

Transparency in The Implementation of Construction Services Based on The Perception of The Public Information Disclosure Act in Indonesia

Dewi Yustiarini^{1,2,*}

¹ Civil Engineering, ² Civil Engineering Education Department

¹ Institut Teknologi Bandung, ² Universitas Pendidikan Indonesia

^{1,2} Bandung, Indonesia

*dewiyustiarini@gmail.com

Biemo W. Soermardi, Krishna S. Pribadi, Iris Mahani, Muhammad Farhan Setyawan

Civil Engineering Department
Institut Teknologi Bandung
Bandung, Indonesia

Abstract—Indonesia has adopted an open government system since 2011. This system was implemented as a continuation of the promulgation of the KIP Law in 2008. Open government is related to the administration of a transparent, open and participatory government. According to the Public Information Disclosure Act, transparency is openness in carrying out the decision-making process and openness in presenting material and relevant information about the company. This study aims to obtain an initial picture of transparency in the implementation of construction services based on public information disclosure legislation. Collection of secondary data by tracing legislation from the Public Information Openness Act and its derivatives in general to the regulations of the Ministry of PUPR as the Ministry responsible for the implementation of construction. The search for legislation regarding public information disclosure on construction services is also complemented by tracing books published in relation to KIP and information that can be obtained online from public institution. The results of the research from the legislation investigation show that from the Public Information Disclosure Act, then there is Government Regulation Number 61 of 2010 for the implementation of the Public Information Disclosure Act, and the Public Information Commission Regulation. The finding of the legal basis of the Information Management and Documentation Officer of online research, that there is a Circular of the Minister of Public Works Number 4 of 2014 concerning Standard Operating Procedures for Management and Public Information Services of the Ministry of Public Works and Decree of the Minister of Public Works and Public Housing Number 450 / KPTS / M / 2017 regarding the list of information that must be provided and announced at the Ministry of Public Works and Public Housing.

Keywords—openness; transparency; information; public institution

I. INTRODUCTION

One of the mandates of Law No. 28 of 1999 concerning the Implementation of a Clean and Free Country of Corruption, Collusion and Nepotism is the development of a transparent bureaucratic culture. The soul of this Act also falls into Law No. 12 of 2005 concerning Ratification of the International

Covenant on Civil Rights. So, before the Law on Public Information Openness Number 14 of 2008 applies, the spirit of public information disclosure has entered into several existing regulations and is a manifestation of the spirit of reform. The existence of the Public Information Disclosure Act (UU KIP) further elaborates on public information disclosure and translate it operationally as stated in Article 28F of the 1945 Constitution [1].

The Law on Public Information Openness (UU KIP) considers that information is the basic need of every person for personal development and social environment and is an important part of national security; that the right to obtain information is a human right and public information disclosure is one of the important characteristics of a democratic country that upholds the sovereignty of the people to realize a good state administration; that public information disclosure is a means of optimizing public oversight of the administration of the state and other public institution and everything that has an impact on the public interest; that the management of public information is an effort to develop an information society. In general, the KIP Law is very important to guarantee and protect Indonesian human rights in the field of communication and information, which is also a form of welfare for the people.

Indonesia has adopted an open government system since 2011. This system was implemented as a continuation of the promulgation of the KIP Law in 2008. Good governance requires open government as wrong one foundation. Freedom of information (public access to information) is one of the prerequisites for creating good government. Open government is the administration of a transparent, open and participatory government. According to the UU KIP, transparency is openness in carrying out the decision-making process and openness in presenting material and relevant information about the company.

Transparency is a part of public information disclosure that involves the general public as a public watchdog against the administration of the state and other public institution and everything that results in the public interest. Including

information in the field of organizing construction services, especially in infrastructure. The general public or public infrastructure users indirectly feel the impact of the construction, especially during the construction phase. The construction schedule can disrupt the activities of the community, for example the diversion of traffic, the longer travel time due to congestion, the construction schedule that sometimes experiences delays but is not informed transparently, the construction costs are still limited to access, and there are still some again. Public institution involved in construction services have provided facilities and infrastructure to access information through the official website of each Public Agency, the project nameplate is installed on the project fence as public information, and procurement of goods / services online.

This study aims to obtain an initial picture of transparency in the implementation of construction services based on public information disclosure legislation. Collection of secondary data by tracing legislation from the Public Information Openness Act and its derivatives in general to the regulations of the Ministry of PUPR as the Ministry responsible for the implementation of construction. The search for legislation regarding public information disclosure on construction services is also complemented by tracing books published in relation to KIP and information that can be obtained online from public institution.

