



## Legal Standing of Work Order (SPK) by the Existence of Agreement on the Procurement of Public Goods in the Education Office of Padang City

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### **Abstract**

Legal relation between user and provider, that occurs during the process of signing the agreement on the procurement of goods and services until the process of terminating the agreement, is called civil law relation which is specified as contractual relation. In the process of user and service user agreement, the government is represented by Budget User or Proxy or Commitment Officer (CO) or Procurement Official as an individual. Regarding this matter, the research problem is on how the legal standing of work order by the existence the public procurement agreement and on how the contractual relation between the Commitment Officer (CO) and the procurement of goods and services for the procurement of public goods at the Education Office of Padang City. This research employs empirical juridical approach. Based on the result of the research, it is found that the legal standing of work order, in addition to part of the contract, is also the decision of state administration in carrying out public authority in the form of procurement of goods and services which is violated through the state finance. In the meantime, the contractual relation of the parties is basically the same as the contract or agreement in general; the contract is binding on the parties such as laws in a lawful relationship and obligations.

**Keywords:** Legal Standing; Work Order; Agreement; Procurement

### **Introduction**

Most of the civil law arrangements of Indonesia provide the widest possible opportunity for the public to arrange agreements that are necessary for its purpose. As stated in Article 1338 of the Civil Code which declares that all agreements made legally apply in accordance with the law for those who make them. One of the agreements that frequently occurs in the civil law is contractual agreement that must fulfill the basic rules of the agreement and the obligation to fulfill the agreement's eligibility, as well as the agreement in the procurement of goods and services by the Government.

In a variety of literature, government contract generally refers to contracts in which the government is involved as a party and procurement of goods and services is the object. The government contract is thus given the same meaning as a procurement contract. In Indonesian, some people translate it as

“*perjanjian dengan pemerintah*”, “*perjanjian dengan penguasa*” or “*kontrak yang diadakan oleh pemerintah*”.<sup>1</sup>

The procurement of goods or services creates a legal relationship that begins with an agreement between the government and goods or services supplier in a contract of procurement. In other words, the government is a party to a contract. In this context, the government cannot position itself higher than the goods or services supplier even though the government is an institution that carries out regulatory actions. It is because the parties have the same position in the agreement law, as regulated in the article 1338 BW. In this case, both the government and goods or services suppliers have an equal position in fulfilling the rights and obligations contained in the contract agreed upon.

The agreement is usually regulated in the civil law which regulates the legal relationship between the supplier and user of goods/ services from the signing of the contract until the end of the contract. The legal relationship between the user and the supplier that occurs in the process of signing the procurement agreement for goods and services until the end of the agreement process is a civil law relationship, especially contractual relationship. In the agreement process, the users of goods and services are the government represented by the Budget User or his representative or Commitment Officer or Procurement Officer or ULP as an individual.

In general, goods and services procurement agreements are carried out with a contract, in which the clauses have been previously drafted by the Commitment Officer (PPK) based on the Head of LKPP (Government Goods/ Services Procurement Policy Institute) Regulation No. 6 of 2012 concerning the Technical Guidelines of the Presidential Regulation No.70 of 2012 and LKPP Regulation No. 6 of 2010 concerning Standard Documents for Procurement of Government Goods / Services as amended by the Regulation of the Head of LKPP No. 2 of 2011 without involving service suppliers.

Furthermore, the Commitment Officer also prepares a work order (SPK) which is part of the state administration decision. This is an inseparable part of the contract that has been signed by the parties. The reason is that the provision of infrastructure in the form of procurement of physical buildings uses the state finance, so the parties who will bind themselves to bids by the government must comply with the conditions set by the government or the state.

