

**WORK AGREEMENT BETWEEN MEDAN HAJI HOSPITAL AND  
TENDER WINNING CONTRACTORS**  
**(According To The Regulation Of The Governor Of North Sumatera No  
52 Of 2015 Concerning Procurement Of Goods And Services Of Regional  
Public Services In Medan Haji Hospitals, North Sumatera Province)**

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**ABSTRACT**

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*Procurement of Goods and Services is expected to be carried out effectively and efficiently with the principles of fair competition, transparency, openness, and fair treatment for all parties, according to Presidential Regulation No. 54 of 2010 concerning Procurement of Government Goods and Services is an activity to obtain goods and services by the Ministry / Institutions / Work Units of Regional / Institutional Devices and Regulations of North Sumatra Governor No 52 of 2015 concerning Procurement of Goods and Services for Regional Public Service Agencies at other Medan Hajj Hospital in North Sumatra Province, the process of which starts from needs planning to all activities to obtain goods and services. The method used is a research method with a statutory approach and a case approach. The results of this study explain first, that the implementation of the agreement carried out by field hajj hospital with the tender winner in the contract of procurement of goods and services carried out by the Hajj field hospital as stipulated in the North Sumatra Governor Regulation No. 52 of 2015 concerning Procurement of Public Service Goods and Services Region at Medan Haji Hospital North Sumatra Province As a responsibility when the default service provider means that it must be responsible for the service provider.*

**Keywords: Implementation, Procurement, Legal Responsibilities.**

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## INTRODUCTION

The hospital is one of the many public services institutions that play an important role in improving the health status of the community. Services in the health sector are one of the most needed forms of service by the community. The health service in question is of course fast, precise, cheap and friendly. Hospitals are required to be able to serve the community, be able to develop and be independent and must be able to compete and provide quality and affordable services for the community. With the increasing demands for hospitals to improve their services, many problems have arisen related to the limited

budget available for hospital operations, too long bureaucratic flows in the process of disbursing funds, financial management regulations that hinder the smooth running of services and difficulty in measuring performance, meanwhile Hospitals require a large amount of human resources, technology and capital support.

A hospital that has to provide services all the time, of course, does not want to face constraints at the beginning of the fiscal year to face constraints of limited medicines, medical devices, food and drink for patients and others just because the budgeting process at the regional government has not been completed. This service optimization can be overcome when functional income can be directly used for the procurement of drugs, medical devices and others as well as simplifying the process of procuring goods / services that still benefit the hospital.<sup>1</sup>

Pancasila as the philosophy of life of the nation which is also the source of all legal sources has high-dimensional values and is in accordance with the values that live in society, because Pancasila is also a national character that can distinguish Indonesian people from other nations so that Pancasila also becomes a reference against various rules which are then followed by the constitution and various other organic regulations. Regional level in upholding transparency and accountability towards the implementation of regional government.<sup>2</sup>

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<sup>1</sup>Sugeng Yoga Marsasi, *Blud Enterprising The Government*, <https://warungblud.wordpress.com/diakses> tanggal 22 Agustus 2015.

<sup>2</sup> Cynthia Hadita, Regional Autonomy Political Politics Of Regional Liability Reports To Regional Representatives In The Implementation Of Local Government, *Nomoi*

Since the enactment of Law No.32 of 2004 concerning Regional Government, it has led to changes in the government system, which initially adopted a centralized accountability pattern, which changed to a decentralized pattern. In this case the local government is given broad authority to manage and take real responsibility for the potential of the region it has. The existence of this regional autonomy system has resulted in a shift in the orientation of the government, which is oriented towards public demands and needs. The purpose of regional autonomy is to strengthen the regional economy and later to support the national economy. One way to make this happen is through the realization of public sector reform / regional financial reform.

The Regional Government fosters the business climate by establishing laws and regulations and policies covering aspects of funding, facilities and infrastructure, business information, partnerships, business licensing, partnership, business licensing, business opportunities, trade promotion, institutional support.<sup>3</sup>

According to Article 1 point 1 of Law no.17 of 2003 concerning State finances, State Finance are all rights and obligations of the state that can be valued in money, as well as everything in the form of money or goods that can be made state property in connection with the

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*Law Review*, Volume 1, Issue 1, May 2020, p. 91.

<sup>3</sup> Eka N.A.M Sihombing, Kebijakan Afirmatif Bagi Usaha Mikro, Kecil, dan Menengah Di Bidang Kekayaan Intelektual (Affirmative Policy for Micro, Small, and Medium Enterprises in the Field of Intellectual Property), *Jurnal Rechtvinding*, Vol. 7, No. 3, December (2018).

implementation of these rights and obligations.

The role of state finance law is currently being tested to provide a comprehensive theoretical-practical understanding of the maturation process of the state financial system in Indonesia, particularly in affirming the notion of state finance which favors the concept of legal entity independence and regional autonomy policies. Amendments to the provisions in the 1945 Indonesian Constitution and laws and regulations governing state finances do not provide sensitivity to the reality of demands for legal entity independence and regional autonomy as a form of political will required to carry out changes in state financial policy oriented towards progress in the system. state finances.<sup>4</sup>

The birth of three packages of laws in the financial sector, namely Law no. 17 of 2003 concerning State Finance, Law No.1 of 2004 concerning State Treasury and Law No.15 of 2004 concerning Audit of Management and Accountability of State Finances, the state budget management system in Indonesia continues to change and develop in accordance with developments in the dynamics of public sector management.

Law Number 17 of 2003 concerning State Finance, which emphasizes performance-based budgeting, which provides an important basis for a new orientation in Indonesia. The state finance regulation has changed the *mindset* or mindset that is more efficient, professional, accountable, and transparent, by making a change from traditional budgeting to performance-based budgeting, which opens corridors for the application of performance

bases in government circles. Given this performance basis, the direction of the use of government funds becomes clearer, from just financing *input* and the process to being *output* -oriented . Furthermore, Law Number 1 of 2004 concerning the State Treasury opens a new corridor for the implementation of a performance basis within the government environment. In Article 68 and Article 69 of Law Number 1 of 2004 concerning State Treasury, it is stated that government agencies whose main task and function are to provide services to the public can implement flexible financial management patterns by prioritizing productivity, efficiency and effectiveness.

