

## IMPLEMENTATION OF AUCTIONS IN AN EMERGENCY DURING THE COVID-19 PANDEMIC ACCORDING TO THE DIRECTOR'S REGULATIONS GENERAL OF STATE WEALTH NUMBER 3/KN/2020

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### ABSTRACT

*This study examines the advantages and disadvantages associated with conducting auctions in emergencies during the Covid-19 pandemic. Legal protection of auction participants in the implementation of auctions during the Covid-19 pandemic. The implementation of the auction in an emergency during the Covid-19 pandemic according to the Regulation of the Director General of State Wealth No. 3/KN/2020 at the Office of The State Wealth Service and Medan Auction. The research method used is empirical legal research method with descriptive analytical properties. Advantages and disadvantages of conducting auctions in emergencies during the Covid-19 pandemic, objective, safe, fast and efficient, competitive and supervised advantages. and lack of participants do not know the goods in real, the level of trust of the participants is low, Related to the time, Legal protection of auction participants in the implementation of auctions during the Covid-19 pandemic. Juridically Law No. 8 of 1999 on Consumer Protection has protected consumers in the implementation of online auctions during the Covid-19 period, but in fact there are still many consumers online auctions, especially during the Covid-19 era that has not been protected. The implementation of the auction in an emergency during the Covid-19 pandemic according to the Regulation of the Director General of State Wealth No. 3/KN/2020 at the Office of State Wealth Services and Medan Auctions. Starting with the delivery of the head of the auction minutes by the auction officials, the procedure of viewing the minutes of the auction according to the provisions, namely online auctions with closed bidding, is carried out in accordance with the schedule of bookkeeping of the auction bid list.*

Keywords: Implementation, Auction, Emergency, Covid-19

### INTRODUCTION

Before the COVID-19 outbreak occurred, the Directorate General of State Assets (DJKN) of the Ministry of Finance had developed an e-auction, namely an online auction. The obligation to implement e-auction at every State Assets and Auction Service Office (KPKNL) in all Regencies/Cities in Indonesia is carried out in stages, initially aiming to minimize the occurrence of irregular practices due to the interaction of each party participating in the auction. However, encountered obstacles related to practice in the field, that not all bidders are willing to conduct online auctions for various reasons such as difficulties in accessing or using the e-Auction application. In addition, the implementation of the voluntary non-execution auction type carried out by the Class II Auction Officer will be an obstacle, because it does not yet have an online auction application, unless the auction is carried out in collaboration or at the request of the auction hall which already has an online auction application.

The spread of COVID-19 in Indonesia, the Government officially announced the first COVID-19 case in Indonesia on March 2, 2020., where every individual government requires to maintain physical distancing, according to the recommendation of the National Disaster Management Agency (BNPB) which determines the situation. During the COVID-19 emergency, every KPKNL to carry out Work From Home (WFH) for its employees with the provision that auction services must continue to run, making auction services, especially conventional ones, experience problems. Regarding the continuity of the auction service, with the issuance of the Regulation of the Director General of State Assets (Perdirjen KN) Number 3/KN/2020 concerning Guidelines for Providing Auction Services at the KPKNL During an Emergency Disaster Outbreak of Corona Virus Disease 2019 (COVID-19). In the Non-Natural National Disaster Status for the Spread of Corona Virus Disease 2019 (COVID-19), ensuring that the auction service is still carried out by the KPKNL by taking into account the existing situation and conditions.

Article 1 number 2 of Law Number 6 of 2018 concerning Health Quarantine states that a Public Health Emergency is an extraordinary public health event marked by the spread of infectious diseases and/or events caused by nuclear radiation, biological pollution, chemical contamination, bioterrorism, and food that poses a health hazard and has the potential to spread across regions or across countries. The Health Quarantine Act provides an opportunity for temporary law to be enforced in an emergency. With the argument of public interest in the form of public health, the government can restrict the activities of people, containers, transportation means, and goods that are considered capable of transmitting disease or preventing other contamination. Such restrictions are known as the concept of quarantine (Fitra Asril dan Qurrata Ayuni, 2020).

Indonesia is in a state of emergency COVID-19 based on Law Number 6 of 2018 concerning Quarantine, specifically in Article 11 which states that: "The implementation of Health Quarantine in Public Health Emergencies is carried out by the Central Government quickly and precisely based on the magnitude of the threat... ", as well as Presidential Decree No. 12 of 2020 concerning the Determination of the Status of Non-Natural Disasters for COVID-19 as a National Disaster.