The procurement agreements from the government agencies are classified as the agreements with the governments which conform the civil agreement law. Although there are provisions of administrative law that apply side by side and support one another, these agreements are basically based and set forth in standard regulations.<sup>2</sup>

Therefore, the parties need to understand the legal aspects of the agreement before the legal relationship occurs. The legal aspects of the agreement include the legal agreement based on the Civil Code and Presidential Regulation Number 54 of 2010, which cover the source of the agreement and the relationship between the agreement, the principles of the agreement, the legal conditions of the agreement, and matters that must be regulated generally and specifically in the contract of the government goods/ services procurement. The Civil Code and the Presidential Regulation No. 54 of 2010 and its amendments are statutory regulations at the different hierarchical levels, but both are mandatory references in the government goods/ service procurement contracts. The Presidential Regulation No. 54 of 2010 was formed due to the interests of Law Number 1 of 2004 concerning State Treasury, Government Regulation Number 29 of 2000 concerning the Implementation of Construction Services and Government Regulation Number 6 of 2006 concerning State Management/ Regional Property that requires special

<sup>1</sup> Yohannes S. Simamora, 2012, *Contract Law (Contracts on Procurement of Government Goods and Services in Indonesia)*, Laksbang Justitia Surabaya, page 64.

<sup>2</sup> Sri Soedewi M. Sofwan, 2002, *Building Law (Building Works Agreement)*, Liberty Yogyakarta, page 94.

rules in the procurement of government goods/ services. The Presidential Regulation No. 54 of 2010 is a special law (*lex specialis*) governing contracts for procurement of government goods/ services, while the Civil Code is a general law (*lex generalis*) where the book III regulates the legal binding. It is valid and binding as long as it is not contrary to the Civil Code or other higher regulations.

Based on the Article 55 of the Presidential Regulation No. 54 of 2010, it is stipulated that the procurement of goods/ services below IDR 5,000,000 (in the Presidential Regulation No. 54 of 2010 on March 28, 2012, the value is below IDR 10,000,000) is carried out with proof of purchase. The procurement of goods/ services between IDR 5,000,000 to IDR 10,000,000 (in the Presidential Regulation 54 of 2010 dated March 28, 2012, the value is IDR 10,000,000 - IDR 50,000,000) is carried out with a receipt, while for the procurement of goods/ construction work/ other services above IDR 10,000,000 up to IDR 100,000,000 (in the Presidential Regulation No. 54 of 2010 dated March 28, 2012, the value is IDR 50,000,000 up to IDR 200,000,000) and the procurement of consultancy services up to IDR 50,000,000, is carried out by issuing the SPK without delivering a performance bond.

The performance bond is given by the Supplier of Goods/ Construction/ Other Services for contracts worth more than IDR 100,000,000 (in the draft amendment to the Presidential Regulation No. 54 of 2010 dated March 28, 2012, the value is above IDR 200,000,000). The Work Order (SPK) is simpler than an agreement, but it is still signed by both parties.

The fulfillment of the needs of supporting the implementation of services to the community both facilities and infrastructure as well as the need for daily activities such as stationery and others must comply with the regulatory mechanism as described above. That is, whether the Padang City Education Office adheres to the basic rules and principles of the system of procurement of goods and services, as well as the parties that bind themselves in an agreement followed by the work order (SPK).

## **Research Method**

This research uses an Empirical Juridical approach. It begins by analyzing various laws and regulations related to the above issues, then looking at the applicable legal provisions and norms.<sup>3</sup> This research is a descriptive research; a research that aims to describe the state of things in a certain area and at a certain time. By its nature, this research is a descriptive analytical study aimed at describing the results of the research as detailed as possible, as well as the obstacles faced and what legal remedies that can be taken to resolve the problem. Data obtained through primary and secondary data are selected based on what is needed for the research. The data related to the problem that will be examined is outlined in a logical and systematic form to obtain structured data. The data obtained are then analyzed qualitatively; it is the analysis of the data to produce the data that were arranged systematically based on the statutory regulations, expert opinions and the results of the author's research.

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<sup>3</sup> Zainudin Ali, 2009, *Legal Research Methods*, Sinar Grafika, Jakarta, 2009, page 105.

## **Research Results and Discussion**

### *Legal Standing of Work Order (SPK) by the Existence of Agreement on the Procurement of Public Goods*

In a public goods procurement agreement, there are special activities prior to the agreement. These activities can be said as a phase that precedes the agreement, carried out through the auctions starting from the notification until the announcement of the lowest bidder.