The principles contained in these two laws form the basis for government agencies to implement financial management for the Public Service Agency. The Public Service Agency is expected to be the first step in reforming public sector financial management, in order to improve government services to the public.

In accordance with Article 68 and Article 69 of Law Number 1 of 2004 concerning State Treasury, which in principle regulates that government agencies whose main task and function are to provide services to the public can implement flexible financial management patterns by highlighting productivity, efficiency and effectiveness as an Agency. Public Service (BLU). Through the BLU financial management pattern, flexibility is given in the framework of budget execution, including the pattern of revenue and expenditure management, cash management and procurement of goods / services. BLUs are also given the opportunity to employ non-civil servant professionals as well as the opportunity to

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<sup>4</sup> Adrian Sutedi, *Hukum Keuangan Negara*, (Jakarta: Sinar Grafika, 2010), hlm. 1.

provide compensation for services to employees according to their contribution. But as a counterweight, the BLU is strictly controlled in planning and budgeting, as well as their accountability.

The Ministry of Health emphasizes the importance of an adjustment or reform in hospital management by implicating changing the status of a government hospital into a form of Public Service Agency. Government hospitals as one of the sub-systems for implementing health improvement are encouraged to make innovations and improve health services. Service improvement affects the increase in service production costs. BLU Hospitals are given flexibility in the framework of budget execution, including management of revenues and expenditures, cash management, and procurement of goods / services, while still holding BLU strictly in planning and budgeting, as well as in its accountability. Changing a hospital to a BLU is not something easy, because it includes many conditions. After becoming a BLU, the hospital is required to conduct a performance appraisal to assess how the services are provided by the hospital to the community.

In 2005 issued PP. 23 of 2005 concerning the Financial Management of Public Service Bodies which has now been changed to PP. 74 of 2012 concerning Amendments to Government Regulation Number 23 of 2005 concerning Financial Management of Public Service Bodies and Permendagri No 61 of 2007 concerning Technical Guidelines for Financial Management of Regional Public Service Bodies which regulate financial management at BLU / D and based on Law No. 44 of 2009 concerning Hospitals that in 2011 it is hoped that all government hospitals (Vertical Hospital and RSUD)

will become BLU / BLUD<sup>5</sup>. his rule becomes the legal basis for government hospitals to be more autonomous in the financial sector. Thus, the principle of efficiency must be part of the management system. This is also a starting point for improving the management system in government hospitals in managing a more *entrepreneurial* spirit by implementing a healthy business concept. PP No. 74/2012 and Permendagri No. 61/2007 explicitly state that there are substantial, technical and administrative requirements for BLUs, including hospitals, Bapelkes, Puskesmas and other health service organizations. Administrative requirements in accordance with PP. 74 of 2012 and Permendagri No 61 of 2007 are the following documents:

1. Statement of commitment to improve service performance, finance and benefits to the community;
2. The pattern of governance (*hospital by law and clinical bylaw*);
3. Business strategic plan (Renstra);
4. Main financial reports;
5. Minimum service standards (SPM);
6. Report of the audit last or statements willing to be audited

In connection with the consolidation of the financial reports of local government hospitals with financial reports of state ministries / institutions, as well as local government financial reports, government hospitals as BLU / BLUD develop a financial accounting sub-system that produces financial reports in accordance with SAP 76 / PMK.05 / 2008 concerning Guidelines for Accounting and Financial

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<sup>5</sup> PERSI. *Bimbingan Teknis Pola Pengelolaan Keuangan Pada Rumah Sakit Badan Layanan Umum (BLU/BLUD) menuju Rumah Sakit yang Efisien, bermutu, Akuntabel dan Auditabel*. Seminar dan Workshop, Jakarta, 2011.

Reporting of Public Service Bodies, this is in line with Article 27 PP No. 74 of 2012, the government hospital in the framework of being accountable for financial management and service activities, compiles and presents: 1) Financial Statements; and 2) Performance Report. The Financial Statements at least consist of:

1. Budget Realization Report and / or Operational Report;
2. Balance sheet;
3. Cash Flow Statement; and
4. Notes on Financial Statements.

Based on this law, government agencies whose main task and function are to provide services to the public can apply flexible financial management patterns, in the form of flexibility to implement sound business practices in order to maximize services to the community while still highlighting productivity, efficiency and effectiveness. through the Public Service Agency.

BLU / D is basically a tool to improve the performance of public services through the implementation of financial management based on results, professionalism, accountability and transparency. In order to become a BLU / D, an agency must meet three main requirements, namely substantive requirements related to the delivery of public services, technical requirements related to service performance and financial performance, as well as administrative requirements related to the fulfillment of documents such as governance patterns, plans business strategy, minimum service standards, basic financial reports, and audit reports / willing to be audited.

Through the concept of the BLU / D financial management pattern, the hospital is expected to increase professionalism,

encourage *entrepreneurship*, transparency and accountability in the context of public services, in accordance with the three pillars expected from the implementation of this PPK-BLU, namely promoting improved public service performance, management flexibility. finance and good governance.

## METHOD

Research is a scientific way to solve a problem and to break through the limits of human ignorance.<sup>6</sup> Research work is a job by collecting various kinds of materials related to the research being carried out. This arises because there are problems, without problems there will be no research. Research is conducted to answer a reality problem with hope.

