

## The Element Of State Financial Losses In Corruption Offenses In The Process Of Procuring Sugarcane Seeds (Case Study on Case No. 100 / Pid.Sus-TPK / 2017 / PN.Smg)

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**Abstract.** This study aims to analyze how to prove the element of state financial losses in corruption offenses in the process of procuring sugarcane seeds in accordance with case No. 100 / Pid.Sus-TPK / 2017 / PN.Smg. The method used is sociological juridical approach techniques with the data collection through interviews and library studies. Then the data obtained were analyzed using descriptive normative. The results of the study indicate that the method of calculating BPK auditors through three stages of verification items, namely the realization of payments from the State financial post, the realization of procurement of sugarcane seeds that can be accounted for and calculating State financial losses from the previous stage difference. This corruption crime has proven to be detrimental to the State's finance of Rp. 2,038,616,969.00.

**Keywords:** Authentication; Loss; Corruption.

### 1. Introduction

Corruption became a major issue in the politics of law lately. Corruption offense leaves the fundamental issue regarding the elements of the state financial losses. For the sake of fairness in a way to empathize with the upheaval the sense of justice of citizens, then the question arises whether the principle of the corrupted state finances can come back or not. Represent the feelings of citizens, there were hopes that suit with presumably stolen state finances it could be returned to the state treasury.

Reality about the country's financial losses in corruption explained that the mode of corruption which often do corrupt is misuse of funds. However, most large state loss occurs on the mode of abuse of authority.<sup>3</sup> Policies death penalty to the crime of corruption is taken as a result of crimes committed by corrupt actors met the criteria limit the most serious crimes inflicting damage to the state, which is a violation of the rights of the social and economic society at large, and is an extraordinary crime, the where the imposition of criminal penalties in accordance with the explanation in Article 6 of the International Covenant on Civil and Political rights.<sup>4</sup>

Legal norms contained in Act No. 20 of 2001 on Amendments to the Act No. 31 of 1999 on the Eradication of Corruption (Corruption Act), formulate juridical in chapters 2 and 3. Explanation normative about the state financial losses mentioned that "in this provision, the word "may" before the phrase "detrimental to the finances and economy" shows that corruption is a formal offense, namely the existence of

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<sup>4</sup> Koko Arianto Wardani dan Sri Endah Wahyuningsih, *Kebijakan Formulasi Hukum Pidana Mati Terhadap Pelaku Tindak Pidana Korupsi Di Indonesia*, Jurnal Hukum Khaira Ummah, Vol. 12. No. December 4th, 2017, p 955.

corruption is quite the fulfillment of the elements of actions formulated not by the occurrence of consequences".<sup>5</sup> As for the study of Indonesian Corruption Watch (ICW) said that the financial losses of the state is actual loss and potential loss. Also still under study ICW, there is no agreement on the scope of the losses to the state.<sup>6</sup>

Polemics about the law in the country's financial losses in domestic procurement of goods and services, open up opportunities for improvement in the revision of the legal substance of Corruption Act. Along with that opportunity is open does the reality of corrupt practices that harm public finance their increasingly widespread. In law enforcement corruption-laden elements of the country's financial losses, *incraht/fix* decision No 100 / Pid.Sus-TPK / 2017 / PN.Smg is interesting to study. Procurement of seed cane in the program to increase production, productivity and quality of annual crops in accordance with the Budget Implementation List (DIPA) Budget Directorate General of Plantations, in actual indications of corruption.

This paper aims to analyze how the elements of proof of financial losses in the state sector of the offense of corruption in the procurement process in accordance with the case sugarcane seed No 100 / Pid.Sus-TPK / 2017 / PN.Smg. This study is expected to provide contributions to the elements of the state financial losses, in domestic procurement of goods and services on law enforcement corruption.

## Research methods

This study uses a sociological juridical approach, which is a study of the real state of society or community environment with the intent and purpose of facts, which then led to the identification (problem-identification) and eventually lead to the settlement of the problem (problem-solution).<sup>7</sup> The source of data is divided into two, namely primary and secondary data. The primary data obtained through interviews with the Auditor technique of BPK. Then the secondary data obtained through library study engineering.

Scientific studies in this paper, based on the case study method, which is about to understand the phenomenon of proving losses to the state, in relation to the procurement of goods and services sector seed cane in depth, even explored and elaboration.<sup>8</sup>

Deepening and exploration of qualitative data case No 100 / Pid.Sus-TPK / 2017 / PN.Smg, critically examined and then elaborated with the findings of the Financial and Development Supervisory Agency (BPK), which has the authority to audit state financial loss. Recently authors analyzed descriptive normative to the case presented in the discussion.

