

Beneficial Owner Identification for Preventing Conflicts of Interest in Indonesia Government Procurement

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Abstract: One of the government procurement principles is the principle of competing among tender participants, so that job owners are required to identify conflicts of interest between bidders. Conflict identification between bidders stipulated in Presidential Regulation Number 16 the Year 2018 is concurrent positions between bidders, but cannot anticipate conflicts of interest through multiple beneficial owners between bidders. Therefore, this study will describe how the implementation of the principle of the introduction of beneficial owners in preventing conflicts of interest in the implementation of government procurement. This research is normative juridical because it examines norms regarding beneficial ownership in government tenders. This study used a conceptual approach, statue approach, and case approach. The data used are secondary data, such as laws, books, court decisions, and other documents. Data analysis is carried out qualitatively to obtain arrangements to prevent conflicts of interest between tender participants through the beneficial owner concept. The results of the study show that the principle of competitiveness cannot be implemented if the identification of conflicts of interest is based solely on concurrent positions between bidders. Therefore, identification of conflicts of interest should also be carried out based on multiple stakeholders through the method of the declaration of beneficial owners by tender participants.

1 INTRODUCTION

One mode of criminal acts of corruption in government procurement of goods/services is the control of several bidders to participate in government procurement of goods/services. Control of some of the tender participants is a conspiracy that can involve or not to procurement workgroup/service unit. Efforts to prevent control of some bidders from participating in tenders are through the ethics of government procurement of goods / services where one of the ethics of procurement is to avoid and prevent conflicting interests of related parties resulting in unfair business competition where one form of conflict of interest is several business entities participate in the same Tender / Selection, is controlled directly or indirectly by the same party, and / or its share ownership of more than 50% (fifty percent) is controlled by the same shareholder. In this case, the procurement workgroup/service unit has the duty and authority to evaluate conflicts of interest between bidders through administrative evaluations, namely evaluations based on data submitted by bidders such as (a) the contents of company

qualifications such as company name, position, company organs and (b) company documents such as bidders' articles of association. The data that must be submitted by bidders can anticipate conflicts of interest between bidders that occur due to direct control of the company, but the data cannot anticipate conflicts of interest due to indirect control of the company.

Control of the company is indirectly carried out through a chain of beneficial ownership where the controlling party is not a formal corporate capital owner (legal owner), but the actual beneficial owner of the transaction carried out by the corporation (beneficially owner). One example of a bidder control case by a beneficial owner is KPPU Decision No. 03 / KPPU-L / 2018 on the tender for the Road Reconstruction Preservation and Routine Maintenance Package Sei Asam - Takaras Simpang Bridge - Tumbling Talaken at the Work Unit of the Public Works Office of Central Kalimantan Province for the 2017 Budget Year. In that case, there were control of 3 (three) bidders namely PT Mellindo Bhakti Persadatama (Reported Party II), PT Jaya Wijaya Cooperation (Reported Party III) and PT

Margo Umega (Reported Party IV). The control was carried out by the same person, namely Vino Oktaviano as the Director of PT Jaya Wijaya Cooperation (Reported Party III) to arrange Reported Party II as the winner of the tender while Reported Party III and Reported IV as companion companies. In that case, Vino Oktaviano is not the legal owner of the three companies but the beneficial owner of the transaction in the tender activities of the three companies. Cases of controlling bidders by other beneficial owners are corruption cases in several procurement packages involving the Permai Group where Anas Urbaningrum and Nazaruddin are not formal legal owners but are beneficial owners of activities carried out by the Group Permai (KPK, 2019).