In this research is a perspective, meaning that a study is aimed at finding solutions to problem solving and what should be done to overcome these problems.<sup>7</sup> The approach used is the statutory approach (*statute approach*). This approach is carried out by examining all laws and regulations that relate to the problem being studied.<sup>8</sup>

The nature of this research is analytical descriptive legal research. Descriptive means describing what it is<sup>9</sup> so in this study, the author will describe or examine legal issues regarding the employment agreement between the Medan Hajj Hospital and the Tender-winning contractor according to the

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<sup>6</sup> Riduwan, *Skala pengukuran variabel variabel penelitian*, (Bandung: Alfabeta, 2002), hlm. 1.

<sup>7</sup> Soerjono Soekanto, *Pengantar penelitian Hukum*, (Jakarta : UI Press, 1986), hlm. 10.

<sup>8</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Pranada Media Group, 2007), hlm. 93.

<sup>9</sup> Kamus bahasa Indonesia, *Op.cit*, hlm. 258.



North Sumatra Governor Regulation No. 52 of 2015 concerning the Procurement of Goods and Services for Regional Public Service Bodies at the Medan Haj Hospital. North Sumatra Province.

Analytical means that the data from the results of this research will be processed first, analyzed and described carefully based on legislation, especially those related to the Work Agreement between the Medan Hajj Hospital and the Tender-Winning Contractor According to the Regulation of the Governor of North Sumatra No. 52 of 2015 concerning the Procurement of Goods and Regional Public Service Agency Services at the Medan Hajj Hospital, North Sumatra Province .

The method used is a research method with a statutory approach and a *case approach* . The statutory approach method is carried out by examining all laws and relationships that are related to the legal issues presented. Meanwhile, the *case approach* is carried out by analyzing cases related to the issues at hand which have become court decisions that have permanent legal force.

To do a description and then explain the law in full, then the sociology of law must reveal and parse the law until it reaches this fundamental perspective<sup>10</sup>. The interview is a method of collecting data that is used to obtain information directly from the source.<sup>11</sup>

In terms of interviews with the source, the writer chooses free guided interviews, namely interviews which are a combination of free and guided interviews.<sup>12</sup> In conducting such an interview, the interviewer only carries an

outline that will be asked to the resource person.

The interviewer must also be good at seeing the situation and conditions being interviewed so that they don't get bored quickly so that a paradigm is revealed correctly. By uncovering this paradigm he will be able to better explain the subjects he is studying.<sup>13</sup> This is done so that the correctness of the data obtained is confirmed so that it can be compared with the reality that is developing in the community as the legal actor.

This research was conducted at the Medan Hajj Hospital . And the source of data in this study is the Head of Hospital education and research .

The research approach used consists of a statutory approach (*statute approach*) and a conceptual approach (*conceptual approach*). The statutory approach is used to analyze legal aspects using the Governor of North Sumatra Regulation Number 52 of 2015 concerning Guidelines for the Procurement of Goods and Services for Regional Public Service Bodies at the Medan Haji Hospital, North Sumatra Province as a basis for analysis, while the conceptual approach is used to gain understanding, correct and in-depth about the concept of the agreement made by the Medan Hajj Hospital as a Regional Public Service Agency to the Tender Winning Contractor .

The nature of the research is descriptive analysis, the descriptive nature is interpreted as an effort to describe thoroughly and deeply.<sup>14</sup> A legal phenomenon in the form of an agreement made by the BLUD to the contractor, the nature of this analysis is interpreted as

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<sup>10</sup> Satjipto Raharjo, *Op. Cit.*, hlm. 66.

<sup>11</sup> Riduwan, *Op. Cit.*, hlm. 29.

<sup>12</sup> *Ibid.*, hlm. 30.

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<sup>13</sup> Satjipto Raharjo, *Loc. Cit.*

<sup>14</sup> *Ibid.*, hlm. 36.

an effort to analyze *the Regional Umu Service Agency of Medan Haji Hospital, North Sumatra Province* based on positive law of relevant legal theories.

In this case, a direct interview was conducted by the Head of Hospital Education and Training. This was done to obtain accurate and in-depth data about the procurement of goods and services carried out by the hospital and the winning bidder. The data obtained, both primary and secondary, are examined to determine whether they are truly reliable and accurate. Then the data is analyzed / processed and interpreted logically and systematically with the approach of the prevailing laws regarding the procurement of goods and services.

## DISCUSSION

### Concept of Accountability and Transparency

According to Taliziduhu Ndraha, the concept of accountability originates from the concept of responsibility, the concept of responsibility itself can be explained by the existence of authority. Authority here means legitimate power. According to Weber, there are three types of ideal types of authority, *first* traditional authority, *secondly* charismatic authority, and *thirdly* legal rational authority. These three are the basis for government authority. During its development, a new concept of authority was developed by Chester I. Barnard, which boils down to the principle that the use of authority must be accountable.<sup>15</sup>

Darwin was quoted Joko Widodo, distinguishing the concept of accountability was a three *.First*, accountability (*accountability*); *second*, the responsibility

(*responsibility*) and *third-* responsiveness (*responsiveness*). Before explaining about pertanggungjawaban as accountability (*accountability*), here will be explained first accountability as responsibility (*responsibility*) and as responsiveness (*responsiveness*).

Responsibility (*responsibility*) is a concept with regard to professional standards and technical competence possessed administrator (public bureaucracy) in carrying out its duties. State administration is considered responsible if the perpetrator has a high standard of professionalism or technical competence. Meanwhile, the concept of responsiveness (*responsiveness*) is the responsibility of the receiving side (community). How far do they see the state administration (public bureaucracy) being more responsive (*responsive*) to their problems, needs, complaints and aspirations.

Accountability as accountability (*accountability*) is a term originally applied to measure whether public funds have been used appropriately for the purpose in which public funds had been established and not used illegally. In its development, accountability is also used by the government to see the accountability for the economic efficiency of the program. These efforts are trying to find and find whether there is any irregularity in staff or not, inefficient or unnecessary procedures. Accountability refers to the institution about "checks and balance" in the administrative system.<sup>16</sup>

Mohamad Mahsun distinguishes between accountability and responsibility, according to him, the two are interrelated but accountability is better and different

<sup>15</sup> Taliziduhu Ndraha, *Op.Cit.*, hlm. 85.

