

THE IMPLEMENTATION OF THE GENERAL PRINCIPLES OF GOOD GOVERNANCE ON PUBLIC SERVICE INVESTMENT LICENSING POLICY IN REGENCIES / MUNICIPALITIES OF YOGYAKARTA SPECIAL PROVINCE (DIY), INDONESIA

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ABSTRACT

This paper aims at: 1) providing an overview of the implementation of the general principles of good governance on public service investment licensing policy in regencies / municipalities of DIY; 2) identifying barriers and constraints in the implementation of the general principles of good government on public service investment licensing policy in regencies / municipalities of DIY.

The method used in this study is a socio-legal research with a qualitative approach. The collected data is in the form of primary legal materials- the law related to public service investment licensing policy- and secondary legal materials which include documents related to the implementation of the general principles of good governance on public service investment licensing policy in regencies/municipalities of DIY. The data collection was done by using interviews, documentation and observation. The subjects of the research were officials / staffs at regencies and municipalities which become the research samples, officials at the Board of Investment DIY, and people who utilize public services investment licensing in Yogyakarta.

The research findings show that Yogyakarta Municipality and Sleman regency rank first and second in DIY regarding the implementation of public services, especially investment licensing services and have applied general principles of good governance in accordance with Article 4 Public Service Act in Indonesia regarding the process of granting investment licenses within the region. This paper will present the implementation of the general principles of good government in Yogyakarta and the obstacles encountered during the implementation of these principles.

Keywords: The implementation of the General Principles of Good Governance, Public Service of Investment Licensing, Regencies and municipalities in Indonesia

INTRODUCTION

The following article describe the implementation of the general principles of good governance on Public Service Investment Licensing Policy performed by the Yogyakarta municipality which get best first rank regarding the licensing services in DIY Indonesia. This paper is divided into several parts namely, introduction, discussion, and conclusions. The introduction section describes the background of the problem and research objectives. The discussion section explains: 1) the policy of investment licensing services in Indonesia; 2) the description of licensing services in Yogyakarta; 3) the description of the implementation of good governance general principles regarding the investment licensing services in Yogyakarta. The last section of this paper presents the conclusions of the research that has been discussed in the previous section.

This study is conducted since there are a lot of problems regarding the public services in Indonesia such as public services tend not to have the responsibility, responsiveness, and not representative. Added to this, there are many services in the field of education, health, transportation, social facilities, and a range of services managed by the government does not satisfy the public. Even, the private sector services are much better. These symptoms have been explained by Norman Flynn (1990:38). According to him, public services which are hierarchically managed by the government tend to be over bureaucratic, bloated, wasteful, and under performing. (Anonim. Research findings on public services in the era of decentralization, Bappenas. Retrieved from www.bappenas.go.id, January 4, 2012). However, not all regions / areas in Indonesia obtain such a negative portrait.

However, there are some areas of which officials have implemented good governance supported by a good setting, for example Yogyakarta municipality which has achieved the best four in the world in 2012 regarding the licensing services. It can be seen from the research Report of *Doing Business* in Indonesia 2012 issued by Indonesian IFC Advisory Services and Global Indicators and Analysis Department of the World Bank Group in collaboration with the Regional Autonomy Implementation Monitoring Committee (2012:2) which reported that the position of cities in Indonesia with the easiest to set up business processes is occupied by Yogyakarta. In terms of public service on licensing, Yogyakarta municipality and Sleman regency got the first and second rank respectively in 2012. The research was conducted in those two areas to get a picture of the implementation of good governance general principles regarding licensing public services in some parts of Indonesia.

The objective of writing this paper is to describe the implementation of the general principles of good governance on Public Service Investment Licensing in Yogyakarta municipality which has implemented good services on the investment licensing in DIY, Indonesia. With regard to this, Yogyakarta municipality is a role model for District / other cities in order to create good and

clean government in Indonesia. This is done since the services are part of the administrative services in investment. Also, Indonesia is one of the investment recipients of the investors. It requires a good licensing service in the field of investment with regard to the principles of good governance as set out in Article 4 of Law No. 25 of 2009 concerning Public Services which cover the principles of: public interest, the rule of law, equal rights, and the right balance duty, professionalism, participation, equality of treatment / non-discrimination, transparency, accountability, facilities and special treatment for vulnerable groups, timeliness, and accuracy, convenience and affordability.

