

COPYRIGHT LAW PROTECTION IN PROCUREMENT OF GOVERNMENT GOODS AND SERVICES (LEGAL STUDY OF THE MATARAMKU LAPOR APPLICATION MAKING)

Riesti Utami Sasmita,^{*} Hayyanul Haq,^{**} Muhaimin^{**}

^{*}Student of Magister Law Study Program, Postgraduate Program,
Mataram University, Indonesia

^{**}Lecture of Law Faculty Mataram University, Indonesia

Email correspondence: riestysasmitha0804@gmail.com

Abstract: *This study is aimed at analyzing and reviewing the protection of copyright law in the procurement of government goods and services. Substantially the object of his research is focused on legal studies on the making of the Mataramku Lapor application. This is important considering the development of information, communication and technology in public services is an essential requirement both for the government in carrying out the distribution of public services and for the community in supervising the implementation of the development process. In detail this research focuses on tracking and reviewing the substance of the agreement in the procurement of goods and services, legal protection in the implementation of procurement of goods and services and the settlement of the dispute. The method used in this research is normative-empirical legal research, this normative research is aimed at analyzing regulatory architecture and agreements related to the implementation of the application, while the empirical approach is used to collect information and know the opinions of sources and respondents. The results of this study indicate that the Mataramku Lapor application agreement is based on grants made by PT. Tower Bersama to the Mataram City Government thus this agreement is a one-sided agreement whereby the donation party is PT. Tower Bersama does not have any rights, but it is still obliged to realize all programs of activity activities attached to the grant. On the contrary, the City Government of Mataram has the right not only to receive the application but also to provide assistance and services for donors to the Mataram City IT staff, while the settlement of the dispute is entirely resolved through mediation or on the basis of consensus deliberation. The results of this study also recommend that the Mataram City Government improve the quality of staff in ICT-based public services.*

Keywords: *Legal protection, copyright, procurement of goods and services*

I. PENDAHULUAN

In the current era of globalization with a variety of technologies that are increasingly advanced, everyone can use technology easily to do business to meet their needs or to

channel their aspirations and complaints easily, in various activities can be done practically only by utilizing technology including in space the scope of government, the use of information and communication technology (ICT) referred to here can be in the form of applications that can be utilized by the government to support its activities. Many government procurement of goods and services is now a trend to form smart city, which is called smart city here is a concept of city development and management by utilizing information and communication technology (ICT) to monitor and control various resources in the city with more effective and efficient to maximize service to the community and support sustainable development, the smart city concept is intended to facilitate all matters with high connectivity support from the use of information technology (IT). In other words, smart city is a smart or smart city concept that helps urban communities efficiently manage existing resources and provide appropriate information to the public or institutions in real time activities. The current concept is that all regencies / cities and regions throughout Indonesia want to form a smart city or city that is smart based on IT, in any activity the community does not need to come to the government office but can be done easily anywhere and anytime. To support the creation of smart city, of course the government must procure goods and services in the form of applications. For the City of Mataram itself, it has procured an application called Application Mataramku Lapor, the Mataramku Lapor application is a part of the Mataram City government program with the Mataram Smart City concept in the form of an Android-based application for integrated online complaints. The application can be uploaded or installed on the community cellphone which aims to enable the community to report directly and quickly related to the problems that occur around Mataram City. Once there is a report from the public through the application, it can be directly responded to by the relevant department in the government so that the handling process becomes much faster. In the procurement of these applications, the government usually cooperates with third parties, these third parties can be categorized as creators, copyright holders or parties who copy the work of other people and trade because the copyright principle can be inherited or traded, with such trading activities. Not necessarily the original creation of the seller of the application. Parties who can become copyright holders basically have only two (2) creators and other parties. If the creator is the copyright holder, there is no need for a legal process to announce or reproduce including the activities of translating, adapting, arranging, transferring manifest, selling, demonstrating, broadcasting, recording, and communicating the work to the public through any means because it occurs automatically or by law.