<sup>16</sup> Joko Widodo, *Op. Cit.*, hlm. 148.

from accountability. Accountability is based on written records / reports while responsibility is based on discretion. Accountability is a common characteristic of an asymmetric authoritative relationship, for example, supervised and supervised, agent and principal or between representative and represented. In terms of focus and scope, responsibility is more of an internal nature while accountability is more external in nature.<sup>17</sup>

Mohamad Mahsun also distinguishes accountability in the narrow sense and broad meaning, accountability in the narrow sense can be understood as a form of accountability which refers to who the organization (or individual workers) is responsible for and for what the organization is responsible for. Meanwhile, the definition of accountability in a broad sense can be understood as the obligation of the trustee (agent) to give accountability, present, report and disclose all activities and activities that are their responsibility to the principal who has the right and authority to hold this accountable.<sup>18</sup>

According to *The Oxford Advance Learner's Dictionary* as quoted by the Institute for State Administration, accountability is defined as "required or expected to give an explanation for one's action." Accountability is needed or expected to provide an explanation for what has been done. Thus accountability is an obligation to provide accountability or answer and explain the performance of the actions of a person / legal entity / leader of an organization to parties who have the right or authority to request information or

accountability.<sup>19</sup>

Miriam Budiarmo defines accountability as the responsibility of those who are given the mandate to govern to those who give them the mandate. Accountability means responsibility by creating oversight through the distribution of power in various government institutions, thereby reducing the buildup of power while creating conditions for mutual supervision.<sup>20</sup>

While Sedarmayanti defines it as an embodiment of the obligation to account for the success or failure of the implementation of the organization's mission in achieving the stated goals through accountability media which is carried out periodically.<sup>21</sup>

The State Administration Agency concludes that accountability is the obligation of a person or organizational unit to be accountable for the management and control of resources and the implementation of the policies entrusted to him in order to achieve the goals that have been set through periodic accountability.<sup>22</sup>

Accountability is divided into several types or types, Jabra & Dwidevi as explained by Sadu Wasistiono suggesting five accountability perspectives, namely;<sup>23</sup>

a. administrative / organizational accountability

The accountability between authorized officials and subordinate units in a clear hierarchical relationship.

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<sup>19</sup> LAN BPKP, *Op. Cit.*, hlm. 43.

<sup>20</sup> Miriam Budiarmo, *Menggapai Kedaulatan Rakyat*, Mizan, Jakarta, 1998, hal.78

<sup>21</sup> Sedarmayanti, <sup>99</sup> Sedarmayanti, *Good Governance (Kepemerintahan Yang Baik)*, *Membangun Sistem Manajemen Kinerja Guna Meningkatkan Produktivitas menuju Good Governance* Op.Cit, hal.

<sup>22</sup> LAN BPKP, *Op.Cit* hal 23

<sup>23</sup> Sadu Wasistiono, *O.Cit.ha*

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<sup>17</sup> Mohamad Mahsun, *Pengukuran Kinerja Sektor Publik*, (Yogyakarta: BPFE, 2006), hlm. 84.

<sup>18</sup> *Ibid*, hlm. 83.



b. legal accountability ,

This type of accountability refers to the public domain associated with the legislative and judicial processes. This can take the form of a review of policies that have been taken by public officials or the cancellation of a regulation by the judiciary. The measure of legal accountability is the applicable laws and regulations

c. political accountability ,

In this type it is related to the existence of the authority of political power holders to regulate, prioritize and distribute resources and ensure compliance in carrying out administrative and legal responsibilities. This accountability focuses on the democratic pressure exerted by the public administration

d. professional accountability

This is related to the implementation of performance and actions based on benchmarks set by similar professions. This accountability places more emphasis on the quality aspects of performance and action.

e. moral accountability

This accountability is related to the prevailing values in society. It mostly talks about good or bad performance or actions taken by a person / legal entity / collective leader based on the measurement of values that apply locally.

### Concept and Transparency Definition

According to Mardiasmo, transparency means openness ( openness ) of the government in providing information related to public resource management activities to parties who need information. The government is obliged to provide financial and other information that will be used for decision making by the parties

concerned.<sup>24</sup> Transparency in the end will create *horizontal accountability* between the local government and the community so as to create a local government that is clean, effective, efficient, accountable and responsive to the aspirations and interests of the community.

Transparency is the principle that guarantees access or freedom for everyone to obtain information about government administration, namely information about the policy making and implementation process and the results achieved.<sup>103</sup> Transparency is the existence of an open policy for supervision. Meanwhile, what is meant by information is information about every aspect of government policy that is accessible to the public. It is hoped that information disclosure will result in healthy, tolerant political competition, and policies are made based on public preferences .

The meaning of transparency in regional government administration can be seen in two ways, namely; (1) one form of government accountability to the people, and (2) efforts to improve management and good governance and reduce opportunities for collusion, corruption and nepotism (KKN) practices.<sup>25</sup>

Meanwhile, transparency in the implementation of regional government in relation to local governments needs attention to the following matters; (1) publication and dissemination of local government policies in regional governance, (2) publication and dissemination of regulations issued by local governments on various permits and procedures, (3) publication and dissemination of procedures and work

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<sup>24</sup> Mardiasmo, Op.Cit., hal.30

<sup>25</sup> BKSI, Op.Cit. hal2

procedures of regional governments, (4) transparency in bidding and stipulating tenders or contracts for local government projects to third parties, and (5) opportunities for the public to access honest, correct and non-discriminatory information from local governments in the implementation of regional government.

Furthermore, in the formulation of regional regulations concerning the livelihoods of the public, the community as *stakeholders* should be involved proportionally. In addition to realizing transparency, this will also greatly assist local governments and the DPRD in producing *accountable* Regional Regulations and can accommodate the aspirations of the community.