The research procedures include documenting the law related to the Public Service Investment Licensing Policy from the central government, Yogyakarta local government and Yogyakarta municipality. Then, the researchers conducted further interviews with the officials of the Cooperation and Capital Investment Board (BKPM) of Yogyakarta and Yogyakarta municipality. The interviews were also conducted with 20 people who utilize licensing investment services in Yogyakarta to get an overview of the implementation of the general principles of good governance as stipulated in Article 4 of Law on Public Services. The research activities also include an observation which aims at getting a complete picture of the implementation of licensing services at Licensing Office of Yogyakarta.

DISCUSSION

a. Public Service Investment Licensing Policy in Indonesia

Public Service Investment Licensing Policy in Indonesia refers to various laws and regulations, including the Law no. 25 of 2007 on Investment, hereinafter referred to as the Capital Investment Law, Presidential Decree No. 27 Year 2009 about One Stop Licensing Services, Administrative Reform Decree No. 25/KEP/M.PAN/2/2004 concerning the General Guidelines for Formulating Public Satisfaction Index Services Unit Government Agencies and other relevant laws and regulations related to investment activity (capital investment) in Indonesia.

The capital investment, in this context, refers to any form of investment activities performed by both the domestic or foreign investors to do business in the territory of the Republic of Indonesia. In reference to the Law Article 3 paragraph 1, The capital investment is conducted on the basis of the following principles: legal certainty, transparency, accountability, equality, and not distinguishing the country of origin, togetherness, efficiency equitable, sustainable, forward-thinking environment, independence and balance of progress and unity of the national economy.

In relation to the basic policy regarding the capital investment, the Investment Law Article 4 states that the government sets the basic:

- a. Encouraging the creation of national business climate which is conducive for investors to strengthen the competitiveness of the national economy, and
- b. Accelerating the improvement of capital investment.

To issue the basic policy of the capital investment, the government gives equal treatment to domestic and foreign investors by considering the national interest.

In relation to the licensing policy of investment in Indonesia, Article 25 paragraph (4) of Investment Law determines that the investment company which conducts business activities must obtain a license based on the regulation of the institution that has the authority unless provided by law. Article 25 paragraph (5) of the law states that the licenses to investors are obtained through one stop service. This one-stop license service is performed based on the Article 26 of the Investment Law which aims at assisting the investors in obtaining ease of service, fiscal facilities, and information regarding investments. These licensing services are performed by an authorized institution or institution in the field of investment that gets delegation or devolution of authority from the institution or institutions that have licensing and non-licensing authority at the central level or institution which has authority to issue licenses and non-licenses in the province, regencies / municipalities. According to the article 26 paragraph (2) of Investment Law, the procedures and the implementation of one stop service is regulated by Presidential Decree. One stop licensing service on capital investment is regulated by Presidential Regulation No. 27 Year 2009 about the licensing service at one stop investment. In reference to the Article 1 paragraph 4 of the Decree of the President, one stop licensing service (OSS) is an activity of organizing a license and non-license which has received delegation or devolution of authority from the institution or institutions that have the authority of licensing and non-licensing in which the management process starts from the application until the publication of the document performed in a single place. Licensing which is intended in Presidential Regulation 27 of 2009 is any agreement to make an investment (capital investment) issued by the government and local governments which have the authority in accordance with the Law. Non licensing is any ease of service, fiscal facilities, and information regarding investments in accordance with the Law.

The Article 2 of the Presidential Decree No. 27 Year 2009 states that the implementation of one stop licensing service in the field of investment is based on the following basis: legal certainty, transparency, accountability, equal treatment and not distinguishing country of origin, and the efficiency of justice. The implementation of one stop licensing service in the field of investment which based on Article 3 of the President is aimed at developing investment with easy services, facilities, and information by accelerating service, simplifying service and reducing management fees of licensing and non-licensing. The scope of one stop licensing service in the field of investment includes service for all types of licensing and non-licensing in the

field of capital investment which are required to perform investment activities. The measurement basis of one stop licensing service in the field of investment is stipulated in Article 5 of the presidential decree No. 27 year 2009. This measurement is seen from the implementation of one stop licensing service in the field of investment that should produce an excellent service measured by some indicators such as speed, accuracy, simplicity, transparency, and certainty of the law. The implementation of one stop licensing service in the field of investment should be supported by the availability of:

- a. human resources who are professional and have reliable competence;
- b. space, facilities and working infrastructure, and information media;
- c. working mechanism in the form guidelines for implementing one stop licensing service in the field of investment which are clear, easy to understand and accessible to investors;
- d. help desk for investors, and
- e. Electronic Information Systems and Licensing Services Investments (SPIPISE).

