

Optimization of PTNBH Asset Utilization (ITS case study from BLU to PTNBH)

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Subject Area : Good Governance

Abstract

In 2015 after ITS was designated as a Legal Entity State University with Government Regulation Number 54 of 2015 concerning ITS Statutes, at ITS there was a change in authority to manage separated assets. This authority includes managing, deleting and utilizing assets. This study aims to determine the forms of asset utilization at ITS, who has the authority to grant permits and implement assets utilization at ITS and how to optimize the utilization of ITS assets. This research is normative research. Research that will examine based on the concepts of asset utilization and the applicable positive legal rules. The form of asset utilization that can be carried out by PTBH is leasing, borrowing and using, cooperation in utilization and building handover or building to deliver. The authority to use assets at ITS lies with the Chancellor as the manager of the goods, WR2 as the user of the goods, and several parties such as the DKPU as the power of the goods user. Optimizing the utilization of ITS assets is the concept of utilizing assets to achieve the maximum profit or benefit by not disturbing the duties and functions of the assets for ITS and not violating applicable regulations.

Keywords: Optimization; Assets; Legal Entity State Universities

Introduction/Background

The current management of state universities is quite developed and progressive. Several state universities are now required to be more independent and have some limited autonomy. Models of State Universities with autonomy include the Public Service Agency and Legal Entity State Universities. This was followed by the designation of several State Universities as Legal Entity State Universities, including ITS, in 2015. The basic rule for establishing ITS as a Legal Entity College is Government Regulation Number

54 of 2015 concerning the Statute of the Sepuluh Nopember Institute of Technology hereinafter referred to ITS Statute. This statute gives responsibility to ITS to contribute to building human resources in the development of science and technology for the welfare of society, advancing the country, and increasing human value. One of the authorities of ITS in Article 77 of Government Regulation Number 54 of 2015 concerning ITS Statute mentions some of ITS authorities to be able to seek funding autonomously which comes from, namely: society, education costs, endowment fund management, ITS business, collaboration in

tridharma work, management ITS assets, APBD; and / or loans. ITS as a new legal entity state university, one of the most vital authorities is the management of ITS assets, the object of which is ITS assets as stated in Government Regulation Number 54 of 2015 concerning ITS Statutes and Chancellor Regulation Number 12 of 2018 concerning ITS Asset Management. The authority to manage ITS assets or assets includes: planning needs and budgeting, procurement, use, utilization, security and maintenance, appraisal, elimination, administration, and guidance, supervision and control. ITS assets, in terms of assets that can be commercialized, are one of the revenue generators for ITS as a Legal Entity State University through the use of assets. The authority to use these assets should be maximally utilized for the benefit of ITS. From the above background, the problems in this study are; 1) determine the forms of asset utilization at ITS, 2) who has the authority to grant permits and implement assets utilization at ITS and, 3) how to optimize the use of ITS assets.

The purpose of this research is:

- a. To arrange proper and correct forms of asset utilization at ITS in accordance with applicable regulations.
- b. To determine who is authorized to grant permits and implementers of asset utilization at ITS.
- c. To determine how to optimize the use of ITS assets.

This research is normative research. Research that will examine based on the concepts of asset utilization and the applicable positive legal rules. The approach used in this research is:

- a. Conceptual approach (Conceptual Approach), by studying the views, concepts related to the utilization of assets and authority.

- b. The approach is based on statutory regulations (statute approach), namely reviewing the related regulations.

Analysis of the problems in this study will be carried out normatively and critically by using theory and regulations which are arranged systematically and regularly to obtain answers to the problems discussed in this study.

Literature Review

Forms of Asset Utilization at ITS

Utilization of state property in general is regulated in Government Regulation 27 of 2014 concerning State / Regional Property Management, Minister of Finance Regulation 76 / PMK.06 / 2014 concerning Procedures for implementing the utilization of State Property, Minister of Finance Regulation 57 / PMK.06 / 2016 regarding the procedure for implementing the lease of State Property. This regulation regulates, among other things, the authority, process or SOP up to the differentiation between land and non-land objects and the form of their use.