Whereas for other parties as copyright holders there must be a legal process, namely with a license agreement. The creator as the licensor gives permission to reproduce the work to another party as the licensee. Likewise, the recipient of the license can also give a license to another party. In the case of procurement of government goods and services in the form of this application, there are provisions that regulate it, namely Presidential Regulation No. 54 of 2010 concerning Procurement of Government Goods and Services, but in the Presidential Regulation it is not regulated regarding the goods traded by third parties as a result his own creation, the copyright holder or copying the work of another person and trading without the copyright owner's knowledge and consent. The government only buys and uses the application, legal protection for the government itself if there is a lawsuit from another party claiming that the item being traded is the work of his creation and which will harm the government. Current technological advances can easily hijack other people's creative works and be sold to benefit from the hijacked works. Based on the statutory provisions that piracy

is a copyright infringement, it is said to be copyright infringement because it has violated the exclusive rights of the creator or copyright holder. The basis for law enforcement regarding copyright is regulated in Law Number 28 of 2014 concerning Copyright. Economic motivation as the root cause of the perpetrators of copyright infringement, if a copyright violation is proven, then the offender must be punished both civil and criminal because legal protection is only given to the first holder / user of copyright. If there are other parties who claim to be the party entitled to copyright, the first holder / user must prove that he is the first user who has the right to the creation. Therefore, the research on Copyright Legal Protection in Procurement of Government Goods and Services (Legal Study of the Making of the Mataramku Labor Application) is very important to analyze the legal certainty. Based on the background described above, the researcher is interested in conducting research in the form of a thesis with the title "Copyright Legal Protection in Procurement of Government Goods and Services (Legal Study of the Making of Mataramku Labor Applications)".

II. MATERIALS AND METHODS

The type of research used is normative-empirical legal research. Normative research is aimed at analyzing and reviewing various legal institutions and the substance of agreement law relating to the application of Mataramku Labor, in this study also explores various jurisprudence and doctrines related to copyright and application while empirical research is used to collect and know the consistency of information obtained from resource persons and respondents. The approach method used is: Approach legislation (statute approach), conceptual approach (conceptual approach), legal social approach (socio legal approach). The types and sources of legal materials used are primary data, namely respondents and informants and secondary data, namely primary legal materials, secondary legal materials and tertiary legal materials. Data collection techniques in the study consisted of library data conducted by techniques: primary data collected through interview techniques and secondary data collected through document study techniques.

III. RESULT AND DISCUSSION

3.1 Substance Agreement in Procurement of Goods and Services Application Mataram Mataram Report Related to Copyright

3.1.1 Legal Subjects in the Mataramku Labor Application and Goods Procurement Agreement Related to Copyright.

a. Mataram City Government

Based on Law Number 32 of 2004 concerning Regional Government, the regions are given the widest possible autonomy to take care of all government operations beyond the authority of the central government to make regional policies related to improving services and community empowerment, as well as real and responsible autonomy. Real means, carrying out what is their business based on the authority given and the characteristics of an area while being responsible is the autonomy which in its implementation must be in line with the intent and purpose of granting autonomy namely advancing the region and improving people's welfare. In the administration of regional government, the regional head needs to be assisted by the regional apparatus that can carry out all government affairs carried out by the regional government. The regional apparatus organization of Mataram City is an auxiliary element of the regional head in the administration of regional government consisting of the Regional Secretariat, DPRD Secretariat, Agency, Regional Service,

Regional Technical Institutions, Other Institutions and Districts. The current institutional structure / organization of the Mataram City Government are based on regional regulations based on this government regulation. The implementation of the regional apparatus will remain oriented to regional regulations which regulate the composition, position, and main tasks of regional apparatus organizations.¹

b. Contractor/Contractor

Definition of contractor or contractor, that is, a person or a legal entity or a contracted business entity or leased to carry out a work project based on the contents of the contract won from the project owner who is a government agency, legal entity, business entity, or individual, who has done official appointment along with the rules of appointment, and the target of the project or order / work intended to be stated in the contract agreed between the project owner and the implementing contractor.