Transparency means open access for all interested parties to any related information such as various laws and regulations, as well as government policies at a minimal cost. Information social, economic, political and reliable (reliable) and periodically must be available and accessible to the public (usually through the filter media masses who are in charge). This means that transparency is built on the basis of the freedom of adequate information flow to be understood and (for later) monitored. Transparency clearly reduces the level of uncertainty in the decision-making process and implementation of public policies. This is because the dissemination of various information which only the government has access to can provide opportunities for various components of society to participate in making decisions. Therefore, it should be noted that this information is not only available, but also relevant and understandable to the public. In addition, this transparency can help to narrow the opportunities for corruption among public

officials by the “visible” of all decision-making processes by the wider community.<sup>106</sup>

In the implementation of local government, we are often trapped in the “production paradigm” in terms of disseminating this information; as if transparency has been implemented by printing leaflets of a program and distributing them to every village head office, or placing advertisements in newspapers that most components of society do not read. This mindset needs to change into a “marketing paradigm”, namely how society receives information and understands it. To make it happen in the daily implementation of public administration, there are several things that need to be considered here.

*First*, the condition of society that is apathetic towards development programs so far requires special efforts to encourage their curiosity about this data / information. For this reason, it is necessary to actively disseminate (disseminate) information to all components of society, not only by opening public access to information alone.

*Second*, the selection of the media used to disseminate information and the substance / material of the information disseminated really depends on the target segment being targeted. The information needed by the general public is very different from that needed by non-governmental organizations, academics, and members of the DPRD, for example. In addition, often methods and media that are compatible with local cultures are much more effective in achieving goals than “modern media” such as television and newspapers.

*Third*, often various non-governmental elements - for example the

press, religious institutions, non-governmental organizations (NGOs) - are more effective at disseminating information than the government itself. For this reason, information on these various strategic components is very important.

### **Good Governance in Government Administration**

Good *governance* is the most prominent central issue in the management of public administration today. According to Sedarmayanti, this is due to the incessant demands made by the community on the government to carry out good governance, which is in line with the increasing level of public knowledge and education, in addition to the influence of globalization.<sup>26</sup>

Meanwhile, Sadu Wasistiono argues that the demand for *good governance* arises because of irregularities in the implementation of democratization, thus encouraging citizens' awareness to create a new system or paradigm to oversee governance nets so as not to deviate from their original goals. The demand for realizing a state administration that is capable of supporting the smooth and integrated implementation of the duties and functions of state governance and development can be realized by practicing *good governance*.<sup>27</sup>

*Good governance* has become a new discourse in governance in the world which cannot be separated from the writings of David Osborne and Ted Gaebler in his book "*Reinventing Government How the Entrepreneurial Spirit the Public Sector*" in 1992. Through their book,

Osborne and Gaebler proposed a concept that contained 10 (ten) principles of *Reinventing Government* as an entrepreneurial concept that can be implemented by public institutions and other non-profit institutions. This concept basically shifts the spectrum of entrepreneurial spirit to the bureaucracy. The birth of this concept for Osborne and Gaebler was based more on the fundamental background of bureaucratic institutions (*public*) as opposed to business institutions (*private*). For business institutions, their largest income is obtained from customers (*consumers*), while for the bureaucracy, most of them are obtained from taxes. For business institutions (*private*), competition is everything, while for the bureaucracy (*public*) it relies more on monopoly.<sup>28</sup>

Through their book *Reinventing Government*, Osborne and Gaebler argue that the main failure of the current government is due to management weaknesses. The problem is not what the government does, but how the government does it. Furthermore, how to develop a concept that contains the ten principles in advance, Davis Osborne collaborated with Peter Plastrik in 1996 writing the book "*Banishing Bureaucracy: The five Strategies for Reinventing Government*", conveying 5 (five) strategies to implement "*reinventing government*". In his book, it is suggested that the government bureaucracy be trimmed so that it becomes more effective and efficient. The principle is "*the least government is the best government*".<sup>29</sup>

Based on the concepts put forward by Osborne through his books, it seems to

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<sup>26</sup> Sedarmayanti, *Good Governance (Kepemerintahan Yang Baik) Dalam Rangka Otonomi Daerah*, Op.Cit., hlm. 4.

<sup>27</sup> Sadu Wasistiono, Op.Cit., hlm. 28.

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<sup>28</sup> Sedarmayanti, *Good Governance (Kepemerintahan Yang Baik) Dalam Rangka Otonomi Daerah*, Op.Cit., hlm. 6.

<sup>29</sup> Ibid, hlm. 9.

have a strong influence in global life, giving rise to new thoughts that lead to a paradigm shift in the pattern of government administration, namely from a conventional / traditional paradigm to a new paradigm in government administration that involves collaboration between the government and the private sector and the community. This change is better known as a paradigm shift from government (*government*) to governance (*governance*) as a form of socio-political interaction between government and society in dealing with various contemporary problems that are so complex, dynamic, and diverse.

Along with the paradigm shift above, a new movement called the "*civil society movement*" has emerged. The essence of this movement is how to make society more capable and independent to fulfill most of its own interests. The logical consequence of the development of civil society is that the bureaucracy has become increasingly streamlined, because most government works can be carried out independently by the community or carried out through a partnership scheme in the context of privatization.<sup>30</sup>

Di dalam praktik, perubahan besar yang In practice, the big changes that were expected to occur in the relationship between government and citizens did not turn out to be significant. This seems inseparable from the nature and meaning of the word "government" (*government*), which must rule. By ruling, there will be a hierarchical relationship, meaning that the governing government is at the top. Meanwhile, citizens (people) who are governed are at the bottom. In order to change the position of the relationship between the government

and the governed (citizens / society), from being hierarchical (top down) to heteraction (equality), it is necessary to change the philosophy and concept of thinking, including the creation of new appropriate terms.