As a state regulation, one of the objectives is to control state property that is with the State Property User and the State Property User's Authority. This regulation is closely related or even a derivative of the Law on state finances and the State Treasury Law.

The scope of the above regulation is more aimed at work units and agencies that do not yet have more authority, such as PTNBH. PTNBH, in this case ITS, is given broader authority over the use of state assets. Based on Chapter IX regarding Funding and wealth in Government Regulation Number 54 of 2015 concerning ITS Statutes, ITS is given the authority to earn income from managing ITS assets. One of ITS assets in this

regard is assets, especially land. ITS revenue from wealth management is income that can be managed autonomously and is not non-tax state revenue.

In the context of implementing BMN, there is a difference between use and utilization. The use phrase is used for or in accordance with the duties and functions of the State Property. For example, lecture classrooms are used for lectures. ITS Laboratory is used for ITS student practical work. Meanwhile, the phrase Utilization refers to something that is carried out outside of its duties and functions. An example of an ITS Laboratory is used with a rental mechanism by private PT. Another differentiator is that the use will result in a financial benefit that will enter the state treasury and can be used by the PTN, while the use cannot generate economic profit.

In general, the object of BMN utilization can be divided into only 2 concepts, namely: land and non-land. In the relevant statutory regulations, land is regulated in more detail, while apart from land there is still no comprehensive enough regulation. An example is an expert from a PTNBH, not specifically regulated in statutory regulations, but still refers to the general rules of civil law that exist in BW.

The form of BMN Utilization according to Government Regulation 27 of 2014 concerning State / Regional Property Management, as well as being revealed in more detail at the level of implementation in the Minister of Finance Regulation 78 / PMK.06 / 2014 concerning Procedures for implementing the use of State Property, consisting of: lease, loan Use, Collaborate Utilization, Build Handover or Build to Handover and Collaborate on Infrastructure Provision.

The definition of a lease according to Article 1548 BW is an agreement, a lease is an agreement, whereby a party that binds itself to provide enjoyment of an item to another party for a certain time, with the payment of a price agreed by the last party.

In the context of civil law, the lease agreement has several general rules that will continue to be used as long as it does not conflict with specific rules that are regulated in a specific regulation, such as regulations regarding BMN leases, or leasing arrangements for assets within ITS.

In the BMN regulation, as written in PP 27 of 2014, and detailed with PMK 78 / PMK.06 / 2014 concerning the procedures for implementing BMN utilization, special fibers for leasing are regulated in more detail in PMK 57 of 2016 concerning BMN leases, in the regulations it states how leases against BMN, especially land. In the rental arrangement regarding the land, the process is regulated in detail. Article 3 of PMK 78/2016 states that the general arrangements regarding BMN leases are: the subject of the lease executor, the object of the lease, the period of the lease, the amount of the lease, the procedures for implementing the lease, securing and maintaining the object of the lease, administration, guidance, supervision and control of the lease, as well as compensation and fines.

Borrowing and use According to the meaning of Government Regulation 27/2014, borrowing and use is the transfer of use of goods between the central government and regional governments or between local governments for a certain period of time without receiving compensation and after the period ends, it is handed back to the manager of the goods.

The limitations of the parties in the lending are only limited to:

- a. Central Government and Local Government
- b. Local government with local government

Utilization cooperation is the utilization of State / Regional Property by other parties within a certain period of time in the context of increasing non-tax state / regional revenue and other sources of financing.

The considerations from the implementation of the Utilization Cooperation include:

- a. Optimization of State Property that has not or is not used in the implementation of the main duties and functions of government administration.
- b. Increase state revenue.
- c. Prevent usage without being based on applicable provisions.

The documents required in the implementation of the Cooperation for the Utilization of State Property are differentiated between land / building and other than land / building.