Regulation regarding the prevention of conspiracy by participants of government goods/services conducted by the beneficial owner has not been regulated in Presidential Regulation No. 16 of 2018 concerning Government Procurement of Goods / Services. Therefore, the development of laws and regulations concerning the government procurement of goods/services is needed. One way to develop laws and regulations is through legal transplants. Legal transplant in the form of legal structure from one country to another has become a trend in the development of law in various parts of the world. It has carried out legal transplants from various foreign legal systems or other countries in the formation of various laws and regulations. The development of civilization and international relations has the consequence that Indonesia must adjust national legislation to comply with international such as intellectual property rights are transplanted from various laws and regulations regarding the protection of intellectual property rights in accordance with global standards as a consequence of Indonesia's participation in the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), legislation concerning anti-money laundering and terrorist financing in accordance with the global standards of the anti-money laundering and terrorism financing regime as a consequence of Indonesia's membership in The Financial Action Task Force (FATF).

In addition to transplanting international law into national law, legal transplants are also carried out between certain legal regimes in a national legal system. A concept in a certain outdated legal regime requires a transplant by adopting a concept from another legal regime so that the legal objectives can be achieved. Law Number 12 of 2011 concerning Formation of Laws and Regulations in Appendix II,

there is the principle of "duidelijke terminologien" which means that for something that has the same meaning and meaning, use the same term, whereas for something that has a different meaning use a different term. In connection with this study, there are differences in terms of corporate controllers and beneficial corporate owners. The corporate controller is a formal owner of corporate capital (legal owner) so that it can control the corporation without the mediation of other parties. In its development, corporate control can also be carried out by parties other than the legal owner of the corporation (the owner of the corporate benefits that controls the corporation through a beneficial owner chain).

Beneficially owner as company controller is regulated in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing the Beneficiary Owner of Corporations in the Prevention and Eradication of Money Laundering and Terrorism Funding Criminal Acts and is not known in Presidential Regulation No. 16 of 2018 concerning Procurement of Goods / Services of the Government which only recognizes company controllers carried out by legal owners. Therefore, the regulation regarding owner beneficially in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Funding Criminal Acts must be transplanted into the provisions of government procurement. The company participating in the tender by a beneficial owner can be prevented as the controller of the company participating in the tender by the legal owner.

Regulations for the prevention of corporate control have been indirectly regulated through the beneficial ownership principle, for example, a single present policy in the banking industry (single present policy) as stipulated in OJK Regulation Number 39 / POJK.03 / 2017 concerning Single Ownership of Indonesian Banking which states that each party can only be a controlling shareholder in 1 (one) bank. In this case, the controlling party is the beneficial owner (not the shareholder) so that the party who is the beneficial owner of a bank is prohibited from owning shares/interests in other banks.

The beneficial owner principle is not yet known in Presidential Regulation No. 16 of 2018 concerning Procurement of Government Goods / Services. Provisions related to the beneficially ownership principle are competitive principles as stipulated in (a) Article 6 of Presidential Regulation No. 16 of 2018 concerning Government Procurement of Goods

/ Services which states that the procurement of goods/services must be done through fair competition among as many providers of goods/services that are equal and meet the requirements, so that goods/services can be offered competitively and there are no interventions interfere with the creation of market mechanisms in the procurement of goods/services; (b) prevention prevents conflicting interests of related parties, both directly and indirectly, resulting in unfair business competition in the procurement of goods / services as regulated in Article 7 of Presidential Regulation No. 16 of 2018 concerning Procurement of Government Goods / Services. The principles of competing and preventing conflicts of interest in tender activities are regulated in Presidential Regulation No. 16 of 2018 concerning Procurement of Goods / Services The government still considers that the principle of competition and prevention of conflict of interest between bidders occurs because the directors, board of commissioners, or core personnel in a business entity, concurrently as directors, board of commissioners, or core personnel in other business entities participating in the same tender/selection. This is not in line with the principle of introducing a beneficial owner (beneficially ownership principle) where the beneficial owner of a corporation is not limited to the organ or core personnel of the corporation but the party that controls and / or the actual beneficial owner of a corporation. Therefore, so that the principle of competition can be carried out in tendering activities, the prevention of conflict of interest between bidders is not limited to the organ or core personnel who are concurrently acting as organs or core personnel of other business entities that participate in the same tender, but the owner of interests in more than one bidders participating in the same tender.