The contractor in the procurement of goods and services is a privately owned company engaged in telecommunications and information which is committed to the development of Smart City in the City of Mataram, namely PT. TOWER BERSAMA based in South Jakarta based on deed of establishment number 5 dated July 4, 2006 made before notary Darmawan Tjoa, SH, SE in Jakarta, and has been approved by the Minister of Law and Human Rights Number: C-20821.HT.01.01TH.2006 dated July 17, 2006, and the amendment made before Darmawan Tjoa, S.H., S.E. Notary in Jakarta, dated March 6, 2014, Number 11, and has received Notification of Amendment to the Company's Data by the Ministry of Law and Human Rights based on a decree dated March 27, 2014, Number: AHU-AH.01.10-13176.

3.1.2 Legal Objects in the Mataramku Labor Application Goods and Services Procurement Agreement Related to Copyright

a. Procurement of Goods (Application)

Theoretically, legal objects in agreements are goods or objects. In the concept of material law, this item or object can be divided into several categories based on its nature, shape or form and so on. Based on the results of the study, the legal object in the procurement agreement is an application. This type of program contains compilation of data, numbers and narratives that provide guidance in the process of communication between the government and the community. This program is not real, or cannot be seen or touched. This object is intangible. Therefore he can be included in the category of abstract rights or intellectual property rights. Because it is part of intellectual property, it is regulated in the intellectual property law regime. Thus, the object of application of the procurement of these goods must apply specifically; it cannot be equated with the procurement model of tangible goods such as land or property buildings, or stationery, offices and health and so on. The specificity of the object of this application lays in the uniqueness of its material requirements, such as its legality or validity, ownership, creator, copyright holder, and so on.

¹ ICT E-Government Master Plan for Mataram City 2017-2022, Communication and Information Agency, Mataram, 2017.

b. Application Program Name

Understanding computer software is a collection of electronic data stored and regulated by a computer, electronic data stored by a computer can be in the form of programs or instructions that will execute a command. It is through software or software that a computer can execute a command. In addition to system software, a computer also requires application software that functions to complete certain tasks that help users in their daily activities. In the agreement on the procurement of goods and services, the application that is promised, the Mataramku Lapor Application is a part of the program of the government of Mataram City with the Mataram Smart City concept in the form of an android-based application for integrated online complaints, people's online licensing services, 112 emergency calls and services other IT-based. The application can be uploaded or installed on the community cellphone which aims to enable the community to report directly and quickly related to health, development, flood, garbage, traffic or traffic problems, drainage channels, public street lighting and others that occur around the city Mataram.

In response to complaints or reports from the public, the Mataram City government will provide Android-based smartphone facilities with the Mataramku Lapor application which has been downloaded in for the local OPD leaders in Mataram City, starting from the official launch on August 31, 2017 up to the 2018 budget. All OPD leaders, sub-district heads, and lurahs will get android-based smartphone facilities, and are expected to be able to utilize the applications that have been provided related to Mataram smart city appropriately. So that each complaint through the Mataramku Lapor application can be responded to and found a solution as soon as possible. Besides having to be able to operate an android-based smartphone with the Mataramku Lapor application that has been downloaded in it, the related OPD must also immediately prepare the steps to handle it.²

c. Functions, Tasks and Benefits of Applications

Diverse and varied communication access in order to multiply alternative channels of interaction and communication between the government and the community so that the community can easily communicate with the government in order to fulfill various daily service needs. The functions, tasks and benefits of the application are as follows:

- 1) Application Function
 - a) As a means of communication between the government and the community
 - b) As a government social media in implementing various communities service needs.
- 2) Application Tasks
 - a) Delivering messages that are managed and delivered can take place quickly.
 - b) Ensure that the communication substance is maintained intact.
- 3) Application Benefits
 - a) Facilitate the interaction process between government and community communication.
 - b) Formulate or improve social, economic problems faced by the community.
 - c) Efficient communication between government and society on development, health and environmental issues.