## 2. Results and Discussion

Losses Country or Region is short of money, securities, and goods, real and definite

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<sup>5</sup> Elucidation of Article 2 (1) of Act No. 31 of 1999 on Corruption Eradication.

<sup>6</sup> *Op. Cit.*, p. 6.

<sup>7</sup> Soejono Soekanto, 1982, *Pengantar Penelitian Hukum*, UI Press, Jakarta, p 10.

<sup>8</sup> Yin, Robert K, 1994, *CASE STUDY RESEARCH. Thousand Oaks*, New Delhi: SAGE Publications, London, p 21.

amount as a result of an unlawful act, either intentionally or negligent.<sup>9</sup> The formulation is a cornerstone in questioning the legality of state loss.

Running events with the purpose of conducting an audit in order to calculate the country's financial losses on Alleged Corruption in Procurement Seed Cane Pattern II in Pati District FY 2013, which is implemented by CV. IK at Plantation Office of Central Java Province.

The scope of the audit is counting losses to the state are limited to the Alleged Corruption in the procurement of the Works Agreement (Contract) No. 027.2 / 15323 dated August 15, 2013, Contract Addendum No. 027.2 / 20 971 on 1 November 2013. While the audit held from May 18 2016 until June 24, 2016.

The working method developed by the BPK to audit the state financial losses include: (1) Studying the irregularities alleged by the exposure of the investigation results of the *Ditreskrimsus* Investigator of Central Java Regional Police. (2) Reviewing regulations related to procurement of sugarcane seed Fiscal Year 2013. (3) Getting the evidence related to the Procurement of Seed Cane Pattern II in Pati District FY 2013, through the *Ditreskrimsus* Investigator of Central Java Regional Police. (4) Evaluate the relevance, competence and adequacy of that evidence to the calculation of financial losses in the alleged irregularities in the country. (5) Conducting interviews and clarification to the parties with the assistance of *Ditreskrimsus* Investigator of Central Java Police. (6) To tally the state financial losses.<sup>10</sup>

The results of the audit findings obtained in these cases include: <sup>11</sup>(1) Seed cane certified under the contracts amounting to 27548.25 quintals, but the amount paid by Br. S (suspect, status of director CV IK) amounted to 27 040 quintals. (2) CV. IK did not hand over 30,000 quintals of sugarcane to farmers' groups NM, but replace it with cash in lieu of sugarcane seed for Rp1.330.000.000,00. (3) There is an excess of the contract price after the addendum Rp9.685.800,00. (4) There is excess income tax cuts amounting to Rp6.555.922,00.

Evidence that formed the basis for the audit findings include (1) the Budget Implementation List (DIPA) Department of Plantation Central Java FY 2013. (2) Operational Directive (POK) Plantation Development 2013. (3) The Cooperation Agreements (contracts) among Committing Officer (CO) with the Director of CV. IK letter No. 027.2 / 15323 dated August 15, 2013. (4) Addendum Cooperation Agreements (Contracts) No. No. 027.2 / 20 971 November 1, 2013. (5) Notice of Inspection Goods / Services Number 027.5 / 23 809 dated December 11, 2013. (6) Handover Results Goods / Services Number 027.5 / 23 808 dated 11 December 2013. (7) Letter of Request for Payment (SPP), Payment Order (SPM) and the Fund Disbursement Order (SP2D). (8) Minutes of *Ditreskrimsus* Investigator of Central Java Regional Police.

Direction this discussion back to its original purpose to analyze the elements of proof of financial losses in the state sector of the offense of corruption in the procurement

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<sup>9</sup> General Provisions, Act No. 1 of 2004 on State Treasury

<sup>10</sup> Results Interview with Mr. Didi Suwardi, SE, Cfr.A, MH as the BPK auditor on 12 April 2019.

<sup>11</sup> Java BPK Audit Reports, Audit Reports in the framework of the State Financial Losses Calculation on Alleged Corruption in Procurement Seed Cane Pattern II in Pati District for Fiscal Year 2013 are Executed by CV. Intan Khairindo at the Plantation Office of Central Java province in 2016, p 22.

process in accordance with the case sugarcane seed No 100 / Pid.Sus-TPK / 2017 / PN.Smg.

Study authors started from the landscape that have occurred this case of alleged corruption in the Plantation Office of Central Java province on Seed Procurement jobs Cane Pattern II in Pati regency in 2013 with a contract value of Rp. 4006396800, - (four billion and six million three hundred and ninety-six thousand eight hundred rupiah) by executing the work CV. IK resulting in losses to the state amounting to Rp. 2038616969, - (two billion thirty-eight million six hundred and sixteen thousand nine hundred and sixty-six rupiah). Meanwhile, the suspect Mr. S's status as Director of CV. IK. On deepening the analysis of this case, the authors find that there is a discrepancy between actual cane seed procurement contract with execution of the work that led to the emergence of the country's financial losses.