In general, goods and services procurement agreements are implemented with a contract. The clauses in the contract have been previously drafted by the Commitment Officer (PPK) which is guided by the Head of LKPP Regulation No. 6 of 2012 concerning Technical Guidelines of the Presidential Regulation No. 70 of 2012 and LKPP Regulation No. 6 of 2010 concerning Standard Documents for Procurement of Government Goods/ Services as amended by the Regulation of the Head of LKPP No. 2 of 2011 without involving service suppliers.

Furthermore, the Commitment Officer also prepares a work order (SPK) which is part of the state administration decision. This is an inseparable part of the contract that has been signed by the parties. The reason is that the provision of infrastructure in the form of procurement of physical buildings uses the state finance, so the parties who will bind themselves to bids by the government must comply with the conditions set by the government or the state.<sup>4</sup>

In the implementation of the procurement contract between the government and the contractor, Nazarkhan Yasin stated:

“Before carrying out the construction of the project, the commitment officer issues a work start order (SPMK). After that, the construction service provider (contractor) prepares a Quality Program. When the quality program has been prepared, then the PPK together with the construction service provider (contractor), the planning division, and the supervision division, will hold a preparatory meeting for the implementation of the contract. After the meeting, the mobilization was carried out. The mobilization phase must be carried out no later than 30 (thirty) days after the Commencement of Work Order (SPMK) is issued. The next step, if necessary, is that the PPK and the Construction Service Provider can inspect the work site at the initial stage of implementing the Contract. After conducting the inspection, the contractor can carry out the construction of the project after submitting a request for advance payment in a written form to the PPK along with a plan to use the down payment to carry out the work in accordance with the Contract.<sup>5</sup>

The amount of the advance value that can be requested by the contractor is as much as stated in the Contract, while the amount of the Advance Payment that must be submitted by the contractor is equal to the advance received by the Construction Service Provider (contractor). After the contractor submits an application, the PPK submits a request for a down payment upon the request after receiving a bank advance guarantee from the contractor.<sup>6</sup>

From the description above, it is known that the acceptance in the selection of goods/ service providers in terms of construction contracts is intended to get the best offer of all bids submitted by the participants. The lowest bid which is truly capable is announced as the winner and becomes the party after the contract is signed and the work order is issued. SPK is an integral part of a construction contract that

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<sup>4</sup> Interview with Commitment Officer, Mr. Barlius, Education Office of Padang City, Monday, July 16, 2018.

<sup>5</sup> Nazarkhan Yasin, 2003, *Op. Cit.*, page 10.

<sup>6</sup> H. R Daeng Naja, *Op. Cit.*, page 161.

has been signed. The parties are bound to carry out the achievements as agreed in the contract along with the existing SPK.

Although basically complying to the law of civil agreements, the agreements arranged are actually based and set forth in standard regulations with the provisions of administrative law that apply side by side and support one another.<sup>7</sup>

### *Contractual Relationship between the Padang City Education Office and the Goods Supplier in the Implementation of the Public Goods Procurement Agreement*

In general, the agreements are made and are binding on the parties after the word 'agreed' has been reached. The type of the agreement can be adjusted to the objectives of the parties. They can make their own provisions that deviate from the legal provisions of the agreement. The provisions may also complement, add to, or subtract the existing provisions.

It shows that the legal agreement contained in the Civil Code is open. It means that the agreement law provides an opportunity for parties or everyone to enter into any agreement as long as it is not contrary to law, decency and public order.

Basically, the agreement is part of the civil law regulated in Book III of the Civil Code on Legal Binding. It does not explain what is meant by the engagement, but the definition of the agreement contained in the Article 1313 of the Civil Code.

The subject in the contract is the person or parties who entered into and signed the contract or agreement. The person in the legal sense is the supporter of rights and obligations in the form of private individuals and legal entities, both private and public legal entities, such as the owner with a partner or contractor in which there is an approval to make an agreement. The subject of the agreement must be able and authorized to take legal actions as determined by law.

The legal relationship between two or more legal subjects is about the rights and obligations of one party dealing with the rights and obligations of the other party. Therefore, the law regulates the relationship between one person and another person, between person and society, between one community and another society. It means that the legal relations consist of bonds between individuals and individuals, between individuals and society and so on.