² https://www.google.com/search?hl=in-ID&ie=UTF-8&source=android-browser&q=tujuan+dibuatnya+aplikasi+mataramku+lapor&gws_rd=ssl

d. *Application Mechanisms and Stages*

The mechanism and stages of application work start from:

1) Identifying problems

In this case the community found several problems in the city of Mataram related to health problems, development, floods, garbage, congestion or traffic, drainage channels, public street lighting and others that occurred around Mataram City.

2) Download the Mataramku Lapor application

The next mechanism is to download the Mataramku Lapor application only on android-based smartphones via Play store then type Mataramku Lapor on the search menu, the MATARAMKU LAPOR application can be downloaded, download the Mataramku Lapor application on the paid play store but still use an internet connection.

3) Registration

The registration process is divided into two stages, namely before downloading the application and after downloading the Mataramku Lapor application, if the stage before downloading the Mataramku Lapor application, you must register first, but if you already have the Mataramku Lapor application, you can directly use this application, so you can enter the application Mataramku Lapor must fill in the identity through four ways of registration, among others via e-mail, registration via e-mail requires data such as full name, nickname, keywords, repetition of keywords, e-mail address, telephone number, resident card number, date of birth and gender. Registration requirements via e-mail only require completeness of identity card (KTP). Other registration methods can be through an identity connection that has been connected to Facebook, Twitter and Google+.

4) Procedure for reporting

The next stage after going through the registration process is to wait for confirmation at the email address entered, after confirming it can access the Mataramku Lapor application by entering your nickname and password, before you can use the Mataramku Lapor application it will be asked to allow voice access, video, picture or location so that the Mataramku Lapor application can immediately find out the location of the reported event, in this application there is a camera facility to support the report, after taking the picture then asked to select the report included in the category of fallen trees, fire, garbage, congestion, medicine and food, education, flooding, parking or others, after choosing then go to the stage of giving the title and description of the circumstances you want to report, for other users can give comments or likes to the uploaded image.

5) Control the Mataramku Lapor application

With the Mataramku Lapor application various reports from the public can be easily monitored because they use the location network system and install CCTV (closed circuit television) at a number of strategic points. To control the reporting process through the Mataramku Lapor application, the incoming public report is marked in red, and then the sign will turn yellow if the relevant OPD has instructed the officer to handle a public complaint, for example related to the public street lighting. Furthermore, if the officer is doing the repair process, the sign will turn blue and turn green when the dead PJU repair process is complete. This color change will be monitored by the mayor, vice mayor, regional secretary and other OPD through this application. The "Mataram Smart City Command Center" room is equipped with several monitors, and a large monitor for overall monitoring, in addition, the

Mataram City government places several officers in turn, so that operators in “Mataram Smart City Command Center” must be on standby 24 hours.³

3.1.3 *Legal Relations in Mataramku Lapor Application and Goods Procurement Agreement Related to Copyright*

Substantially, the legal relationship in the Mataramku Lapor application and goods procurement agreement is based on the legal act of grant, in this case PT. TOWER BERSAMA grants the Mataramku Lapor application to the City Government of Mataram.

Normatively, the concept of granting this can be found in Article 1666 of the Civil Code, in that article it is explained that the grant is an agreement, whereby a grantor surrenders an item free of charge, without being able to withdraw it, for the benefit of someone receiving the delivery of the item. The law only recognizes donations between people who are still alive.⁴

Furthermore, based on Article 1667 of the Civil Code, the grant can only be made on items that already existed at the time of the grant. If the grant includes items that do not yet exist, then the grant is canceled just about items that do not yet exist. Therefore, considering the Mataramku Lapor application is an immaterial, the procurement of goods and services on this object is a contract that has specificity, this specificity lies in its abstract object. In this case, the Mataramku lapor application is a non-material program that cannot be seen and touched but the benefits can be felt, because it cannot be seen and touched but the benefits can be felt so that it cannot be visualized as in the case of an object that must be available at the time of grant it happened.

Technically, this donated object contains narratives of knowledge and technology that are designed in such a way as a system that allows everyone to interact with each other in communicating and supervising the quality of services distributed by the government of the City of Mataram.