II. LAW OF PUBLIC INFORMATION DISCLOSURE

The Public Information Disclosure Act in Article 3 states that the purpose of this law is to guarantee the right of citizens to know the plans for public policy making, public policy programs, and public decision-making processes, as well as the reasons for making public decisions; encourage public participation in the public policy making process; increase the active role of the community in public policy making and good management of Public Institution; realizing good state administration, namely transparent, effective and efficient, accountable and accountable; know the reasons for public policies that affect the lives of many people; develop science and educate the life of the nation; and / or improve information management and services within the Public Agency to produce quality information services. The purpose of this law was found by parties involved in public information disclosure, namely the public as a public who has the right to obtain information and public institution as parties who provide information. And there is a relationship between public information disclosure with transparency and accountability to realize good organization.

Through the mechanism and implementation of the principle of openness, good governance and transparent community participation and high accountability will be created as one of the prerequisites for realizing essential democracy. By opening public access to information, it is hoped that the Public Agency will be motivated to be responsible and oriented towards the best public service. Thus, it can accelerate the realization of open government which is a strategic effort to prevent the practice of corruption, collusion and nepotism, and the creation of good governance.

Public Information is information that is produced, stored, managed, sent, and / or received by a Public Agency relating to the organizers and administration of the state and / or the organizer and organization of other Public Institution in accordance with this Law and other information relating to public interest (Article 1 paragraph (2) UU KIP). Public institution is executive, legislative, judicial, and other institution whose functions and main tasks are related to the administration of the state, in which part or all of the funds come from the State Revenue and Expenditure Budget and / or Regional Revenue and Expenditure Budget, or partially or non-governmental organizations. all funds are sourced from the State Revenue and Expenditure Budget and / or Regional Revenue and Expenditure Budget, community contributions, and / or abroad (Article 1 paragraph (3) UU KIP). Public Information Users are people who use public information as stipulated in this Act (Article 11 of the KIP Law).

Article 2 of the KIP Law informs that every Public Information is open and can be accessed by any Public Information User. However Public Information is excluded with strict and limited nature. UU KIP Article 4 describes the rights of applicants for public information and the obligations of users of public information. That everyone has the right to obtain Public Information in accordance with the provisions of this Law. Everyone has the right to see and know Public Information, attend public meetings that are open to the public to obtain Public Information, obtain copies of Public Information through applications in accordance with this Law, and disseminate Public Information in accordance with the laws and regulations. Every Public Information Applicant has the right to submit a request for Public Information along with the reason for the request. Every Public Information Applicant has the right to file a lawsuit in court if obtaining Public Information has an obstacle or failure in accordance with the provisions of this Law.

Article 5 of the UU KIP explains the obligation of the Information User to include the source from which he obtained Public Information, whether used for his own purposes or for the purposes of publication in accordance with the provisions of the legislation. The rights and obligations of the Public Agency are explained in the UU KIP in Article 6 and Article 7. The Public Agency has the right to refuse to provide excluded information in accordance with the provisions of the legislation.

Public Information that cannot be provided by a Public Agency, is information that can endanger the state; information relating to the interests of business protection from unfair business competition; information relating to personal rights; information relating to job secrets; and the requested Public Information has not been mastered or documented. The obligation of the Public Agency is to provide, provide and / or publish Public Information which is under its authority to the Applicant of Public Information, in addition to information excluded in accordance with the provisions. Public institution must provide public information that is accurate, correct and not misleading. Public institution needs to develop and develop information and documentation systems to manage Public Information properly and efficiently so that it can be accessed easily.

Information that must be provided and announced based on the UU KIP is divided into three groups, namely: in Article 9 concerning Information that Must be Provided and Announced Periodically; in Article 10 concerning information that must be announced immediately; and in Article 11 about information that must be available at any time. Whereas in Article 17 it is explained about the information that is excluded and in Article 18 it is explained about information that is not excluded. Figure 1 is a schematic description that classifies public information into two types, namely public information that is open and excluded. Open public information can be divided into three more groups, namely information that must be provided and announced periodically (contained in Article 9 of the UU KIP), must be announced immediately (contained in Article 10 of the UU KIP), and information that must be available at any time (contained in Article 11 of the UU KIP). While excluded public information is grouped into five, namely: State secret groups (Article 6 paragraph (3) letter a and Article 17 letters a, c, d, e, f UU KIP); Private secret group (Article 6 paragraph (3) letter c and Article 17 letter g, h UU KIP); Business secret group (Article 6 paragraph (3) letter b and Article 17 letter b of UU KIP); Occupational secret group (Article 6 paragraph (3) letter d), and information group that has not been controlled by a Public Agency (Article 6 paragraph (3) letter e).