In response to the COVID-19 in Indonesia, the government through the National Disaster Management Agency (BNPB) of the Republic of Indonesia has issued Decree of the Head of the National Disaster Management Agency Number 13 A of 2020 concerning the Extension of the Status of Certain Disaster Emergency Situations due to Corona Virus Disease in Indonesia. Following up on this, the Ministry of Finance has issued a Circular Letter of the Minister of Finance Number SE-5/MK.1/2020

dated March 14, 2020 regarding Follow-Up Guidelines Regarding the Prevention of the Spread of Covid-19 in the Ministry of Finance and SE-7/MK.1/2020 dated March 23, 2020 concerning Efforts to Increase Awareness of the Prevention of the Spread of Covid-19 in the Ministry of Finance, which among others regulates the implementation of Work From Home (WFH) within the Ministry of Finance and the Implementation of Duties and Service Functions by taking into account the principles of prudence, security and health protocols . Since March 16, 2020, all services in the Integrated Service Area (APT) have been temporarily closed and services have been diverted to communication via telephone or e-mail.

### **STRENGTHS AND WEAKNESSES RELATED TO THE IMPLEMENTATION OF AUCTIONS IN EMERGENCIES DURING THE COVID-19 PANDEMIC**

The presence of today's communication technology provides a lot of convenience in the field of auction work. In this case, the presence of an auction application via the Internet, also known as e-auction, has excellent facilities to make it easier for sellers to submit an auction application. Even the Seller and Auction Officer do not need to meet in person when submitting an application. This Online Auction Application System facilitates anyone who wants to make a sale by auction by registering as a Seller or Auction Applicant and then scanning documents which will be verified by the Auction Service Section. The next stage is for the original file to be sent via expedition and will be re-verified by the appointed Auction Officer.

The auction can be carried out based on the basic rules which state that the auction is carried out in accordance with the place stated in the determination of the auction. The implementation of the auction through video teleconference media as the implementation of social distancing has now been facilitated in the rules, the seller and the witness are still present virtually at the auction venue, so that the legality of the document is correct and the validity of the auction in the future can still be accounted for. In addition, in the event that the location of the auction is known to be in a place that is prone to the spread of COVID-19, it is required that the seller re-apply for the auction that has been determined by the KPKNL, namely by submitting an application for rescheduling of the implementation and submitting the location of the place of execution. the new one.

The advantages of conducting auctions in an emergency during the COVID-19 pandemic include:

1. **Objectively**, auction implementation in an emergency is objective, meaning that auction activities are carried out openly and publicly. The implementation of the auction must be carried out to avoid priorities that become a mission from several suspicious persons, both the auction participants, and the officers who carry out the auction.
2. **It is safe**, the security of emergency auction activities during the COVID-19 pandemic will be obtained when you are at a trusted auction service provider. A trusted emergency auction during the COVID-19 pandemic will be led by an independent auction official. The goods/assets to be traded will be examined first by the auction official.
3. **Fast and efficient**, the time and submission of complete files is less than five weeks (execution auction) and two weeks (non-execution auction).
4. **Competitive**, emergency auctions during the COVID-19 pandemic have a competitive nature, meaning that there is competition in terms of bargaining for assets/goods to be auctioned. All rights and obligations of bidders are equalized, without any priority or exception to the goods/assets being auctioned off.
5. **High supervision**, emergency auction activities during the COVID-19 pandemic previously began with an announcement to the public to gather interested people. This means that an official auction conducted has a fairly high level of supervision, thus minimizing the losses that will arise in the auction.

Disadvantages of conducting auctions in an emergency during the COVID-19 pandemic, among others:

1. **Participants do not know the real goods**, the auction in an emergency situation during the COVID-19 pandemic is very possible to see the goods/assets in the form of pictures. However, in reality there are still many bidders who are hesitant to bid because they cannot know the goods/assets directly.
2. **The level of trust of the participants is low**, trust between several parties is one of the natural shortcomings. The parties cannot meet face to face, thus allowing some bidders to hesitate in making a transaction.
3. **Related to time**, the next shortage of auctions is time. The auctioneers must really monitor the auction process from start to finish. Time discipline is very necessary, so that the information obtained is also not half-assed.