For land and buildings	For other than land and buildings
1. Proof of ownership	1. Consideration of utilization cooperation
2. Image location	2. Acquisition value
3. Area of the object of utilization cooperation	3. Photocopy of ownership documents
4. Acquisition value and NJOP of land or building	4. Goods identity card
5. Considerations underlying the proposed implementation of the utilization cooperation	5. The period of cooperation in utilization
6. The period of cooperation in utilization	

Bangun Guna Serah (BGS) is the utilization of central government land by another party by constructing a building and / or facilities and facilities, then utilized by the other party for a specified period of time that has been agreed upon and then handed back to the property manager after the period ends. Building Serah Guna (BSG) is the use of land owned by the central government by another party by constructing a building and / or facilities and facilities, then handed over to the goods manager to be utilized by the other party in an agreed number.

The main consideration of implementing the BGS and BSG is to support service functions by providing buildings and facilities in the context of carrying out the main tasks and functions of the state ministries / institutions, whose development funds are not available in the APBN.

Regarding the subject and object of the implementation of BGS and BSG, that land must be with the goods manager, or land that is with the goods user but must first be submitted to the goods manager.

Forms of Delegation of Authority

The definition of authority in KBBI means the power to make decisions to govern and delegate responsibility to others. According to some legal scholars, this is defined as the right and power to act, the power to make decisions, rule and delegate responsibilities to other people / bodies. According to Stout (1994), authority is the entire rules derived from the law of governmental organizations, which can be explained as all the rules relating to the acquisition and use of governmental powers by public legal subjects in public legal relations. Meanwhile, according to Marbun (2015), authority means the ability to carry out a public legal action, or juridically, is the ability to act provided by the

applicable law to carry out legal relations. Whereas in the Black Law Dictionary authority is defined more broadly, not only exercising power, but authority is also interpreted in the context of implementing and enforcing the law, there is definite obedience, contains orders, decides, there is juridical supervision and even authority is associated with authority, charisma and even physical strength.

In Law 30 of 2014 concerning government administration, it differentiates into:

- a. Authority is the right held by Government Agencies and / or Officials or other state administrators to make decisions and / or actions in government administration.
- b. Government Authority, hereinafter referred to as Authority is the power of Government Agencies and / or Government Officials or other state administrators to act in the realm of public law.

In our opinion, from several theoretical opinions regarding this authority, in practice there is no difference between authority and Government authority, and having the same principle, there must be a legal basis that legitimizes the exercise of that authority.

In exercising authority, there must be conditions that must be met, namely:

- a. Comply with the legality principle;
- b. Protect human rights; and
- c. On accordance with the General Principles of Good Governance.

In order to gain authority, there must be a delegation that must be carried out. in the context of Law, the delegation of authority is given in the form of Attribution, Delegation and Mandate. Attribution is the delegation of authority originating from law, delegation is a form of

delegation from an agency or organization to another agency or organ, if it is in the context of state relations, between ministries. while the mandate is the delegation of authority which is superior to subordinate.

In terms of exercising authority, this is related to government action. Government action is divided into two, namely:

- a. Government action in the realm of public law
- b. Government action in the realm of private (or civil) law.

These actions have different responsibilities. so that this can place the government's position fairly, in terms of dealing with the people or citizens. In terms of the government dealing with citizens in public, then there are regulations regarding the rights and obligations of these parties. Likewise, when the government carries out legal relations in the realm of private law, the rights and obligations of the government are different when the government carries out actions in the realm of public law.

According to Manan (2004), it is necessary to distinguish between authority and power. In the language of law, authority is not the same as power (*macht*). Power describes the right to do or not do, whereas in law, authority also means rights and obligations (*rechten en plichten*). As a rule of law, governmental authority must come from statutory regulations.

The source of authority in state Administrative Law must be based on statutory regulations, and obtained through: attribution, delegation and mandate. In attribution, the granting of authority to the government based on statutory regulations, and usually is a new authority, in the sense that it is not a derivative of the powers above. This attribution authority is usually an absolute

authority, for example, is the authority of the president or the DPR. one characteristic is that it has been determined by the state constitution.