The concept of preventing conflicts of interest between bidders must be changed from a dual position (either as a business organ or core personnel) between bidders to become a dual owner of interests between bidders so that bidders can compete. Therefore, this study will elaborate on how the principle of beneficial owners in preventing conflict of interest in the implementation of tenders.

2 RESEARCH METHODS

This type of research is a normative juridical study because it examines norms regarding beneficial ownership in government goods/services tenders. The approach used in this research is the conceptual approach, the statutory approach (statue approach),

and the case approach. The conceptual approach is used to analyze the concept of conflict of interest and control of bidders by the beneficial owner. The regulatory approach is used to review the laws and regulations relating to the control of companies that are bidders by the legal owner and the beneficial owner. The case approach is used to analyze the tender participant control cases by the beneficial owner.

The data used in this study are secondary data in the form of laws, books, court decisions, and other documents. Data collection is carried out through a literature study and document study. Data analysis was carried out qualitatively to obtain arrangements for preventing conflicts of interest between bidders through the concept of a beneficial owner. Analyze data through the regulatory approach by comparing regulations regarding procurement, conflicting interests, and beneficial owners. Through this analysis, conclusions can be drawn about how the principle of beneficial owners prevents conflicts of interest in procurement.

3 DISCUSSION

3.1 Scope of Beneficiary Owners in Indonesia

White-collar crime continues to evolve following the development of human civilization. One of them is the use of corporations by criminal offenders to hide and disguise the identity of perpetrators and the results of criminal acts. The 2014 Financial Action Task Force (FATF) research on the regulation and application of beneficial owner information transparency states that the lack of adequate, accurate or guaranteed beneficial owner information, and can be accessed quickly, is utilized by criminal offenders to conceal (1) identity of the perpetrators of the crime; (2) the real purpose of opening an account in the name of a corporation that is used as a "vehicle or media" for money laundering; and (3) the source or purpose of using assets from corporations that are allegedly originating from criminal acts (Kiagus Ahmad Badaruddin, 2018). There are still many countries that do not yet have regulations and implement policies on beneficial owner information transparency, including Indonesia. The results of the 2015 PPATK research on the risk of money laundering crimes committed by corporations are higher than money laundering crimes committed by individuals with a threat value of 7.1 compared to 6.74. This shows that Indonesia needs to immediately strengthen the regulation and

application of transparency of beneficial owner information from the corporation. As a follow-up to the research, the PPATK initiated the preparation of regulations on beneficial owners until finally stipulated Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing Benefit Owners for Corporations in the Prevention and Eradication of Money Laundering and Terrorism Funding Acts (Kiagus Ahmad Badaruddin, 2018).

Presidential Regulation Number 13 of 2018 concerning Application of the Principle of Recognizing Beneficiaries from Corporations in the Context of Prevention and Eradication of Criminal Acts of Money Laundering and Criminal Funding of Terrorism is a consequence of Indonesia's membership in The Asia / Pacific Group on Money Laundering (APG) which aims to ensure the adoption, implementation and enforcement of internationally accepted anti-money laundering and anti-terrorism funding standards as recommended by The Financial Action Task Force (FATF). Beneficiary recommendations from the Financial Action Task Force (FATF) were transplanted in Indonesian laws and regulations, particularly in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Criminal Acts of Money Laundering and Criminal Acts of Funding Terrorism the definition and scope of the beneficial owner.