In connection with the foregoing and due to the strong global influence from the views of the concepts of Osborne-Gaebler (1992) and Osborne-Plastrik (1996) in advance, Word Bank and the United Nation Development Program (UNDP) in 1997 developed a new term, namely "*governance*". As a companion to the word "*government*". The word *Governance* is then translated in various literatures on Indonesian language as "governance" and there is also "governance". According to the Word Bank, the word *governance* is defined as a method, namely the way in which state power is used to manage economic and social resources for community development.<sup>31</sup> The United Nations Development Program (UNDP) as quoted by Joko Widodo suggests the definition of "governance" as governance, which is defined as the exercise of political, economic and administrative authority to manage national affairs. Further UNDP asserts that governance is an institution, mechanisms, processes and complex relationship with citizens (*citizens*) and groups - groups that articulate his interest, exercise its rights and its obligations and mnengahi or menfasuilitasi pernedaan between them.<sup>32</sup>

Ganie-Rochman, as followed by Joko Widodo, states that the concept of "*governance*" is more inclusive

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<sup>30</sup> Sadu Wasistiono, *Op.Cit.*, hlm. 28.

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<sup>31</sup> *Ibid*, hlm. 30.

<sup>32</sup> *Ibid*. hlm. 31.



than "government". The concept of "government" refers to a management organization based on the highest authority (state and government). Meanwhile, the concept of *governance* involves not only the government and the state but also the roles of various actors outside the government and the state, so the parties involved are also very broad. It is further argued that *governance* is a mechanism for the management of economic and social resources that involves the influence of the state sector and the non-government sector in a collective activity.<sup>33</sup>

Meanwhile, the State Administration Institute (LAN) defines *governance* as the process of exercising state power in providing *public good* and *service*. Furthermore, LAN emphasized that from the *functional aspect*, *governance* can be viewed from whether the government has functioned effectively and efficiently in an effort to achieve the goals outlined or vice versa.<sup>34</sup>

Understanding *Governance* were proposed by UNDP is supported by three legs namely political, economic and administrative. *The first leg*, namely governance in the political field, is intended as decision-making processes for the formulation of public policies, either carried out by the bureaucracy itself or by bureaucracies with politicians. *The second leg*, namely governance in the economic sector includes decision-making processes to facilitate economic activity in the country and the interactions between economic administrators. While *the third leg*, namely governance in the administrative field,

contains the implementation of processes, policies that have been decided by political institutions.<sup>35</sup>

According to UNDP, *governance* or governance has three domains, namely;<sup>36</sup>

1. State or governance (state)
2. The private sector or the business world and (private sector)
3. Society (society)

These three domains are in the life of the nation, state and society. The government sector plays more of a role as policy maker, control and supervision. The private sector is more involved in and driving activity in the economic sector. Meanwhile, the public sector is both the object and the subject of the government and private sectors. Because it is in society that interactions occur in the political, economic, and socio-cultural fields.<sup>37</sup>

As emphasized by the State Administration Agency, *governance* is the process of exercising state power in providing *public goods and services*. The best practice is known as *good governance*. World Bank defines *good governance* as a solid and responsible government management that is in line with the principles of democracy and efficient markets, avoiding misallocation of investment funds and preventing corruption both politically and administratively, implementing budget discipline and *legal creation*. and *political framework* for the growth of business activities.<sup>38</sup>

*Good in good governance* according to LAN contains two meanings. *First*, values that uphold the will / will of the

<sup>33</sup> Joko Widodo, *Op.Cit.*, hlm. 18.

<sup>34</sup> Lembaga Administrasi Negara dan Badan Pengawasan Keuangan dan Pembangunan, *Akuntabilitas Dan Good Governance*" Lembaga Administrasi Negara dan Badan Penagwas Keuangan dan Pembangunan, Jakarta, 2000, hal.1,5

<sup>35</sup> *Ibid*, hlm. 5.

<sup>36</sup> *Ibid*, hlm. 6.

<sup>37</sup> Sadu Wasistiono, *Op.Cit.*, hlm. 31.

<sup>38</sup> Mardiasmo, *Otonomi & Manajemen Keuangan Daerah*, (Yogyakarta: Penerbit ANDI, 2004), hlm. 24.

people, and values that can increase the people's capacity in achieving the (national) goal of sustainable development and social justice. *Second*, the functional aspects of government that are effective and efficient in carrying out their duties to achieve these goals. Based on this understanding, LAN then argues that *good governance* is oriented towards two things, namely, *first* the ideal orientation of the state which is directed at achieving national goals and *The two* functional aspects of governance are effective and efficient in carrying out their duties to achieve these goals.<sup>39</sup>

Furthermore, based on the above description, LAN concludes that good governance is the implementation of a solid state government that is responsible and efficient, by maintaining a "synergy" of constructive interactions between the domains of the state, private sector and society.<sup>81</sup>

The concept of *good governance* (*good governance*) can also be found in Government Regulation Number 101 Year 2000 in the explanation of Article 2 (d) defines good governance ;; "*Leadership that develops and implements the principles of professionalism, accountability, transparency, excellent service, democracy, efficiency, effectiveness, rule of law and is acceptable to all people*".

### **The transparency of the Hajj Hospital in terms of accountability as a Regional Public Service Agency (BLUD).**

Law Number 17 of 2003 concerning State Finances, Law Number 1 of 2004 concerning State Treasury, Law Number 15 of 2004 concerning Audit of State Financial Management and Accountability and

Government Regulation Number 58 of 2005 concerning Regional Financial Management constitute a package of reforms. in the field of state / regional financial management. A very prominent paradigm of change is the preparation of a budgeting pattern from a traditional approach to performance-based budgeting. Performance-based budgets emphasize more on the process to be produced (*output*), not just financing input (*input*).

In Law Number 1 of 2004, particularly Article 68 and Article 69, it focuses on Government Agencies whose duties and functions are to provide services to the public, are given flexibility in their Financial Management Patterns as Public Service Bodies. Likewise in the Regional Government, there are many Regional Work Instruments that have the potential to be managed more effectively through the Public Service Agency Financial Management Pattern.

