation. In addition, other parties involved, such as consultants or third parties who contribute to project implementation, can also be subject to the same sanctions, thus emphasizing the importance of collective responsibility in managing construction projects.
- 4 Article 69 regulates the resolution of disputes that may arise as a result of violations of the provisions of the law. This article states: "Disputes arising in the provision of construction services are resolved through mediation and/or arbitration." Dispute resolution can be done through mediation as a first step to resolve disputes peacefully. If mediation is unsuccessful, the dispute can be brought to arbitration in accordance with applicable provisions, providing an alternative for the parties involved to resolve the problem without having to go through lengthy court processes.
- 5 Finally, Article 70 provides space for implementing regulations to further regulate sanctions and law enforcement mechanisms in the provision of construction services. This article states: "Further provisions regarding sanctions and law enforcement mechanisms are regulated in government regulations." This includes government regulations that regulate in more detail administrative and criminal sanctions, as well as other regulations that may be established by relevant institutions to support the implementation of the law. Thus, Law no. 2 of 2017

provides a clear legal framework regarding sanctions for parties who violate provisions in the provision of construction services, with the hope of encouraging compliance with the principles of transparency and accountability in the management of public funds.

It is important to note that the application of legal sanctions not only functions as a law enforcement tool, but also as an effort to increase public trust in the management of public funds. With strict sanctions, it is hoped that all parties will be more careful and responsible in managing public funds, so that the principles of transparency and accountability can be realized effectively. In addition, strict supervision from related institutions, such as the Financial and Development Supervisory Agency (BPKP) and the Corruption Eradication Commission (KPK), is also an important factor in ensuring that these sanctions are applied consistently and fairly.

#### 4. CONCLUSION

Applying the principles of transparency and accountability in the use of public funds, especially for infrastructure projects in Indonesia, is very important to support national development and improve community welfare. Law no. 2 of 2017 emphasizes the need for transparent and accountable management of public funds, so that the public can know and understand how these funds are used. By applying these principles, it is hoped that the use of public funds can be carried out effectively and efficiently, and provide maximum benefits for society. Public involvement in monitoring and reporting is also a key factor in ensuring that public funds are managed well, so as to prevent misuse and increase public trust in the government.

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