The Financial Action Task Force (FATF) provides a definition of the Benefit Owner namely "Beneficial owner refers to the natural person (s) who ultimately owns or controls a customer and / or the natural person on whose behalf a transaction is being conducted. It also includes those who exercise ultimate control over a legal person or arrangement. "(The Financial Action Task Force, 2014) FATF believes that the Beneficiary Owner refers to the party who actually owns or controls a corporation. The beneficial owner or controller actually refers to a situation where ownership/control is carried out through the ownership chain or through controls other than direct control. The definition of the beneficial owner is reflected in Article 1 point 2 of Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing the Beneficiary Owner of the Corporation for the Prevention and Eradication of the Crime of Money Laundering and the Criminal Act of Funding Terrorism, namely individuals who can appoint or terminate directors, councils commissioners,

management, coaches, or supervisors in the corporation, have the ability to control the corporation, are entitled to and / or receive benefits from the corporation directly or indirectly, are the actual owners of the funds or shares of the corporation and / or fulfill the criteria referred to the Presidential Regulation.

The definition of the beneficial owner is the result of a transplant from TAFT which has the concept that (a) the beneficial owner is not only limited to formal ownership of corporate capital in the articles of association of the corporation, but the actual owner of the corporation owns and controls the corporation; (b) the actual beneficial owner of the corporation is an individual and not a legal entity. Presidential Regulation No. 13 of 2018 regulates the owners of corporate benefits, namely a collection of people and / or organized wealth, both legal entities and non-legal entities. The corporation may take the form of a limited liability company, foundation, association, cooperative, limited partnership, firm alliance and other corporate forms.

The beneficial owner of a corporation can be categorized into 2 (two) types, namely (a) Benefit Owner who is the owner of Corporate Direct Capital; or (b) a Benefit Owner who is not a Direct Capital Owner of a Corporation but has an ownership chain. The parties which can be categorized as the beneficial owners for each corporation are as follows:

- Limited Liability Company. The beneficial owner as legal owners are those who have shares, voting rights and profits of more than 25% according to the articles of association; or have the authority to appoint, dismiss and replace directors and boards of commissioners. The Beneficiary Owner as a beneficial owner is the party who has the authority to control the Limited Liability Company without the authorization of another party, the actual beneficiary of the Limited Liability Company or the actual owner of the shares of Limited Liability Company.
- Foundation. The beneficial owner as a legal owner is a party who (a) has an initial wealth of more than 25% of the capital or (b) Has the authority to appoint or dismiss the foundation's management, builder or supervisor. A Benefit Owner as a beneficial owner is a party who has (a) authority to control the foundation without authorization from other parties; (b) The true beneficiary of the foundation; or (c) The actual owner of the foundation's capital.;
- Association. The beneficial owner as the legal owner of the association is the party that has the

funding source and receives the results of business activities of more than 25% or has the authority to appoint or the board and supervisor of the association. The Beneficiary Owner as the beneficial owner of the Society is the party that has the authority to control the association without the authorization of another party, the actual beneficiary of the association or the actual owner of the association's capital.;

- Cooperative (koperasi). The beneficial owner as the legal owner of the cooperative is the party that receives the remaining business proceeds of more than 25% or has the authority to appoint or dismiss cooperative management and supervisors. The beneficial owner as of the cooperative beneficially owner is the party who has the authority to control the cooperative without the authorization of another party, the actual beneficiary of the cooperative or the actual owner of cooperative capital;
- Limited Partnership. The beneficial owner as a limited partnership legal owner is a party that has a paid-in capital and a profit of more than 25%. The beneficial owner as of the cooperative beneficially owner is the party who has the authority to control the recommended alliance without the authorization of another party, the actual beneficiary of the recommended alliance, or the actual owner of the capital of the recommended alliance;
- Firm. The beneficial owner as the firm's legal owner is the party that has a paid-in capital and a profit of more than 25%. The beneficial owner as the beneficial owner of the firm is the party who has the authority to control the recommended alliance without the authorization of the other party, the actual beneficiary of the recommended alliance or the true owner of the capital of the recommended alliance.
- Other corporate forms. The beneficial owner as the legal owner of other corporate forms is the party that has a paid-up capital and a profit of more than 25%. The beneficial owner as a beneficial owner of other corporate forms is the party that has the authority to control the corporation without the authorization of another party, the actual beneficiary of the corporation or the actual owner of corporate capital.