Government Regulation Number 58 of 2005 concerning Regional Financial Management mandates specifically in Article 150, namely "*Technical guidelines regarding financial management of Regional Public Service Bodies (BLUD) are further regulated by the Minister of Home Affairs after obtaining consideration of the Minister of Finance*". For this reason, on November 7, 2007, the Minister of Home Affairs Regulation Number 61 of 2007 concerning Technical Guidelines for Financial Management of Regional Public Service Bodies was enacted. In this Ministerial Regulation, regional work instruments within the Regional Government that directly carry out operational tasks of public services can apply the BLUD Financial Management Pattern (PPK-BLUD).

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<sup>39</sup> Lembaga Administrasi Negara dan Badan Pengawasan Keuangan dan Pembangunan, *Op.Cit.*, hlm. 6.

BLUDs was Regional Work Units (SKPD) or Work Unit at SKPD in local government in Indonesia which was formed to provide services to the community in the form of provision of goods / services *dijualtanpa* priority to seek profit, and in conducting its activities based on the principles of efficiency and productivity. The BLUD is part of the local government apparatus, with a legal status not separate from the regional government.

In contrast to SKPD in general, the BLUD financial management pattern provides flexibility in the form of flexibility to apply sound business practices to improve services to the community, such as the exception to the provisions of regional financial management in general.

In financial management, BLUDs are given flexibility in the form of: (1) revenue and expense management; (2) cash management; (3) debt management; (4) accounts receivable management; (5) investment management; (6) procurement of goods and / or services; (7) management of goods; (8) preparation of accounting, reporting and accountability; (9) managing the remaining cash at the end of the fiscal year and deficit; (10) cooperation with other parties; (11) direct fund management; and (12) formulation of financial management standards, policies, systems and procedures.

There are *privileges* given to BLUDs, because of special demands, namely to improve the quality of services from BLUDs. Therefore, the prerequisite for regional apparatus to implement the Regional Public Service Agency (PPK-BLUD) Financial Management Pattern must be carried out selectively and objectively. It is appropriate for the regional apparatus to implement PPK-BLUD, an assessment must first be carried out by an

assessment team chaired by the Regional Secretary whose results must be based on an objective assessment, not only the fulfillment of administrative requirements.

Apart from the objectivity of the assessment results, the existence of the BLUD must also be controlled in the form of a *contractual performance agreement* between the Regional Head and the BLUD Leader. The Regional Head is responsible for service policy and the BLUD leader is responsible for delivering service results.

Thus, it is hoped that the implementation of PPK-BLUD is not just a mere change in format, namely pursuing remuneration, flexibility, avoiding laws and regulations in the procurement of goods and services, but the truth is, achieving an increase in the quality of public services, financial performance and performance benefits for the community. on an ongoing basis in line with one of the BLUD spirits which is managed based on "*healthy business practices*".

With this flexibility, the implementation of the BLUD Financial Management Pattern (PPK-BLUD) has become an attractive alternative in financial management for several regions. However, on its way to implementing PPK - BLUD, it was not easy. There are several requirements that must be met by the SKPD or Work Unit, namely substantive, technical, and administrative requirements.

First, the substantive requirements are met, if the SKPD or the Work Unit in the SKPD concerned provides public services related to: (a) Provision of goods and / or public services to improve the quality and quantity of public services; (b) Management of certain areas / areas for the purpose of improving the economy of the community or public services; and / or (c)

Management of special funds in order to improve the economy and / or services to the community.

Second, technical requirements are met, if: (a) Service performance in the field of duties and functions is appropriate to manage and its achievement is enhanced through BLUD, as recommended by the regional secretary / head of the SKPD concerned; (b) The financial performance of the SKPD or work unit at the SKPD concerned is healthy, as shown in the proposed document for determining the BLUD.

Third, administrative requirements are met if the SKPD or the Work Unit in the SKPD concerned can present all the following documents: (a) Declaration of commitment to improve service performance, finance and benefits to the community; (b) Governance patterns; (c) business strategic plan; (d) Principal financial statements or financial report prognoses / projections; (e) Minimum service standards; and (f) The latest audit report or statement of willingness to be audited independently.

Since the enactment of Regulation of the Minister of Home Affairs Number 61 of 2007 concerning Technical Guidelines for Financial Management of Regional Public Service Bodies, several SKPDs or Work Units in SKPDs that provide direct services to the public have implemented PPK-BLUD. These services, among others, are related to the fields of health, education, regional tourism, drinking water, area management and special fund management. Of the several types of services, health services (especially regional hospitals) have implemented the most PPK-BLUDs, until the end of October 2013 the RSD that had reported to the Minister of Home Affairs had 257 RSDs or

41% of the total of around 639 RSDs in Indonesia. Meanwhile, for Puskesmas that have reported to the Minister of Home Affairs, 164 Puskesmas have implemented PPK-BLUD out of 9,510 Puskesmas in Indonesia.

However, not everything is running optimally in its implementation. This is due to constraints, both internally and externally at the BLUD. In the internal environment, the quality and quantity of human resources who understand BLUD operations are still limited. Whereas in the external environment of the BLUD, including the Regional Head, Chairperson / Member of DPRD, officials within the Regional Secretariat such as the Bureau / Legal Department, Bureau / Organization Division, officials within the Regional Development Planning Agency (BAPPEDA), Regional Financial Management Officers (PPKD) Some officials within the Regional Inspectorate, and other SKPDs involved in implementing PPK-BLUD, do not yet understand the essence, meaning and operation of PPK-BLUD implementation.