The relationships between fellow legal subjects can occur between a person and another person, between a person and a legal entity, and between a legal entity and other legal entities. Moreover, the relationship between legal subjects and goods is in the form of what rights are held by the legal subjects over the goods, both tangible and movable or immovable property.

Considering its characteristics, legal relations can be divided into legal relations that are private and legal relations that are public. The indicator to define whether the legal relation private or public is not the legal subjects that carry out the legal relation, but the nature of the relationship or the nature of the transaction. The private relationship is controlled by the private law. In this kind of relationship if a dispute arises, anyone who becomes the party will be in the competence of the civil court unless the dispute is a special case such as bankruptcy. The competent person to try is a special court as well.<sup>8</sup>

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<sup>7</sup> Sri Soedewi M. Sofwan, *Op. Cit.*, page 94.

<sup>8</sup> Moechtar Kusumaatmadja and B. Arief Sidaharta, 2009, *Introduction to Legal Studies*, Alumni, Bandung, page 17.

The legal relationship that occurs in a contract is an event where two or more people promise to do or not do a certain action. The parties agree on the matters agreed upon, are obliged to obey and implement it to make sure that the agreement creates the legal relations for the parties. Therefore, the contract made is a source of formal law that applies as law or regulation. For this reason, according to Peter Mahmud Marzuki, a legal relationship requires conditions:<sup>9</sup>

- a. There is a legal basis; the legal regulations governing the relationship;
- b. There is a legal event;
- c. Equal relationship and difference relationship;
- d. Reciprocal relationship and nonreciprocal relationship. Reciprocal relationship is if the parties both have rights and obligations, nonreciprocal relationship is when one party only has rights while the other only has obligations.

Related to the afore-mentioned conditions, a legal relationship in civil law can be created due to an agreement and the law. However, any agreements made by the parties will have legal consequences. The legal consequences are the emergence of rights and obligations. The right is a pleasure and the obligation is a burden. The provisions of the Law on Construction Services also regulate the legal consequences between the Service Users and the Service Providers. The service providers are obliged to complete a job and make provision of public goods that have been agreed with the service users or PPK parties. The service users are entitled to the availability of public goods.

The above explanation shows that an agreement creates a legal relationship that makes one party has the right. In this case, the contractor must meet the achievements to be completed. The work owner should receive the achievements. Meanwhile, the object of the agreement between the parties is not only related to public goods such as physical buildings or in other forms in accordance with the contents of the agreement. It means that the contract or agreement that has been signed including the SPK is a legal certainty for the parties that must be implemented.

The contents of the agreement on the construction in the Civil Code are not explicitly determined. It is in accordance with the principle of freedom of contract in the Article 1338 number (1) of the Civil Code, except if the agreement is in the realm of procurement of goods and services funded by the State budget.

The parties involved in the construction agreement are distinguished between those who are directly involved in the construction work and those who are not directly involved in the agreement such as the labor. The parties directly involved in the construction contract according to FX Djumialdji are:

- a. The Owner/ *Bowheer*;

The contractors can be individuals or legal entities, both government and private. For the government projects, the contractor is the department or agency that holds the budget line. The contractors have a plan/ initiative to buy a project in accordance with the construction agreement and what is stated in the guidelines and terms. In implementing the construction agreement, the project owner will appoint a representative who has the ability to be the project leader/ head of the project/ head of the office/ head of work unit. The rights and obligations of the project assignor/ leader are as follows:

<sup>9</sup> Peter Mahmud Marzuki, 2008, *Introduction to Legal Studies*, Prenada Media, Yogyakarta, page 271.

1. Selection of the experts/ architects;
2. Obligated to provide location information to contractors;
3. Obligated to define the work of the contractor;
4. The price of the building is in accordance with the agreement or as stated in the agreement they have held;
5. Checking and approving the results of the construction work;
6. Entitled to receive work results from the contractor both in whole or in part based on the predetermined time;
7. Entitled to receive repairs and improvements for damage to the building during the maintenance period.