Beneficiaries in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing Beneficiaries from Corporations in the Context of Prevention and Eradication of Criminal

Acts of Money Laundering and Criminal Funding of Terrorism are different from the controllers of companies that have been regulated in sectoral regulations, particularly in the financial industry sector such as:

- The company's controller in the insurance sector is regulated in Law No. 40 of 2014 concerning Insurance wherein said controller is a person who directly or indirectly has the ability to determine the directors, the board of commissioners, or the equivalent of the directors or board of commissioners in a legal entity in the form of a cooperative or joint venture and / or influence the actions of the directors, the board of commissioners, or the equivalent of a director or board of commissioners in a legal entity in the form of a cooperative or joint venture.
- Controlling companies in the banking sector, namely (a) those who own shares of at least 25% or (b) have shared below 25% but can be proven to have controlled the company. Each party can only control one bank as regulated in Article 1 point (2) of the Financial Services Authority Regulation Number 39 / POJK.03 / 2017 concerning Single Ownership of Indonesian Banking.
- Controlling companies in the capital market sector are known as controlling shareholders, namely (1) parties who own shares of at least 20% of all shares that have a vote; or (b) parties who own shares below 20% of all shares that have a voice but can control the company in the capital market. This is regulated in Article 1 point 7 of OJK Regulation Number 57 / POJK.04 / 2017 Regarding the Implementation of Governance of Securities Companies Conducting Business Activities as Underwriters and Brokers.

The company controller in the insurance, banking and capital market sectors is a party that can formally control the corporation due to capital ownership factors so that the corporate controller can be a legal entity or an individual person. This is different from the stakeholder because the owner is an individual as the true owner of a corporation through the ownership chain and can control the corporation even though formally it is not the owner of the corporation's capital directly.

3.2 Principles of Recognition of Beneficiary Owners in Preventing Conflicts of Interest in the Implementation of Government Tenders

One of the procurement principles set out in Presidential Regulation No. 16 of 2018 is the principle of competition which means the procurement of goods/services must be done through fair competition among as many providers of goods/services that are equal and meet the requirements, so that goods/services can be offered competitively and offered no intervention interferes with the creation of market mechanisms in the procurement of goods/services. The principle of competition is implemented through procurement ethics, namely (a) not affecting each other directly or indirectly, which results in unfair business competition. And (b) avoid and prevent conflicting interests of related parties, both directly and indirectly, resulting in unfair business competition in the procurement of goods/services. One form of conflict of interest that results in unfair business competition in the process of a tender is that there are several business entities that participate in the same Tender / Selection, controlled either directly or indirectly by the same party.

Several business entities that participate in the tender are directly or indirectly controlled by the same party, as can be seen from several cases that have been decided by the Business Competition Supervisory Commission (KPPU) in Indonesia. As an institution that has the task of supervising and enforcing laws prohibiting monopolistic practices and / or unfair business competition, KPPU can enforce law against unfair business competition in government goods / services tendering activities. Government goods / services tendering activities are the authority of KPPU based on Article 22 of Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition which states that "Business actors are prohibited from conspiring with other parties to regulate and or determine tender winners so as to result in unfair business competition". The conspiracy can occur because (a) Vertical conspiracy is a collusion that occurs between several tender participants to determine the winner of the tender where the conspiracy does not involve the work owner; (b) Horizontal collusion is collusion between the work owner through the Procurement Working Group and one of the tender participants to determine one of the tender participants as the winner of the tender; and (c)

Combined collusion is collusion between several bidders and the work owner to determine one of the bidders as the winner of the tender.