The e-auction is carried out by the KPKNL and the Auction Center. The auction through e-auction is considered very effective and efficient and can be done anywhere for the participants. The e-auction also no longer needs to be carried out face to face on a predetermined day, place and time of execution (Ahnia Septya Karina, 2020)

## LEGAL PROTECTION FOR BIDDERS IN THE IMPLEMENTATION OF AUCTIONS DURING THE COVID-19 PANDEMIC

The corona virus which requires every government employee (ASN) to work from home or work from home (WFH) does not make every field of work stop or not work. Working from home requires every government employee to look for a reliable mechanism to continue to carry out his work from home while still paying attention to all health protocols that have been set in carrying out his work. This means, one of which has been implemented by DJKN as an echelon one unit under the Ministry of Finance.

As a marketing tool, auction announcements are more likely to provide opportunities for interested parties to obtain legal protection. In addition, in practice there is still an impression that the execution auction is closely related to the case, so the results are less effective.

Preventive protection for the auction winner can be carried out in the minutes of the auction. Minutes of auction are minutes of auction implementation made by the Auction Officer which is an authentic deed and has perfect evidentiary power. The protection provided by law is also related to the rights and obligations, in this case that is owned by humans as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have rights and obligations to take legal action (Abdul Muktie Fadjar, 2003)

During an emergency situation of a disease outbreak due to COVID-19, things that need to be considered in providing auction services during an emergency, namely:

1. **Application for Auction**, the auction applicant can submit an auction application through the online auction application feature located at the website [lelang.go.id](http://lelang.go.id) and/or by registered mail.
2. **Implementation of Auctions (Presence of Sellers and Witnesses from Sellers)**, The presence of the Seller and the Seller's Witness in the auction is carried out through teleconference media, video conferences, or other electronic media facilities that allow the Auction Functional Officer/Auction Officer, the Seller and the witnesses to see and hear each other directly during the auction. This attendance is considered the same as attendance as regulated in the laws and regulations in the field of auction. After all of them are connected to each other by being able to see and hear directly, then for Sellers (must show the letter of appointment as the Seller, show the original document of ownership to the Auction Functional Officer/Auction Officer, except for the execution auction which according to the laws and regulations can still be carried out even though the original ownership document is not controlled by the Seller and read out a stamped statement that he is responsible for the authenticity of the document ownership and if the goods are sold are willing to submit the original documents of ownership to the buyer in accordance with the provisions; and introduce the witness and provide his/her legal identity).
3. **Payment of Auction by Buyer**, in principle, the Buyer is required to pay the auction money in accordance with the provisions. In the event that the Buyer experiences difficulties in paying off due to the limitations of banking services, the Buyer may apply for a dispensation for the repayment period to the auctioneer's KPKNL provided that the application for such dispensation is submitted no later than the last day of the settlement deadline and is accompanied by a statement letter from the head of the bank branch where the Buyer's account is located which explains regarding the temporary closure of banking services. Based on the dispensation request, the Buyer is given a dispensation until the end of the temporary closure of banking services with the obligation to pay the auction money no later than 2 (two) working days afterward (Toni Agus Wijaya, 2021)
4. **Providing Auction Services**, if there are things that need to be asked by the Auction Applicant / Auction Buyer regarding the provision of auction services, it is carried out through communication facilities telephone, WhatsApp, email, and the like by minimizing direct contact.
5. **Applicability of Auction Adjustments**, this Perdirjen Number 3/KN/2020 is effective as of March 30, 2020 and ends when the emergency situation of the disease outbreak caused by COVID-19 is revoked by the Head of BNPB.

The conclusion in this chapter is related to the legal protection of auction participants in conducting auctions during the COVID-19 pandemic. Juridically, Law No. 8 of 1999 concerning Consumer Protection has protected consumers in the implementation of online auctions during the COVID-19 period, but in fact there are still many online auction consumers, especially during the COVID-19 period who have not been protected. Online auction participants during the COVID-19 period can resolve disputes through litigation and non-litigation and can also resolve disputes online.

## IMPLEMENTATION OF AN AUCTION IN AN EMERGENCY DURING THE COVID-19 PANDEMIC ACCORDING TO THE REGULATION OF THE DIRECTOR GENERAL OF STATE ASSETS NUMBER 3/KN/2020

The implementation of the auction which is regulated by various laws and regulations in the field of auction cannot be separated from the role of the parties involved in implementing, supervising and formulating a policy in the auction. The main objective of the role of these parties is to create a more optimal, transparent, accountable, fair auction implementation and to ensure legal protection for interested parties so that the level of public trust in the auction will increase. Every auction must be carried out by and/or in front of the Auction Officer unless otherwise stipulated by Law or Government Regulation.