#### b. Contractor

Building contractors are companies which can be the individuals, legal entities, or the legal entities engaged in the implementation of the construction. The contractor acts to carry out the construction work in accordance with *bestek* and as stated in the construction agreement. In carrying out the construction work, the contractor may assign a proxy or a representative based on a power of attorney. The appointment of a power of attorney does not release the contractor from his responsibilities.<sup>10</sup>

Contractor over his power in carrying out all work or part of the work can assign an executor. The new executor may carry out his duties after being handed a copy of the power of attorney to the directors. If the directors do not approve it, another executive must be appointed by the directors.

The appointed contractor is obliged to submit a work plan containing complete data on the procedures for the implementation to be followed and a plan for using assistive devices, estimated time of implementation, various parts of work to obtain approval. According to the Civil Code, the contractor in certain matters is responsible for up to 10 years. The legal relationship between the contractor is regulated as follows:

1. If both the contractor and the client are the government, the legal relationship is called as an official relationship.
2. If the client is the government and the contractor is the private party, the legal relationship is called a construction or outsourcing agreement which can be in the form of a private deed, work order, employment agreement/ contract.
3. If both the contractor and the client are the private party, the legal relationship is called a construction or outsourcing agreement which can be in the form of private deed, a work order, an outsourcing agreement or contract.<sup>11</sup>

There are also the rights and obligations of the contractor:

1. Obligated to carry out work based on the contract that was signed;
2. Obligated to submit work results both in whole or partially;
3. Obligated or responsible for the work carried out by the workers under his supervision;
4. Entitled to receive wholesale price payments in accordance with the agreement of the parties in the construction agreement.

<sup>10</sup> FX Djumialdji, *Op. Cit.*, page 23.

<sup>11</sup> *Ibid.*, page 24.

Those rights and obligations are basically the legal relations that start from a contractual engagement and are derived from a statement of will. Wills and statements (*wils en verklaring*) are important conditions in an agreement.<sup>12</sup> An agreement is formed because there is a meeting of the will of the parties. The agreement basically can be made freely, not bound by form, and reached informally, as long as it is sufficient by consensus. Thus, the principle of consensualism is very important in contract law, especially in the aspect of contract establishment.<sup>13</sup>

This is an absolute requirement in every contract and serves to guarantee the legal certainty. With this principle, it is understood that the contract is considered to have occurred and is binding on the parties since the agreement was reached. This principle applies universally. Each group of legal systems adheres to this system. Furthermore, in its development, the principle of consensualism gets more detailed in legislation of several countries in various models of law on contracts.<sup>14</sup>

The starting point of the principle of consensualism is derived from the thought that every word is binding, is a moral demand, and humans are placed in the highest dignity among all creatures because of their words, such as the phrase: "people are placed in the highest dignity as humans since his words can be trusted. Putting trust in someone's words means considering that person as a knight".<sup>15</sup>

In Indonesian Positive Law, the terms of agreement are the first conditions set forth in Article 1320 BW. There is no further explanation regarding the matters related to the agreement, except about the defect of the will as regulated from Article 1321 to Article 1328 BW. From various literatures, it can be concluded that an agreement is a condition where the statement of the will of one party "matches" the statement of the will of the other party. Being match means that there is a correspondence which does not mean the same.<sup>16</sup>

The service user and the service provider state the will to mutually agree as stated in a contract document. The agreement was formed by the contract due to the bargaining process in which the parties stated their will. What is stated by each party in the Law of Engagement is commonly referred to a statement of will. Two elements in the agreement, the offer and acceptance, are the statements of will. To reach the agreement, these two elements must be always fulfilled cumulatively. There is no agreement without an offer, and there is also no agreement without acceptance. The validity of a contract depends on the validity of the agreement. To determine whether the agreement is binding on the parties, an assessment of the formation process must be carried out, as well as the matters related to the implications of the cancellation or revocation of either the offer or the acceptance. Therefore, to understand the agreement, understanding these two elements must be done.

The stages that must be carried out in the implementation of the construction contract must be based on the attachment to Regulation of the Head of Government Agency of Goods/ Services Procurement Policy No. 6 of 2012 concerning the Technical Guidelines for Procurement of Government Goods and Services. In the selection of the service providers, the method that is frequently used for government projects is the common tender method after one-cover qualification with a knockout system and the submission of bank guarantee for the tenders submitted by the contractor to the government. It is submitted at the time of submission of bids by the contractor in the amount of 1% to 3% of the value of the bid they submit. The purpose is that the contractor who has been declared the winner in the tender

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<sup>12</sup> Wirjono Projodikoro, 1998, *Op. Cit.*, page 38.

