

DPR Announces 75 Candidates for BPK Membership, Highlighting the Need for Expanded Oversight Powers

The Indonesian House of Representatives (DPR) recently announced 75 candidates for the Audit Board of Indonesia (BPK) who will undergo a fit and proper test as part of the selection process. The DPR's authority to choose BPK members is based on Law No. 15 of 2006 (UU 15/2006), specifically Article 14, which mandates that BPK members be elected by the DPR with consideration from the Regional Representative Council (DPD). This law, enacted on October 30, 2006, has not been amended despite facing eleven judicial reviews at the Constitutional Court. Out of these, eight were rejected, two were dismissed, and one was granted. The granted review concerned the constitutionality of the phrase "interim replacement" in Article 22. Thus, the provisions of UU 15/2006 have been in effect for over seventeen years, governing the duties and powers of the BPK.

The primary function of the BPK is to audit the management and accountability of state finances carried out by the government, state institutions, Bank Indonesia, state-owned enterprises, and other institutions managing state finances. The results of these audits, known as the Audit Report (LHP), are submitted to the relevant representative bodies. They are also provided to the President, Governors, and Regents for follow-up actions, with the outcomes of these actions reported back to the BPK. The BPK monitors these follow-ups, documenting them in the Follow-Up Monitoring Report, which is then communicated to the representative bodies and the President. Additionally, the BPK has the authority to assess and determine the amount of state losses, provide opinions and considerations on resolving state/regional losses determined by the government, and offer expert testimony in legal proceedings concerning state losses.

The BPK's powers are similar to those of other Supreme Audit Institutions (SAIs) globally, such as the U.S. Government Accountability Office (GAO). Established under the Budget and Accounting Act of 1921, the GAO is an independent body that works for Congress, earning it the nickname "Congressional Watchdog." The GAO's authority includes auditing and investigations, along with quasi-judicial powers to resolve disputes related to government procurement. The GAO can declare procurement processes as non-compliant with legal provisions, recommending corrective actions or contract terminations. It can also suggest reimbursement of costs incurred by bidders in the protest process, as initially provided for under the Competition in Contracting Act of 1984.

In Indonesia, procurement participants dissatisfied with the procurement results can file objections with the Procurement Working Group (Pokja). The objection mechanism is regulated under LKPP Regulation No. 12 of 2021 concerning Guidelines for Implementing Government Procurement of Goods/Services through Providers. Participants can object if they find evaluation errors, deviations from regulations and procedures, collusion preventing fair competition, or abuse of authority by the Pokja, procurement officials, or regional leaders. If the Pokja accepts the objection, a re-evaluation or re-tender is conducted. If the objection response is unsatisfactory, participants can file an appeal, specifically applicable to construction procurement, regulated under the same guidelines.

Additionally, participants can report collusion in tenders to the Business Competition Supervisory Commission (KPPU) under KPPU Regulation No. 3 of 2023 on Guidelines for Prohibiting Collusion

in Tenders. The KPPU can order the cessation of monopolistic practices, impose fines, or blacklist offenders.

Comparatively, the GAO's quasi-judicial authority offers a more independent and objective dispute resolution mechanism than Indonesia's internal government objection process. The KPPU's focus on collusion does not cover other procurement issues like regulatory non-compliance, indicating a gap in oversight.

Given the frequent occurrence of corruption in procurement, with 35,646 corruption cases decided by the Supreme Court, including high-profile cases like the Hambalang athlete village project and the electronic ID procurement, there is a need for robust oversight. According to Indonesia Corruption Watch (ICW), the state lost IDR 127.5 trillion due to corruption from 2019 to 2023.

Currently, BPK audits include compliance checks with procurement regulations, indirectly evaluating procurement practices. However, as these evaluations are part of the annual financial audits, problematic projects may have already progressed significantly. Therefore, granting BPK quasi-judicial powers similar to the GAO's could help identify and address procurement issues early, minimizing state losses. This expansion of BPK's authority could be achieved through amendments to UU 15/2006, ensuring better budget oversight and integrity.