The implementation of online auctions must at least meet several conditions, namely the Bidder who has registered on the auction organizer's website, will get a bidder number and password, bidding is carried out continuously from the time specified until the closing of the bid as will be mentioned in the announcement. auction, the limit value of the auction object is open/non-confidential and must be listed on the auction site, online bidders can find out the highest bid submitted by other online auction participants, and the Auction Officer certifies the highest bidder as a Buyer based on the recapitulation printout processed by the online auction software at the time of bid closing (Karolin Christina, 2017)

During the auction, the seller must be present at the place of the auction. Auctions conducted by bidding through the Auction Application, the presence of the Seller can be carried out through electronic media facilities that allow Auction Officers and Sellers to hear and see each other directly during the auction. The auction implementation which requires the presence of witnesses at the auction venue, the provisions for attendance through electronic media facilities also apply to witnesses from the Seller.

Auction services at the KPKNL in the COVID-19 emergency are carried out starting from processing auction requests, conducting online auctions, conventional auctions, and conventional e-auctions. Each auction application submitted by either the work unit or stakeholders can be sent through available online means or can send physical files of the auction application through the post office or other delivery facilities. Application files that have been submitted to the KPKNL will still be processed or verified both online and physically. Therefore, each satker or stakeholder is expected to examine and re-examine the completeness of the file so that the verification process does not become delayed at the KPKNL (Hubertus S.B.S Wendo, 2021)

The online auction application file can be sent via the web address [www.lelang.go.id](http://www.lelang.go.id). Each satker or stakeholder is given space to upload every scanned file through the web address in question. Tender files that have been submitted online and have been verified by the KPKNL must be physically submitted to the KPKNL within 5 (five) working days. If the auction file has been declared complete and has met the formal legality of the subject and object of the auction, the KPKNL will follow up by issuing a letter determining the schedule for the auction.

Related to technical problems, during the auction bidding process, loading often occurs slowly, this is due to the large number of Bidders accessing the auction website. In the event that there are technical disturbances in the implementation of the auction by bidding through the Auction Application or e-Marketplace Auction Platform, the Auction Officer is authorized to take action to cancel the auction, if the Technical Disturbance cannot be resolved until working hours end on the day of the auction; or conduct an auction after the Technical Disturbance can be overcome before working hours end on the day of the auction (Peraturan Menteri Keuangan Republik Indonesia Nomor 213/PKM.06/2020, Pasal 74)

The online auction can be accessed by all bidders who have met the requirements as specified in the laws and regulations in the field of auction. Online auctions or e-auctions can in fact be carried out during the Covid-19 pandemic while still paying attention to the health protocols that have been implemented has been determined. In general, e-auction aims to utilize information and communication technology facilities such as the internet. The e-auction application is a web-based auction implementation application in order to facilitate auction participants in participating in electronic auction activities and can optimize prices formed from auction activities for KPKNL.

The auction procedure is a series of actions carried out before the auction is carried out, during the auction and after the auction is carried out. The things that are necessary in the auction procedure are the auction application, the time and place of the auction, the announcement of the auction, the security deposit, the bidding and payment of the auction price, the auction fee and deposit (Purnama Tioria Sianturi, 2013)

The implementation of the online auction begins with the presentation of the head of the auction minutes by the auction official, the procedure for displaying the minutes of the auction according to the provisions, namely the online auction with closed bidding, carried out according to the schedule for the bookkeeping of the auction bid list as stated in the auction announcement. Online auction with open bidding, carried out according to the auction schedule as stated in the auction announcement.

After the auction winner is determined by the auction winner, KPKNL will then carry out the post-auction stage, namely payment and deposit, online auction payments can be made by cash or through Automated Teller Machines, SMS Banking, Short Message Service. Transfer of ownership of goods, documents the original goods in the possession of the auction official may be handed over to the buyer. Evidence of auction implementation, evidence of auction implementation, namely the minutes of the auction given which have been signed by the auction official.