<sup>13</sup> Feenstra en M. Ahsman, in Herlien Budiono's book, *Op. Cit.*, page 95.

<sup>14</sup> R. Subekti, 1995, *Op. Cit.*, page 5.

<sup>15</sup> *Ibid.*, page 6.

<sup>16</sup> Y. Sogar Simamora, 2005, *Op. Cit.*, page 172.



process does not commit acts that could harm the government such as resigning after the winner is determined.<sup>17</sup>

The contract signing phase is carried out after the SPPBJ is issued, the Contract Signing is done no later than 14 (fourteen) working days after the letter of appointment of goods/ service provider (SPPBJ) is issued. Before signing the contract, the PPK and the provider must check the concept of the contract including the substance, language, editorial, numbers and letters and initialing each sheet of the Contract Document.<sup>18</sup>

According to H.R Daeng Naja, the signing of a contract can only be done if the construction service provider has submitted a bank guarantee to PPK, with the following conditions:

1. The Implementation Collateral Value for the bid price ranges from 80% (eighty percent) to 100% (one hundred percent) of the total value of HPS is 5% (five percent) of the contract value;
2. The Implementation Collateral Value for the bid price or below 80% (eighty percent) of the HPS value is 5% (five percent) of the total value of the HPS; and the validity period of the Implementation Collateral is from the date of signing the Contract until the handover based on the Contract.<sup>19</sup>

The procedure for submitting an application for bank guarantee for an advance or the down payment by the contractor to the bank is the same as submitting a bank guarantee application for implementation and tendering. After receiving the down payment, the contractor then starts the project development process that has been agreed with the government in accordance with the drawings and specifications stated in the Contract documents.

In the development process, if there is a significant difference between the conditions of the location of the work at the time of implementation with the drawings and specifications specified in the Contract documents, the PPK and the provider (contractor) can make changes. These changes include: increasing or reducing the volume of work listed in the contract, reducing or increasing the type of work, changing the technical specifications and work drawings according to the needs of the job site; and/ or carrying out additional work that has not been listed in the contract to complete all the works.<sup>20</sup>

For work changes related to reducing or adding to the type of work are applicable to work that uses a Unit Price Contract or parts of work that use the unit price of the Combined Contract of Lump Sum and Unit Price. Additional work is carried out with the following conditions: it does not exceed 10% (ten percent) of the price stated in the initial agreement/ contract and there is a budget for the additional work. The orders to make changes to work must be made by the PPK in a written form to the provider (contractor) followed by the technical and price negotiations and by considering the provisions in the initial contract. The results of the negotiations are set forth in the Minutes as the basis for preparing the contract addendum.<sup>21</sup>

In the implementation of project development, the inspection of work results is carried out to determine the volume of work to define the payment. The results of the work inspection are outlined in the progress report of the works. If the work results are in line with what was agreed upon, the contractor can submit a bill of payment to the PPK along with a report on the progress of the work. Specifically, for

<sup>17</sup> Munir Fuady, 1998, *Op. Cit.*, page 196.

<sup>18</sup> Munir Fuady, 1998, *Op. Cit.*, page 196.

<sup>19</sup> H. R Daeng Naja, *Op. Cit.*, page 160.

<sup>20</sup> Interview with Commitment Officer, Mr. Barlius, Education Office of Padang City, Monday, July 16, 2018.

<sup>21</sup> H. R Daeng Naja, *Op. Cit.*, page 160.

the contracts that have subcontracts, the payment requests must be accompanied by the proof of the payment to all sub service providers based on the performance of the work that has been done.

It can be interpreted that a promise that has been agreed with any pattern is basically a statement made by someone to another person who states a certain situation or happened, or who will do a certain deed. People will be bound to their own promises, that is the promises given to other parties in the agreement or contract that has been made.