The KPPU's decision regarding the conspiracy in determining the winning bidder can be seen in several cases such as:

- Tender for rehabilitation / maintenance of the East Ring Road of Prabumulih City, South Sumatra Province, 2013 Fiscal Year, where the reported party is the Working Group for Government Procurement of Goods / Services, National Road Work Unit and Gorontalo Province SKPD for 2014 Budget Year (Reported I), PT Kakas Karya (Reported II), PT Nikita Raya (Reported Party III) and PT Maesa Jaya (Reported Party IV). KPPU through Decision Number 11 / KPPU-L / 2015 states that the Working Group on Procurement of Goods / Services of the Government of the National Road Implementation Unit and Gorontalo Province SKPD for the 2014 Budget Year (Reported I), PT Kakas Karya (Reported II), PT Nikita Raya (Reported III) and PT Maesa Jaya (Reported IV) violated Article 22 of Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The conspiracy that occurred was a joint conspiracy because it involved several bidders and involved the work owner. In this case, PT Kakas Karya (Reported Party II), PT Nikita Raya (Reported Party III) and PT Maesa Jaya (Reported Party IV) were controlled by parties who were not concurrent positions between the bidders, but the stakeholders of the three companies participating in the tender. In the tender process, the Working Group found no conflicts of interest between bidders because there were no concurrent positions between bidders.
- Tender for BTS. Riau-Merlung-Sp. Niam APBN Fiscal Year 2016 where the parties to be reported are PT Karya Dharma Jambi Persada (Reported I), PT Hanro (Reported II), PT Bina Uli (Reported III) and Working Group for Procurement of Goods / Services Working Unit for the Implementation of National Road Region I Jambi Province Year 2016 Budget (Reported Party IV). KPPU through Decision Number 18 / KPPU-I / 2016 states that PT Karya Dharma Jambi Persada (Reported I), PT Hanro (Reported II), PT Bina Uli (Reported III) proved to violate Article 22 of Law No. 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business

Competition, but the Working Group on Procurement of Goods / Services of the Work Unit for the Implementation of the National Road Region I of Jambi Province 2016 Fiscal Year (Reported IV) was not proven to violate Article 22 of Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. The conspiracy that occurred was horizontal collusion, that is, collusion involving several bidders and not involving the work owner. In this case, PT Karya Dharma Jambi Persada (Reported I), PT Hanro (Reported II), PT Bina Uli (Reported III) are controlled by parties who are not concurrent positions between the bidders, but the stakeholders of the three companies participating in the tender. In the tender process, the Working Group found no conflicts of interest between bidders because there were no concurrent positions between bidders.

Many cases of violations of the principle of competition and ethics affect each other, and conflicting interests in tenders require alternative methods to anticipate the beneficial owner in several business entities that participate in government goods/services tenders. The anticipation of conflicts of interest between bidders is currently only based on the statutes of the legal entity bidders where Directors, Commissioners or core personnel in a business entity, concurrently serving as Directors, Board of Commissioners, or core personnel at other business entities that participate in a Tender / Selection the same one. This cannot reach a conflict of interest between bidders because it is controlled by the same party, the beneficial owner.

The beneficial owner controls a legal entity through a multi-layered benefit ownership chain mechanism so that it cannot be anticipated through a prohibition of conflicting ownership of the legal entity's organs recorded in the articles of association. Therefore, tender participants need to declare the beneficial owner of the legal entity as a form of anticipation of legal entity control which results in unfair business competition.

Obligations of bidders to make a declaration of the beneficial owner are not regulated in Presidential Regulation No. 16 of 2018 concerning Procurement of Government Goods / Services. Nevertheless, the implementation of tenders must also comply with relevant laws and regulations as an implementation of the principle of accountability, which must be in accordance with the laws and regulations, including Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing

Beneficiaries from Corporations in the Context of Prevention and Eradication of Money Laundering and Criminal Acts Terrorism Funding where each corporation must declare the beneficial owner of the corporation. Therefore, every corporation participating in a tender for government goods/services has an obligation to declare the beneficial owner where the information on the beneficial owner can be used by WG ULP in conducting evaluations to prevent bidder conspiracy controlled by the beneficial owner.