In the grant agreement there is actually no reciprocal agreement, in this case the party making a legal act independently, the recipient of the grant legally has the right and obligation to utilize and maintain the object that was granted. Based on the grant agreement contract, it can be seen and analyzed that PT. TOWER BERSAMA does not have any rights to the grant agreement to the City Government of Mataram, but PT. TOWER BERSAMA still has full obligation to realize the adequate Mataramku Lapor Application.

Based on the description above, given the agreement on the procurement of goods and services based on grants, PT. TOWER BERSAMA, which in this case acts as the grantor does not have the right, otherwise PT. TOWER BERSAMA has the obligation:

- a) In detail PT. JOINT TOWER is obliged to submit to the Mataram City Government a set of smart city application services consisting of: Integrated Online Reporting (POT), Handling of Integrated Online Reports (PLOT), along with a monitoring dashboard (portal, command center and backend application) where the dashboard will be integrated into the Mataram City Government environment.

³ https://www.google.com/search?hl=in-ID&ie=UTF-8&source=android-browser&q=tujuan+dibuatnya+aplikasi+mataramku+lapor&gws_rd=ssl

⁴ Article 1666 of the Civil Code concerning Defense

- b) PT. TOWER BERSAMA is obliged to guarantee that the smart city application service is rightly owned by PT. TOWER BERSAMA and is free from any ties and free from burdens and obligations to other parties.
- c) PT. TOWER BERSAMA is obliged to provide training in the implementation of smart city application services within 3 (three) months from the date of signing of the text of the regional grant agreement. If there is no request for change from the Mataram City Government related to the reporting flow and the application that has been running, then for the system that is currently running it is considered final and well received.

In contrast, the Mataram City Government has the rights and obligations that can be specified as follows:

- a) In addition to being entitled to receive Smart city application services in good condition, the Mataram City Government is also obliged to maintain and utilize these services for the public interest.
- b) The Mataram City Government recorded the Smart city application service in the inventory list of goods belonging to the Mataram City Government and fulfilled the provisions of the relevant laws and regulations.⁵

So that after 1 (one) year from the signing of this regional grant agreement text, then the rights, authority and responsibility for Smart city application services will be fully switched from PT. TOWER BERSAMA to the City Government of Mataram.

According to the author, the selection of transfer of rights through grants by PT. TOWER BERSAMA to the City Government of Mataram is based on the public interest which is seen from the copyright function itself for the benefit of community service. On the other hand, the reason PT. TOWER BERSAMA does not use the transfer of rights which is usually through a license because the object of the copyright is not used for commercial purposes, so there is no reciprocity or obligation to the recipient of the grant to fulfill the economic right of the transfer of intellectual property rights from the copyright object itself. In the copyright regime other than economic rights are also regulated the moral rights inherent in PT. TOWER BERSAMA as the creator of the Mataramku Lapor application.

In connection with the reciprocity between the grantor and the recipient of the grant as described, the giver does not have any rights as stated in the contract, but in the results of the interview, information is found that PT. while paying the commercial rent or obligation attached to the utilization of the tower construction, it should be noted that this priority is not included in the grant agreement.

The contents of these entire grant agreements stem from issues related to the substance of the agreement, when discussing the substance of the agreement referring to the type of contract agreed upon by both parties, both the Mataram City Government and the contractor. Contract or anatomical contract consists of subject, object, and mechanism of work or execution of work and dispute resolution.

In this case, the Mataram City Government is concerned with the smart city formation program, as evidenced by the establishment of the communication and informatics sector

⁵ Script of Regional Grant Agreements (NPHD) Number: 592.3 / 641 / Bappeda-Kt / VIII / 2017 and NUMBER: TGB-TBE-409 / PDI / 04 / VIII / 17

which is an OPD or service that is asked to make an application, the Communication and Information Service is currently implementing an electronic-based government system. Everything that is included in the application including infrastructure, human resources (HR), policies, must be contained in the Mayor's Regulation and policy or SK, which is the basis of the Communication and Information Service program in implementing an electronic-based government system to go smart city.