The interests of the parties are outlined in the form of a contract considering that every achievement is basically a legal step. The debate about whether there is a position balance between the parties is basically less relevant to be associated with the contract. The contract dimension emphasizes the aspect of respect for the partnerships and no longer focuses on the mathematical balance. Instead, it emphasizes the proportionality of the exchange of rights and obligations between the parties. It can be said that the existence of a contract to guarantee the exchange of interests in the form of rights and obligations takes place proportionally to the parties who made the contract. Thus, there is a just and mutually beneficial contractual relationship, in the sense of a balance of rights and obligations.

The rights and the obligations must contain the rights of service users to obtain the results of construction work and their obligations to fulfill the promised conditions. Moreover, the right of the service providers is to obtain the information and compensation for services and their obligations are to carry out the public procurement work.

The above statement can be interpreted that an agreement or contract creates a legal relationship where one party has the right and the other party has an obligation. In this case, the debtor must fulfill the achievement and the creditor is entitled to receive the achievement. Meanwhile, the object of the agreement between the parties is not only related to the work for which it is responsible, but also with the objectives of the agreement being held such as the procurement of the bridge construction that must be done by the contractor. It means that the achievement of the service provider is completing the work based on the agreement.

The work owner makes a payment if the construction of the bridge is completed and handed over. Both parties equally carry out their rights and obligations which are basically the legal relationships formed from an agreement or contract of the parties, as well as the legal relations that can be formed since it has been determined by law. It means that the provisions of the law determine the establishment of the legal relationship, so each party has a responsibility regarding what their rights and obligations are.

## **Conclusion**

1. The legal standing of a work order (SPK) by the existence of an agreement on the procurement of public goods is part of the contract itself. It means that the SPK is a contract that cannot be separated and must be carried out by the parties as a law. However, the SPK is issued by the public officials who have the authority as the representatives of the state, besides they use state finances in the procurement of goods and services. In this case, the legal position of the SPK is the same as the contract itself. The agreements between the public officials and other parties are subject to the civil law and at the same time, the state administrative law also applies.
2. The contractual relationship between the Commitment Officer (PPK) and the goods/ services suppliers for the procurement of public goods at Padang City Education Office is basically legal since it is established from the procurement agreement which starts from a process that has been

determined through the legislation that follows the provisions of the state administrative law in the form of the Work Order (SPK). The SPK is a continuation of the agreement of the parties which is standard because the format has been determined through the existing regulatory mechanism. The legal relationship is realized in the form of the rights and obligations of the parties to carry out the contents of the contract including the SPK.

## **References**

### *Books*

Yohannes S. Simamora, 2012, *Contract Law (Contracts on Procurement of Government Goods and Services in Indonesia)*, Laksbang Justitia Surabaya, page 64.

Sri Soedewi M. Sofwan, 2002, *Building Law (Building Works Agreement)*, Liberty Yogyakarta, page 94.

Zainudin Ali, 2009, *Legal Research Methods*, Sinar Grafika, Jakarta, 2009, page 105.

Moechtar Kusumaatmadja and B. Arief Sidaharta, 2009, *Introduction to Legal Studies*, Alumni, Bandung, page 17.

Peter Mahmud Marzuki, 2008, *Introduction to Legal Studies*, Prenada Media, Yogyakarta, page 271.

### *Legislations*

Law No. 18 of 1999 concerning Construction Services

Law No. 2 of 2017 concerning Construction Services

Presidential Regulation No. 54 of 2010 concerning Procurement of Goods and Services, Presidential Regulation No. 35 of 2011 and Presidential Regulation No. 70 of 2012, Presidential Regulation No. 172 of 2014 and Presidential Regulation No. 4 of 2015, Presidential Regulation on Amendment to Presidential Regulation No. 54 of 2010 concerning Procurement of Government Goods and Services.

AV 41 and other regulations as long as they do not conflict with Law No. 18 of 1999 and Government Regulation No. 29 of 2000, Government Regulation No. 6 of 2006 concerning Implementation of Construction Services.

Minister of Public Works Regulation No.45/PRT/M/2007 concerning Technical Guidelines on the Construction of State Buildings.

Minister of Public Works Regulation No.43/PRT/M/2007 concerning Standards and Guidelines for Procurement of Construction Services (Consultancy and Chartering Services. Department of Public Works.

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