The era of regional autonomy resulted in shifting of the centers of power and increased operationalization and various activities that were previously carried out in the central government shifted to regional governments. The logical consequence of this shift must be accompanied by improvements in *good governance* in the regions.<sup>111</sup>

With the issuance of Law Number 1 of 2004 concerning State Treasury and Law Number 32 of 2004 concerning Regional Government, Law Number 33 of 2004 concerning State Financial Balance between Central Government and Regional Government has in fact changed the accountability mechanism of local



governments. . The accountability mechanism used in PP. 23 of 2005 regarding BLUD financial management and amendments to PP. 74 of 2012 is considered insufficient to reflect the existence of accountability and transparency in the accountability of BLUDs. Because of this, in Government Regulation Number 3 of 2007 concerning Regional Government Implementation Reports to the Government, Report on Accountability of Regional Heads to the Regional People's Representative Council and Information on Regional Government Implementation Reports to the Community it is emphasized that the implementation of local government accountability uses the principle of accountability. and transparency.

#### **Implementation of the principle of accountability in the responsibility of the Medan Hajj Hospital, North Sumatra Province**

The principle of accountability according to Article 20 of Law Number 28 of 1999 concerning State Administration that is Clean and Free from Collusion, Corruption and Nepotism is the principle that determines that every activity and final result of the activities of State Administrators must be accountable to the public or the people as the holder of the highest sovereignty. country in accordance with the provisions of the applicable laws and regulations.

See local government accountability models that dilaskanakan by Law - Law Number 32 Year 2004 on Local Government and Government Regulation No. 3 of 2007, the nature of local government pertanggungjawaban report is more likely to be a *progress report* . As stated by SB Yudhoyono, this is because ;

- a. Policies for government administration and development and finance carried out in one budget year are an integral part of the medium-term (five-year) program. It this is the stage of the process or part of a mission that must be done in an effort to contribute to the achievement of the vision (long-term)
- b. During the period of one year, governance and development have been supervised by the functional oversight apparatus and the DPRD itself. If within one year there are certain cases that require transparency and accountability, the DPRD can summon the Regional Head for questioning .

If we look at the definition given by Sedarmayanti that accountability is a manifestation of the obligation to account for the success or failure of the implementation of the organization's mission in achieving the stated goals through accountability media which is carried out periodically.<sup>113</sup>, then we can see that the Regional Government has an obligation to provide periodic accountability reports as regulated in Law Number 32 Year 2004 and Government Regulation Number 3 Year 2007.

What has not been seen from the definition of accountability according to Sedarmayanti is that if we look at the content of local government accountability, it can be seen that what is shown is the success of what the district government has succeeded in doing while the failure to implement activities is very few.

The implementation of the agreement for the procurement of goods and services at the General Hospital for Haj in Medan, Sumatra Province is carried out based on the Regulation of the Governor of North

Sumatra No. 25 of 2015 article 10 Paragraph (a) Regarding the Guidelines for the Procurement of Regional Public Service Bodies at the Medan General Hospital, North Sumatra Province with the following methods of procuring goods and services :

1. Public Auction.
2. Simple Auctions.
3. Direct Procurement.
4. Procurement of goods and services on the basis of a collective labor agreement.

In the goods and services procurement agreement, it is possible for the contractor to hand over the work contracting to another contractor who is a sub-contractor. If a sub-contractor is appointed, the contractor must ask the sub-contractor for approval from the user. The contractor remains responsible for all the consequences in sub-contracting the work. If it is proven that the implementation of the contractor's work is not in accordance with the plan, the contractor will be subject to sanctions, namely: fines, suspension of payment, demolition or replacement, entering the contractor's company name on the Black List of Partners and terminating the contract with the contractor. The project contractor is responsible for completing the work on the date specified in the agreement, if the work is divided into different parts, the contractor is also required to submit work on each date stated in the agreement letter. If there is a delay in the completion or delivery of a building project, the contractor will be subject to a fine of 1/1000 (one per thousand) of the contract value for each day and a maximum of 10% (ten percent) of the contract value. The service user is authorized to terminate the

agreement preceded by written notification if the late fee has reached the maximum limit of 10% (ten percent) of the contract value. The transparency of the Medan Hajj General Hospital in North Sumatra province is carried out based on Law No.1 of 2004 concerning the State Treasury and the implementation of accountability for the Medan Hajj General Hospital, North Sumatra Province attached to North Sumatra Province and becomes an integral part of the regional government accountability report Article 32 Law Number 32 of 2004 concerning Regional Government and Reports and the birth of three packages of laws in the financial sector, namely Law no. 17 of 2003 concerning State Finances, Law No.1 of 2004 concerning Audit of the Management and Accountability of State Finances, the state budget management system in Indonesia continues to change and develop in accordance with developments in the dynamics of public sector management.

## CONCLUSION

The conclusions that can be drawn in the Cooperation Agreement between the Medan Hajj Hospital and the Tender Winning Contractor according to the Governor of Sumatra Uata Regulation No. 52 of 2015 concerning the Procurement of Goods and Services in Regional Public Services at the Medan Hajj Hospital, North Sumatra Province, The Medan Hajj Hospital should have made a system of procurement of goods and services through electronic (e-procurement) so that it can be known by the general public and can guarantee that there is no KKN system in the procurement of goods and services and

to create a good regional public hall in the area needed synergy between the components of good governance, namely the Government, Society and the private sector. In order for implementation, accountability and transparency to be carried out properly, active participation from the public and the private sector is needed to respond to the BLUD and Local Government Accountability Report Information that has been submitted to the public. Because with the response from the community and private sector, it can be used as an evaluation in the implementation of government and development in North Sumatra Province.

Recommendation, the process of procuring goods and services, the auction / negotiation committee must apply the principles of openness, fairness, impartiality and objectivity to avoid KKN in its implementation. Providing equal access and treatment to every tender / procurement participant is a must in every contracting agreement implementation. The active participation of both parties is needed in the formulation of the agreement so that the agreement to be signed becomes the basis for the implementation of work that provides legal protection to both parties in a balanced manner and should the Medan Hajj Hospital in North Sumatra Province have made a framework of reference and work minutes in procurement. goods and services, The responsibilities of the tender winner should be given more attention by the regional government and the central government so that it can be controlled properly and can be seen by the general public. government.

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