Delegation, in its simplest concept, is the delegation of authority from an agency or position that has obtained authorization by attribution to other bodies or officials. In a simple way, there is no delegation without attribution. According to Hadjon (2019), the requirements for the delegation of governmental authority are as follows:

- a. The delegation must be definitive and the delegator (delegans) can no longer use the delegated authority on their own.
- b. Delegation must be based on the provisions of the statutory regulations, meaning that delegation is only possible if there are provisions for that in the statutory regulations.
- c. Delegation is not to subordinates, meaning that in the hierarchical relationship of staffing, no delegation is allowed.
- d. Obligation to provide information (explanation) means that the delegate of the delegation has the right to request an explanation regarding the exercise of said authority.
- e. Policy regulation (beleidsregel) means that the delegate provides instructions or instructions on the use of this authority.

The source of authority as well as how to obtain authority is a fundamental thing, especially at the level of state administrative law. This is related to the accountability of the official who receives the authority, whether it is attribution, delegation or mandate.

Authority in Asset Management at ITS. Based on ITS Chancellor Regulation Number 12 of 2018 concerning ITS Asset Management Article 2, the management of ITS assets aims to:

- a. Realizing higher education governance that applies the principles of Good University Governance, which includes the principles of transparency, efficiency and accountability; and
- b. Support the realization of ITS vision and mission in organizing the tridharma of higher education.

The above objectives are realized in the asset management system as follows:

- a. Chancellor as Asset Manager;
- b. Deputy Rector for Planning, Finance and Infrastructure as Asset User; and
- c. Dean, Institute Secretary, Head of Institution, Head of Agency, Director, Head of Bureau, Head of Department, Head of Library, Head of Office and other Head of Unit (hereinafter referred to as Head of Work Unit) as a power of Asset Users;

The Chancellor as an Asset Manager has the authority and responsibility:

- a. Establish asset management policies;
- b. Determine the asset requirements in the Annual Budget Work Plan;
- c. Determine the use and utilization of assets;
- d. Approve the Asset User's proposal for the use of assets;
- e. Determine and give approval for asset write-offs;
- f. Responsible for the context of asset inventory activities;
- g. Carry out guidance, supervision and control over asset management; and
- h. Determine Asset User and Asset User Proxy.

(clause7 subsection 2 ITS Chancellor Regulation Number 12 of 2018).

The Deputy Chancellor for Planning, Finance and Infrastructure as an Asset User has the authority and responsibility:

- a. Proposing a plan for Asset requirements in the Annual Budget Work Plan;
- b. Submits a proposal for the utilization and transfer of assets to the Asset Manager;
- c. Regulate the implementation of use, utilization of assets;
- d. Submit a proposal for asset write-off to the Asset Manager;
- e. Supervise and control the management of assets;
- f. Proposing guidelines for asset administration to the Asset Manager;
- g. Compile and submit asset reports to the Asset Manager;
- h. Secures and maintains assets under its control; and
- i. Submit the asset utilization proposal to the Asset Manager.

(clause 8 subsection 3 ITS Chancellor Regulation Number 12 of 2018)

The Head of the Work Unit as the Asset User Proxy has the authority and responsibility;

- a. Carry out the administration of ITS assets;
- b. Regulating the use of ITS assets for the benefit of carrying out main tasks and functions;
- c. Securing and maintaining ITS assets under its control;
- d. Propose the use, utilization and write-off of ITS assets to Asset Users; and
- e. Supervise and control the use of ITS assets under its control.

(clause 9 subsection 3 of ITS Chancellor Regulation Number 12 of 2018)

Based on the description above, basically the Chancellor has absolute authority to utilize

assets. For its implementation, the Chancellor can delegate authority to officials under him, and the arrangements are covered by the Chancellor's regulations regarding asset utilization.

Result and Discussion

Optimizing ITS Assets Utilization

Optimization is the optimization of the potential utilization of an asset that can generate benefits or bring greater profits. To optimize the utilization of assets, we need to make a strategy for using assets. Strategy is a method or plan in the form of a concept that is deliberately made to achieve long-term goals. Utilization of ITS assets is the utilization of ITS assets that are not used for carrying out ITS duties and functions. So that the optimization of the utilization of ITS assets is the concept of utilizing assets to achieve the maximum profit or benefit by not disturbing the duties and functions of the assets for ITS and not violating applicable rules.