Article 106 Presidential Regulation No. 54 of 2010 and its amendments have required that government procurement of goods/services be carried out electronically through the Electronic Procurement System (SPSE) which has been effective since 2015. Every company that will participate in a tender is required to have an account by registering as a provider. In doing the registration-required information about company data such as name, position, company organs (management and owner of the company). At the time of registration to obtain the account information was obtained regarding the official management and owner of the company (legal owner) so that it can be used to anticipate conflicts of interest between bidders as stipulated in Article 7 paragraph (2) of Presidential Regulation No. 16 of 2018, namely directors, boards of commissioners, or core personnel in a business entity, concurrently as directors, boards of commissioners, or core personnel in other business entities that participate in the same Tender / Selection.

The data submitted by the bidders can formally identify the management and owner of the company (legal owner) but cannot identify the beneficial owner of the tender participant (beneficial owner). Obtaining information about the beneficial owner of the tender participant can be done through 2 (two) methods:

- Information Exchange Method where the procurement workgroup/service unit as the requesting agency is the beneficial owner of the information to the authority. Through this method, the data used by the procurement workgroup/service unit is not updated. However, this method has drawbacks such as (a) the obligation to declare the beneficial owner which came into force in 2018 so that the number of corporations providing the beneficial owner data is very low; (b) the minimal amount of resources from the competent authority to fulfill data requests from all tender activities in Indonesia.

- The method of the declaration by bidders in SPSE where bidders are required to make a declaration when registering as a provider or when registering as an auction participant in a tender package. This method has the advantage that every corporation participating in a tender is obliged to declare the beneficial owner so that the corporation that does not declare the corporation cannot enter the tender. However, this method has a weakness if the data of the beneficial owner of the corporation provided is different from the data submitted by the corporation in the Corporate Administrative Service System.
- According to the author, a better method used for the introduction of the beneficial owner is the declaration method by the bidders in SPSE with the consideration that (a) the procurement workgroup/service unit has a very limited duration for evaluating bids, including evaluating the beneficial owner of each bidder, so the data of the beneficial owner must be immediately accessible so that the procurement workgroup/service unit; (b) the number of corporations that have declared benefit owners is very low; (c) the amount of data of owners of corporation benefits that have not been verified and which has not been identified is still very high; (c) the minimal amount of resources from the competent authority to fulfill data requests from all tender activities in Indonesia.

4 CONCLUSIONS

Based on the description above, it can be concluded that the principle of competition in government goods/service tendering activities can be implemented if there is no conflict of interests between bidders. Therefore, the work owner is required to identify conflicts of interest between bidders. Identification of conflicts of interest in government procurement of goods / services tender activities in Presidential Regulation No. 16 of 2018 concerning Government procurement of goods / services is different from the identification of the beneficial owner in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing the Beneficiary Owners of Corporations in the Prevention and Eradication of Money Laundering and Terrorism Funding Crimes. Identification of conflicts of interest in government procurement of goods/services tenders in Presidential Regulation Number 16 of 2018 concerning

Procurement of Goods / Services The Government focuses on dual positions between bidders so that job owners cannot identify conflicting interests that arise through the chain of stakeholder. Therefore, identification of conflicts of interest in the tender for government procurement of goods / services should be carried out through identification of stakeholders as regulated in Presidential Regulation No. 13 of 2018 concerning the Application of the Principle of Recognizing Beneficiaries from Corporations in the Context of Prevention and Eradication of Money Laundering and Criminal Acts Terrorism Funding. In this case, the prohibition of participating in the same prohibition on bidding is not only carried out on concurrent positions between bidders but also dual owner interests between bidders. The identification of multiple stakeholders can be made through the method of information exchange or the declaration method, but given the limited time of the tender and the source of data from the competent authority and the quality and quantity of the data of the beneficial owner, it is better to identify the duplicate beneficial owner using the declaration method by the tender participant.

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