The article 8 of Presidential Regulation No. 27 of 2009 also regulates the governmental affairs in the field of investment under the authority of the central government which consists of:

- a. Implementation of the investment of which scope across the province;
- b. Governmental affairs in the field of investment, which include:
 - 1) An investment related to unrenovable natural resources at the level of a high risk of environmental damage;
 - 2) An investment in the industry which becomes a high priority on a national scale;
 - 3) An investment related to unifying and connecting the region or cross-provincial area;
 - 4) An investment related to the implementation of the strategy of defense and national security;
 - 5) Foreign investment and the use of foreign capital investment from governments of other countries, which is based on the agreement made by the Indonesian Government and other governments and
 - 6) Other investments which become the affairs of government regulated by law.

The assessment for the performance of the government officials in conducting investment licensing services in Indonesia refers to the Administrative Reform Decree No.25/KEP/M.PAN/2/2004 about the General Guidelines for Developing Public Satisfaction Index Services of Unit Government Institution. The decree sets out 14 indicators of organizational performance measurement in public services which are performed by the state or bureaucratic administration tools. Those indicators are:

1. Service procedures, that is, the simple stage of service provided to the community viewed from the aspects of simplicity service procedure;
2. Service requirements, that is, the technical and administrative requirements needed to fit with the type of service ;
3. The clarity of the staffs identity, that is, the existence and certainty of the staffs who provide services (names, titles and authority and responsibilities);
4. The discipline of the staff who give services, that is, the staff enthusiasm in providing the service especially the consistency of their working hours with the regulation.
5. Staffs responsibilities, that is, the clarity on their authority and responsibility in implementing and finishing service;
6. The ability of the staffs, that is, the expertise and skill of the staff in providing/completing services to society ;
7. The speed of service, that is, service time targets which suits with the time specified by the unit organizers of the service;
8. Fare service, that is, the implementation of the service which doesn't distinguish the status of the community being served ;
9. Politeness and friendliness of the staff, that is, the attitude and behavior of staff in providing service to the community in polite, friendly, and respectfull manner.
10. Appropriateness of the service charge, that is, the affordability of the charge as determined by the unit which organizes services ;
11. Certainty of the service charge, that is, the appropriateness between charge being paid and determined charge ;
12. Certainty of the service schedule, that is, the appropriateness between the service time and the scheduled time.;
13. The comfortable environment, that is, the condition of facilities and service infrastructure that is clean, neat, and well organized so that it is comfortable for the service recipient;
14. Service security, that is, the security assurance of the unit organizers or facilities used by the people so that they feel relaxed to get the service of such risks resulting from the implementation of the service .

The indicators of the organizational performance stipulated in the Ministerial Decree of Administrative Reform. No. 25/KEP/M.PAN/2/2004 are still used to assess the performance of civil servants. This assessment is performed by the society including the service recipients on investment licensing. In Yogyakarta, the service recipients on licensing are requested to fill a questionnaire that assesses the performance of the staffs in giving licensing and complaints against the service. This is monthly evaluated and is followed up.

b. The Description of the Licensing Services In Yogyakarta Municipality'

Yogyakarta municipality is one of the areas in DIY- one of the 33 provinces in the territory of the Republic of Indonesia and is located in the south central part of Java Island. Instead of Yogyakarta municipality, there are four (4) other regencies in this province, namely: Sleman; Kulon Progo; Bantul; Gunung Kidul. Among those five areas, Yogyakarta municipality ranked first regarding the assessment on giving licensing services including investment licensing in DIY. Meanwhile, Sleman regency ranked second. The following describes some things related to the activities of investment licensing services, especially in Yogyakarta municipality.

Investment licensing service activities in Yogyakarta are implemented by the Office of Licensing. This office conducts one stop licensing service activities (PTSP) in Yogyakarta based on delegating / handing over the licensing authority from the Mayor of Yogyakarta regarding the implementation of licensing services. Authorities that are attached to the Licensing Office of Yogyakarta are as follows:

1. License signing authority on related institution that has been revoked through the regional law on Organizational Structure Formation and Administration of their respective offices and becomes the functions and duties of the Department of Licensing. In this case, the Department of Licensing acts as front office, in office, and back office.
2. The authority attached to the Department is related to licensing in that it deals with providing a license; rejecting license; revoking license; legalizing license; duplicating license; and supervising license.
3. Some licenses signed by the related institutions (Department of Health; Department of Revenue and Financial Management; Department of Industry, Trade, Cooperatives and Agriculture) become the deposit in the Department of Licensing. In this case, the licensing institution acts as a front office.
4. Part of the licensing authority is delegated to the district by considering the efficiency and effectiveness.