The auction which will be conducted through teleconferencing media, video conferences, or other electronic media facilities, has strict conditions, namely that the seller is required to submit a written application. A written application shall be submitted no later than 3 (three) working days prior to the auction to the KPKNL. If the written application is approved by the Head of the KPKNL, it will be followed up with a notification by the Auction Functional Officer/Auction Officer to the Seller and/or a witness from the Seller to join via teleconference media, video conference, or other electronic media facilities according to the date and time of the auction. Approval or rejection of the Head of the KPKNL with the following considerations: The health of the seller and/or witness from the seller related to COVID-19 according to a health certificate from a government hospital; Travel safety of the Seller and/or witnesses from the Seller to the place of the auction from the risk of COVID-19 transmission according to the security certificate from the police; The presence of the seller cannot be replaced by another officer.

Procedure for Organizing Auction Article 26 PMK Number 213/PMK.06/2020 : (1) The auction application is submitted in writing by the Seller to the Auction Operator according to the type of auction accompanied by the tender requirements documents; (2) In the event that the Seller is an internal unit at the KPKNL, the auction application as referred to in paragraph (1) shall be submitted by the authorized official according to the organization and working procedures of the DJKN to the relevant Head of the KPKNL; (3) The submission of the auction application as referred to in paragraph (1) can be made using the Auction Application; (4) In the event that the auction application is submitted using the Auction Application as referred to in paragraph (3) and the tender requirement documents have been digitally verified, the original application letter along with the tender requirements documents must have been received by the Head of the KPKNL no later than 14 (fourteen) working days after being declared complete; (5) At the Execution Auction for confiscated objects in Article 45 of the Criminal Procedure Code in the form of fish resulting from a fishery crime, the auction application letter and the tender requirements documents as referred to in paragraph (1) may be submitted in advance by the Seller to the Head of the KPKNL by facsimile or electronic mail (e- mail); (6) The original application letter along with the tender requirement documents as referred to in paragraph (5) shall be submitted to the Head of the KPKNL through the Auction Officer before the auction begins; (7) The procedure for submitting an application for tender and the documents for tender requirements as referred to in paragraph (1) are listed in Attachments letter A and letter B which are an integral part of this Ministerial Regulation.

## CONCLUSION

1. **Strengths and weaknesses related to the implementation of auctions in emergencies during the COVID-19 pandemic**, the advantages of conducting auctions in an emergency situation during the COVID-19 pandemic, namely Objective, auction implementation in an emergency situation is objective, meaning that auction activities are carried out openly and publicly. Safe, secure emergency auction activities during the COVID-19 pandemic will be obtained when you are at a trusted auction service provider. Fast and efficient, the time and submission of complete files is less than five weeks (execution auction) and two weeks (non- execution auction). Competitive, emergency auctions during the Covid-19 pandemic have a competitive nature, meaning that there is competition in terms of bargaining. assets/goods to be auctioned. High supervision, emergency auction activities during the COVID-19 pandemic previously began with an announcement to the public to gather interested people. This means that an official auction conducted has a fairly high level of supervision, thus minimizing the losses that will arise in the auction; Weaknesses in conducting auctions in an emergency during the COVID-19 pandemic, namely Participants do not know the real goods, conducting auctions in an emergency during the COVID-19 pandemic is very possible to see goods/assets in the form of pictures. The level of confidence of the participants is low, trust between several parties is a natural deficiency. The parties cannot meet face to face, thus allowing some bidders to hesitate in making a transaction. Related to time, the next shortage of auctions is time. The auctioneers must really monitor the auction process from start to finish.
2. **Legal protection for bidders in the implementation of auctions during the COVID-19 pandemic**, legal protection for auction participants in conducting auctions during the COVID-19 pandemic. Juridically, Law No. 8 of 1999 concerning Consumer Protection has protected consumers in the implementation of online auctions during the COVID-19 period, but in fact there are still many online auction consumers, especially during the COVID-19 period who have not been protected. Online auction participants during the COVID-19 period can resolve disputes through litigation and non-litigation and can also resolve disputes online.
3. **Implementation of an auction in an emergency during the covid-19 pandemic according to the regulation of the director general of state assets number 3/kn/2020**, the auction is held in an emergency situation during the COVID-19 pandemic according to the Regulation of the Director General of State Assets Number 3/KN/2020. Starting with the presentation of the head of the minutes of auction by the auction official, the procedure for showing the minutes of the auction according to the provisions, namely online auctions with closed bidding, is carried out in accordance with the schedule for the bookkeeping of the list of auction bids as stated in the announcement of the auction. Online auction with open bidding, carried out in accordance with the auction schedule as stated in the auction announcement.

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