Further exploration in this case relating to losses to the state, explain and describe the coordination of investigators with the BPK auditors found evidence of the offense of corruption of the elements of the state financial losses. As described on previous results, it appears that the BPK auditors working methods through six stages with the core finding loopholes evidence and facts irregularities planning, execution and reporting of the procurement of seed cane. While the evidence used by the BPK number nine facts in the form of documents and verification of the parties directly related to the cane seed procurement program.

The author argues that the evidence shows BPK findings about the discrepancy in the areas of: (1) the volume of cane seed is the realization of the contract amounting to 27548.25 quintals, while paid only 27,000 quintals (difference of 548.25 quintals). (2) Over value at contract prices after addendum of Rp9.685.800,00 and withholding tax (VAT) of Rp 6.555.922,00. (3) The realization of seed cane are replaced with cash to farmers' groups, which should suspect handed over to the farmers of 30,000 quintals. However, realization of Rp1.330.000.000,00 replaced cash.

Corruption procurement of seed cane, necessary to prove an element of the state financial losses. State financial losses calculation methodology conducted by BPK is (A) Calculating the amount of actual payment of the financial state of the CV IK net of income tax. (B) Calculating the realizable value of procurement that can be accounted worth of seed cane that is technically qualified and supported by a certificate of quality of the seeds from the Institute for Seed and Production Gardens Salatiga. (C) Calculated losses to the state, namely, the difference between (A) and (B).

Through the method of calculating the BPK audit found the following facts:

- Realization of financial payments from the state to the CV IK, as the executor of seed cane procurement contracts, net of income tax as follows:<sup>12</sup>SP2D value (payment) of Rp 4,006,396,800.00 and income tax cuts amounting to US \$ 66,651,874.00. So the value of the final payment of \$ 3,939,744,926.00.
- Actual provision of seeds that can be accounted for. Obtained results of a calculation as follows: Purchase of seed cane Rp 1,930,079,145.00 while the income tax calculated at US \$ 28,951,188.00. Thus, the actual provision of seeds that can be accounted for (net of tax) of Rp 1,901,127,957.00.

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<sup>12</sup> *Ibid.*, Java BPK Audit Reports, p. 25.

- Based on the calculation step phase 1 and 2 above, the value of state loss was found to Rp 2,038,616,969.00.

Analysis of the authors of the method of proving the country's financial losses, explaining that the very simple math formula proved to be only three (3) stages of the calculation. But the consolidation of the data it collects mismatch between supply planning and realization of sugarcane seed procurement which requires particular precision and accuracy. This is caused by the demands proof of the facts and evidence in the field related to the parties involved in the chain of the sugar cane seed procurement. The sources are competent to the emergence of evidence and facts discrepancies or financial irregularities countries with an objective measure, it is not easy and requires a substantial time.

Proof of this element of financial losses on the state procurement corruption offense seed cane, is a formal offense that only by proving the elements of corruption in the form of financial losses of the state, the criminal offense can be proven.<sup>13</sup>

Another perspective on the cases of corruption case No 100 / Pid.Sus-TPK / 2017 / PN.Smg, explaining that the discrepancy between planning and the implementation of procurement of seed cane caused losses to the state. Problems of losses to the state of corruption, which is situated on the Fund Disbursement Order (SP2D) are not in accordance with the provisions of Act No. 1 of 2004 on State Treasury article 21 paragraph (1) with the formulation of juridical as follows: "Payments at the expense of APBN / APBD not be made before the goods and / or services received "In corruption cases, the authors found that another problem is the payment objective DIPA (Budget Implementation List) State Budget, issued only with a sheet Handover procurement of seed cane without any clarification of the parties involved in the implementation. This is one important element in the audit findings conducted by BPK Java as may be authorized by law in performing audit engagements.

### 3. Closing

#### 3.1 Conclusion

BPK audit findings of the State to three (3) stages of the counting element State financial losses that stage of actual payment of state finances (SP2D documentary evidence), the stage of the actual provision of sugarcane seed accountable and third calculating the difference in phase one and two. Facts and evidence of the value of the country's financial losses, discovered Rp 2,038,616,969.00 due to corruption of the procurement sector seed cane.

#### 3.2 Suggestion

In law enforcement corruption in the procurement sector, the need for the involvement of external supervision. This purpose is intended as a check and balance to prevent leakage of state money. Space narrowing corruption occurs when a layer of layered oversight work on the internal and external dimensions.

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<sup>13</sup> Elucidation of Article 2 of Act No. 31 of 1999 on Corruption Eradication.

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