The type of licensing in Yogyakarta municipality consists of investment and non-investment licensing. Those types of licensing are based on the Regulation of Yogyakarta Mayor No.18 Year 2011 about the Implementation of Licensing in the Yogyakarta municipality. They include:

1. Building Permit
2. Disturbance Permit
3. Permits of Connecting Wastewater
4. Permits of Redirecting rain water Channels
5. Disturbance Permit (*Hinder Ordonantie*/HO)
6. Industrial Business License (IUI) and Signs list of industry
7. Trade Business License (*online registration*)
8. Trade Business License of alcoholic drink
9. Permits of special parking of Private Company
10. Permits of Non-Permanent Parking lot
11. Transportation business license
12. The ads license
13. Construction services Business Licence
14. Business license management of traditional markets
15. Shopping center business licenses
16. Modern store business licenses
17. Signs list of tourism business, which include:
 - a. Tourism Attractions;
 - b. Tourism Area;
 - c. Travel Transportation Services;
 - d. The tour services;
 - e. Food and drink services;
 - f. Accommodation facilitation;
 - g. Conducting Fun and Recreation activities;
 - h. Conducting Meeting, Incentive tour, Conference and Exhibition;
 - i. Tourism information services;
 - j. Tourism Consulting Services;
 - k. Tour guide services;
 - l. Tirta tourism; and
 - m. Solus per Aqua (SPA).
18. Groundwater Exploration Permit
19. Drilling permits and retrieval of underground water
20. Permits of work and the springs of water
21. Permits of Groundwater Drilling Business
22. Permits of Technician Groundwater Drilling
23. Permits of Cemetary
24. Permits of Health Personnel
25. Permits of Health Facilities
26. Permits of Beauty salon;
27. Permits of Formal Educational Institution Establishment
28. Permits of Non-Formal Educational Institution Establishment
29. Permits of Labour Provider services
30. Permits of Animal Slaughtering
31. Permits of Meat Selling
32. Permits of Meat Grinding
33. Permits of Meat Storage
34. Permits of Boarding House Business
35. Permits of Street Vendor Space
36. Permits of Research (*online registration*)
37. Permits of Field work Practice (*online registration*)

38. Permits of Real Work Practice
39. Permits of trees logging and garden displacement
40. Permits of the temporary storage waste B3;
41. Waste collection permits B3 at City level
42. Sign of warehouse list
43. Sign of the company registry (online registration)
44. Letter of franchise registration
45. Traditional healer check mark

In reference to the regulation of Yogyakarta Mayor article 6 paragraph 1 Number 18 year 2011, there are 34 licensing of which the implementation becomes the authority of Yogyakarta Licensing Office. In 2013, the licenses are simplified and integrated within a single service. Therefore, it becomes 31 different types and most of them are related to investment activities. Some licensing authorized by Mayor of Yogyakarta is delegated to district governments within the Yogyakarta municipality.

To produce a welfare society in Yogyakarta, Licensing Office performs licensing activities such as: licensing socialization, advice planning, licensing service, and licensing supervision. The state apparatus and officials at Licensing Office in Yogyakarta municipality implement their duties based on the standard operational procedures as stipulated in the decree of Yogyakarta Licensing Office Head No 42/KEP/DINZIN/2012 about the implementation of Licensing Standard Operating Procedure at Yogyakarta licensing office.

c. The Implementation of the General Principles of Good Governance on Public Service Investment Licensing at Yogyakarta Municipality

The study about the implementation of the general principles of good governance on investment licensing services at Yogyakarta municipality is performed by analyzing the implementation of the general principles of good governance on investment licensing services at the licensing institution of Yogyakarta by seeing whether or not the implementation of the service follow the principles of public service as stated in article 4 of the Law of Public Service. These principles include: public interest, rule of law, equal rights, the balance of rights and obligations, professionalism, participation, equality of treatment/non-discrimination, transparency, accountability, facilities and special treatment for vulnerable groups, timeliness, the speed, easiness and affordability.