III. IMPLEMENTATION OF THE PUBLIC INFORMATION DISCLOSURE ACT

Government Regulation Number 61 of 2010 concerning the implementation of Law Number 14 of 2008 concerning Public Information Openness is the beginning of the implementation of Public Information Openness as part of the implementation of the State [2]. This Government Regulation in Article 1 paragraph 5 contains the Information and Documentation Management Officer (PPID), namely an official responsible for storing, documenting, providing, and / or providing information services in a Public Agency. Classification of information and the period of exclusion of exempt information is determined by the Information and Documentation Management Officer in each Public Agency based on the Consequence Test carefully and thoroughly before stating that certain Public Information is excluded to be accessed by everyone.

Officials appointed as Information and Documentation Management Officers within the State Public Agency are at the navel and in the regions are officials in charge of public information (PP 61/2010 Article 12) [2]. In Article 13 of PP 61/2010, the Information and Documentation Management Officer is held by someone who has competence in the field of information and documentation management. The duties and responsibilities of the Information Management Officer and written Documentation in Article 14 consist of: provision, storage, documentation, and information security; information service in accordance with applicable rules; public information services that are fast, precise and simple; establishment of operational procedures for disseminating Public Information; Testing of Consequences; Classification of Information and / or changes to it; stipulation of Excluded Information which has expired the Exemption Period as Public Information that can be accessed; and the determination of written considerations for

each policy taken to fulfil the right of every person to Public Information.

Also found is Information Commission Regulation No. 1 of 2010 concerning Standards for Public Information Services. In Article 2 of the Information Commission Regulation, it is explained that the purpose of this Regulation is to provide standards for public institution in carrying out public information services; Improving Public Information services within the Public Agency to produce quality Public Information services; Ensure the fulfilment of citizens' rights to obtain access to Public Information; Ensuring the realization of the purpose of the implementation of information disclosure as stipulated in the Public Information Disclosure Act. In this regulation also explained the obligations of Public Institution in Information Services [3].

The Ministry of Public Works as a Public Agency that has strategic needs in the administration of government, especially the provision of infrastructure in the field of public works, is obliged to implement public information disclosure in order to realize good governance. In an effort to implement the KIP Law and its implementing regulations, and to realize effective and efficient public information services, the Operational Standards for Public Information Management and Service Procedures have been established in the Ministry of Public Works No. 4 of 2014.

Decree of the Minister of Public Works and Public Housing Number 450 / KPTS / M / 2017 concerning the list of information that must be provided and announced at the Ministry of Public Works and Public Housing, considering Law Number 14 Year 2008, Government Regulation Number 61 of 2010, Information Commission Regulation Number 1 of 2010, and amending Decree of the Minister of Public Works Number 391 / KPTS / M / 2011 concerning Determination of Information Classification at the Ministry of Public Works of the Republic of Indonesia which is no longer in line with the development of law and organizational structure of the Ministry of Public Works and Public Housing New Minister [4]. A list of information that must be provided and announced is listed in the Appendix which is an integral part of this Ministerial Decree. The Organizational Unit within the Ministry of PUPR that provides a list of information consists of the Secretariat General, Inspectorate General, Directorate General of Water Resources, Directorate General of Highways, Directorate General of Human Settlements, Directorate General of Housing, Directorate General of Housing Financing, Research and Development Agency, Directorate General Construction Management, Water Resources Development Agency, Regional Infrastructure Development Agency, Toll Road Regulatory Agency, and supporting Agency for the Development of Drinking Water Supply Systems. Ministerial Decree No. 450 of 2017 stipulates a list of information that must be provided and announced at the Ministry of Public Works and Public Housing [5], including:

- Public information that must be provided and announced periodically.
- Public information that must be announced immediately.

- Public information that must be available at any time.

The list of information that must be provided and announced at the Ministry of PUPR of the Republic of Indonesia is divided into two parts, namely general information and special information. General information is information that must be provided and announced periodically by all organizational units. Regarding the information announced consists of:

- Work Unit Profile.
- List of structural and / or functional officials.
- General information on the procurement of goods and services (e-procurement).
- Announcement of the auction of goods and services.
- Summary of Ministry Financial Reports (Budget Realization and Audited Balance Sheet reports).
- Summary of access reports (public information services).
- Information about the agenda, activities that have been, are being carried out, and will be carried out.
- Publication and documentation of PUPR activities (Journal, Bulletin, Brochure, website reporting, press release).