In accordance with ITS Chancellor Regulation Number 12 of 2018 (hereinafter referred to as PEREK ITS No. 12 of 2018) concerning the Management of the Ten November Institute of Technology Article 4 Paragraph (2) that ITS assets consist of: land obtained after the determination of the initial asset value, infrastructure, buildings and structures, vehicles and transportation means, equipment and machinery, books and library media, other fixed assets, construction in progress and intangible assets. Apart from the above assets, ITS also has assets in the form of laboratories and experts.

The way to optimize ITS assets is to plan and implement strategies for utilizing ITS assets with the following general principles:

- a. Utilization of ITS assets can be carried out as long as it does not interfere with the implementation of ITS and state governance duties and functions.
- b. Utilization of ITS assets is carried out by taking into account the interests of ITS, the state and the public interest.
- c. Utilization of ITS assets is carried out without changing the ownership status of ITS assets.
- d. ITS assets that are the object of utilization must be determined by the status of their use by the Property Manager / Property User.
- e. Maintenance and security costs for ITS assets as well as implementation costs related to the utilization of ITS assets are borne by the utilization partner.
- f. State revenue from the use of ITS assets is ITS revenue which must be fully deposited into the Chancellor's account.
- g. ITS assets that are the object of use are prohibited from being guaranteed or pawned.

The general principles above have been adjusted to the Regulation of the Minister of Finance of the Republic of Indonesia Number 78 / Pmk.06 / 2014 concerning Procedures for Implementing the Utilization of State Property, in particular clause 4 subsection (1).

In optimizing the utilization of each asset unit owned and or managed, the following steps are taken:

- a. Compiling asset data, technical data from assets, environmental data where assets are located, legal data from assets, economic data from assets and social data.
- b. Examining the potential opportunities held by assets to be optimized in terms of: technical assets, the environment in which the assets are

located, legal from assets, economic opportunities from assets and social.

- c. Developing strategies for optimizing asset utilization which include: improving asset quality, identifying target markets, increasing creativity and innovation, compiling a management plan or executing it whether to be implemented by a third party or self-management, promoting effectively and making asset utilization management.

Conclusion

Based on the description in the previous chapter, the provisional conclusions are as follows:

1. The forms of utilization that can be carried out within ITS are:
 - a. Rent
 - b. Lease
 - c. Utilization cooperation
 - d. Build up to handover or build to give up
2. The authority to use assets within ITS is in the chancellor or rector as the Property Manager, WR2 as the user of goods, and several parties such as BPPU as the Proxy for Property Users.
3. Optimizing the utilization of ITS assets is the concept of utilizing assets to achieve the maximum profit or benefit without disturbing the duties and functions of the assets for ITS and not violating applicable regulations. In order to optimize the use of assets, steps need to be taken including compiling asset data, examining potential opportunities owned by assets, and formulating strategies for optimizing the use of each asset.

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- j. Chancellor's Regulation Number 10 of 2016 concerning Organization and Work Procedures within ITS.
- k. Chancellor's Regulation Number 10 of 2017 concerning Guidelines for Implementation of Cooperation in the ITS
- l. Chancellor's Regulation Number 12 of 2017 concerning asset management in the ITS

Regulations:

- a. Law Number 30 of 2014 concerning Government Administration
- b. Law Number 12 of 2012 concerning Higher Education
- c. Law Number 12 Year 2011 concerning the Establishment of Legislation
- d. Burgelijk Wetboek (Civil Code)
- e. Government Regulation Number 4 of 2014 concerning Higher Education Implementation and Management of Higher Education
- f. Government Regulation Number 27 of 2014 concerning Management of State or Regional Property
- g. Minister of Finance Regulation Number 76 of 2014 concerning Procedures for the implementation of the utilization of State Property
- h. Regulation of the Minister of Finance Number 57 of 2016 concerning Procedures for Leasing State Property
- i. Government Regulation Number 54 of 2016 concerning ITS Statute