In reference to the data obtained from the documentation, interviews, and observations, it can be concluded that the general principles of good governance as stipulated in Article 4 of the Public Service Act which consist of public interest; rule of law; equal rights; balance of rights and obligations; professionalism; participatory equality of treatment / non-discrimination; openness; accountability; facilities and treatment for vulnerable groups; timeliness, the speed, easiness and affordability are executed properly. This can be seen from the responses to questionnaires that were distributed on the 20 service recipients. When they were interviewed, they stated that the principles of public service has been implemented quite well, even some service recipients expressed that the principles were very well executed and there is only one service recipient who states that the implementation of the general principles of good governance in the public service is still not good. The questions addressed to the service recipients (the research respondents) related to the staffs who give service include: does the recipient already gets fare service? ; is there any discrimination in service? ; does the officer perform his job professionally, friendly and politely? ; are the licensing procedures explained in a clear and transparent manner including the charge needed? ; are the procedures easy to understand? ; do the service requirements suit with the types of services? ; is there any facilities for vulnerable groups such as older and disable people? ; does the costs suit with service given?; do the officers finish the licensing process on time?; how discipline are the officers in giving services?; how is the speed and ease in processing a licensing?; how is the security environment in licensing process?; are the service infrastructure clean, neat, orderly managed so that it provide a sense of comfort?.

The licensing services recipients state that the general principles of good governance have been implemented. This statement is supported by the statements of the officials at the Licensing Office within Yogyakarta municipality, that is, every two month in-house training related to the licensing service is held for the staffs. Also, it can be seen from the results of the Community Satisfaction Index measurement in Yogyakarta that are monthly analyzed and followed up by the Licensing Office of Yogyakarta municipality. This measurement show that an average final score up to June 2013 reveals: Building Permit gets ratings from the service recipients 80.33; Disturbance Permits 81.86; Trade Business permit 81.48; Signs list of industry 82.55; Signs list of tourism business 84.52; and other license types 84 and 54. Community Satisfaction Index is in the form of questionnaires which are distributed to the service recipients. When they have finished filling the questionnaires, they return the questionnaire to the staff right after they have completed their licensing process.

Community satisfaction index contains questions related to the licensing service they receive. The questions refer to the 14 indicators of organizational performance measurement in public services which are performed by the state or bureaucratic as stipulated in the Administrative Reform Minister Decree No. 25/KEP/M.PAN/2/2004. This include service procedures, service requirements, the clarity of the staffs identity, the discipline of the staff who give services, staffs responsibilities, the ability of the staffs, the speed of service, fare service, politeness and friendliness of the staff, appropriateness of the service charge, certainty of the service charge, certainty of the service schedule, the comfortable environment, service security.

Other evidences stating that the general principles of good governance in investment licensing services in Yogyakarta of have been implemented are shown by the observations which reveal that Licensing Office has already provided facilities and means for vulnerable groups, the friendly drivers who give service to client, the touch screen machine to get a queue number that shows the implementation of basic fairness, the division of licensing service into several clusters based the types of licensing service which shows the assurance of the security and convenience in obtaining services, complaint space, a space for taking the licensing which has been designed in the form of permission Letter, space for liaison officer, representative and comfortable lounge area around licensing service space, a room for breastfeeding mother, a bank located around Licensing Office which are accessible for service recipients when they have to pay a retribution and service charge. Moreover, there is some information about service procedure, processes for obtaining licensing services, and other information that shows the availability of facilities to acquire convenience and clarity of the service, and facilities which show that the general principles of good governance has been implemented in Yogyakarta regarding the Public Service Investment Licensing Policy in Indonesia.

However, there are some obstacles in the implementation of the licensing services because there are several types of investment licensing activities that are handled by institutions outside of the Licensing Office. Those types of licensing include the trading licensing process which is handled by the Office of Trade and industrial investment licensing which is handled by the Department of Industry. In this case, Licensing Office will only act as a front office. Meanwhile, the licensing service is performed by the related institutions. With regard to this condition, the licensing process cannot be finished on time although there are no complaints addressed by the recipients.

Other obstacles, though not too influential to the licensing service activities, are lack of human resources who are professionals in giving licensing service especially in the field of investment licensing at Yogyakarta Licensing Office. These obstacles constraint the implementation of the general principles of good governance on Public Service Investment Licensing Policy in Yogyakarta.

CONCLUSION

In reference to the explanation and discussion above, the conclusions are as follows:

1. The general principles of good governance as stipulated in Article 4 of the Law on Public Service which are regarded as general principles in implementing public service may include: the public interest; certainty of law, equality of rights; balance of rights and obligations; professionalism; equality treatment/ not discriminative; openness; accountability; facilities and treatment for vulnerable groups; timeliness, the speed, convenience and affordability. Those principles have been appropriately implemented in Yogyakarta.
2. Several obstacles encountered in the implementation of the general principles of good governance in the Licensing Office of Yogyakarta consist of: some licensing process cannot be finished on time because some licensing related to the investment activities are handled by the institutions outside of the Licensing Office; and there are limited professionals who understand the investment licensing service.

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