General information that must be available at all times by all organizational units, consisting of:

- Work Leadership Agenda and Echelon I Official.
- Information on organization statistics, administration, staffing and finance.
- Information about public service procedures / procedures.
- Legal products within the scope of the Ministry of PUPR's duties.
- List and document of agreement / MoU other than agreements / contracts for procurement of goods and services.
- Profile of infrastructure in the PUPR sector.

General information that must be announced by all organizational units immediately, consisting of:

- Information about damage to PUPR infrastructure due to natural disasters.
- Information about functional plans for public utilities.
- Information on disaster emergency response progress.

List of information that must be provided and announced specifically by organizational units related to public information on the construction, among others:

- Procedures for obtaining public information, filing objections and information dispute resolution processes. Information that must be provided and announced

periodically by the organizational unit of the Secretariat General.

- Map of Indonesia's infrastructure and List of Public Information. Information that must be available at all times by the organizational unit of the Secretariat General.
- Public complaints procedures. Information that must be provided and announced periodically by the organizational unit of the Inspectorate General (IG).
- Priority programs for DGWR and a list of reservoir water levels. Information that must be available at all times by the organizational unit of the Directorate General of Water Resources (DG SDA).
- General information on road conditions and priority programs of DGH. Information that must be provided and announced periodically by the DGH general organizational unit.
- General information on housing finance assistance mechanisms. Information that must be provided and announced periodically by the organizational unit of the Directorate General of Housing Financing.
- Application / information system on R & D results. Information that must be available at all times by the Research and Development Agency (Balitbang) organizational unit.
- Market data on domestic and foreign infrastructure, list of priority projects, and list of information on the progress of package construction project work at the provincial level, and list of auction winners in the PUPR sector (Job value > 100 M). Information that must be provided and announced periodically by the organizational unit of the Directorate General of Construction.

The procedure for obtaining public information is information that must be provided and announced periodically by the Organizational Unit of the Secretariat General. For a list of priority projects, namely projects carried out by the Government, Regional Government and or Business Entities that have a strategic nature to increase growth and even distribution of regional development, information must be provided and announced periodically by the Directorate General of Construction.

IV. RESULTS AND DISCUSSION

Collection of secondary data originated from the Public Information Disclosure Act, the search for journals, books, and information related to transparency in the implementation of construction services. It was found that transparency is an inseparable part of public information disclosure. Public institution as organizers have an obligation to provide information to the public and appoint Information Management and Documentation Officers as responsible for Public Institution.

Transparency in the implementation of Construction Services is inseparable from Law Number 2 of 2017 concerning Construction Services together with Public Institution at the Ministry of Public Works and Public Housing level. Subsequent transparency was found in Presidential Regulation Number 54 of 2010 concerning the procurement of Government goods / services [6]. In Article 93 of the Presidential Regulation Number 54/2010 which is still valid, it also defines transparency as all provisions and information regarding the Procurement of Goods / Services are clear and can be widely known by Goods / Services Providers who are interested as well as by the public in general. The latest regarding Procurement of Goods / Services is in the Presidential Regulation Number 16 of 2018 concerning Procurement of Government Goods and Services [7].

V. CONCLUSION

The results of the research from the legislation investigation show that from the Public Information Disclosure Act, then there is Government Regulation Number 61 of 2010 for the implementation of the Public Information Disclosure Act, and the Public Information Commission Regulation. The finding of the legal basis of the Information Management and Documentation Officer of online research, that there is a

Circular of the Minister of Public Works Number 4 of 2014 concerning Standard Operating Procedures for Management and Public Information Services of the Ministry of Public Works and Decree of the Minister of Public Works and Public Housing Number 450/KPTS/M/2017 regarding the list of information that must be provided and announced at the Ministry of Public Works and Public Housing.

REFERENCES

- [1] Law Number 14 Year 2008 concerning Public Information Openness.
- [2] Anonymous, Government Regulation Number 61 of 2010 concerning Implementation of Public Information Disclosure Law.
- [3] Anonymous, Information Commission Regulation No. 1 of 2010 concerning Standards for Public Information Services.
- [4] Anonim, Minister of Public Works Circular Letter Number 4 of 2014 concerning Standard Operating Procedures for Management and Public Information Services at the Ministry of Public Works.
- [5] Anonymously, Minister of PUPR Decree No. 450 of 2017 concerning List of Information that must be provided and announced at the Ministry of PUPR.
- [6] Anonymous, Law Number 2 of 2017 concerning Construction Services.
- [7] Anonymous, Presidential Regulation Number 16 of 2018 concerning Procurement of Government Goods and Services.