For government IT (information and technology) needs, sometimes the government uses the services of an IT company to create a computer application according to the needs of the government. With respect to the computer application produced, of course the copyright of the application is owned by the government or IT Company. In this case the Mataramku Lapor application is a Grant given by PT. TOWER BERSAMA but still must pay attention to the copyright holder of the application.

Thus, in the formation and implementation of the Mataramku Lapor application must pay attention to aspects of the agreement agreed upon in the smart city application, the Mataramku Lapor application is a free gift given by PT. TOWER BERSAMA consisting of: integrated online reporting (POT), handling of integrated online reports (PLOT), along with a monitoring dashboard (portal, command center and backend application) where later the monitoring dashboard will be integrated into the environment owned by the Mataram City Government which provisions related to further submission will be stated in a handover event report, of course, supported by adequate conditions of ICT (technology, information and communication) of the City of Mataram.

PT. TOWER BERSAMA guarantees that the smart city application service is truly owned by PT. TOWER BERSAMA and is free from any ties and free from burden and obligation to other parties in other words that the copyright of the application belongs to PT. TOWER BERSAMA which is granted to the City Government Mataram.

The Office of Communication and Information Has full rights to database management and smart city application services as well as if there is a change in the Communication and Information Service has the right to be able to change and develop smart city application services in accordance with the needs of the Mataram City Government and not infringe copyright so Information can develop the application. However, at present, the Office of Communication and Information has not been able to operate the Mataramku Lapor application itself and is still managed by the PT. TOWER BERSAMA in accordance with the contents of the agreement that after 1 (one) year from the signing of the regional grant agreement, the rights, authority and responsibility for the smart city application service will be fully switched from PT. TOWER BERSAMA to the City Government of Mataram by making a clause for amendments that the rights owned are the rights of the Communication and Information Service that can be changed.

Supported by a statement from Mr. Manan explaining that: "For the time being, regarding copyright, dispute resolution and the operation of the smart city application are still handled by PT. TOWER BERSAMA. Since it has not been fully submitted, the operation of the Smart city application is still managed by PT. TOWER BERSAMA for one year, all copyright including its management will be submitted after 1 (one) year and must be completed with a grant agreement ". Based on the agreement between the two parties, the Mataram City complaint application was launched and named the Mataramku Lapor application on August 31, 2017.

By paying attention to the sound of the agreement above which has fulfilled the legal requirements of an agreement, the copyright of the smart city application is the property of PT. TOWER BERSAMA which is granted to the Government of the City of Mataram after 1 (one) year from the signing of the regional grant agreement, the rights, authority and the responsibility for the smart city application service will be fully switched from PT. TOWER BERSAMA to the Mataram City Government and PT. TOWER BERSAMA to ensure the copyright of the application is not a plagiarism from the work of others.

3.2 *Government Legal Protection in the Implementation of Procurement of Goods and Services Mataramku Report*

3.2.1 *Basic Concept of Legal Protection*

Legal protection is one of the most important theories to be studied, because the focus of this theoretical study is on the legal protection given to society. The community targeted at this theory, namely the people who are in a weak position, both economically and weakly from the juridical aspect.⁶

According to Satjipto Raharjo, he explained the theory of legal protection that the law aims to integrate and coordinate various interests in society because in a traffic of interest, protection of certain interests can only be done by limiting various interests on the other hand.

This legal protection theory is to determine the form of legal protection for the government in the procurement of goods and services in the form of applications and provide legal clarity on the purchase of copyrighted works between the copyright holder and the government that uses the work and to know the authority of the government in using the copyrighted work.

3.2.2 *Form of Government Legal Protection in Procurement of Goods and Services*

The results of the study indicate that the form of legal protection in the agreement on the grant of the Mataramku Lapor application is a preventive legal protection. This protection is intended to protect the government, contractors and other parties in the implementation of procurement of goods and services in the form of applications. This preventive protection is carried out in the form of checking funds or supervision conducted by the Mataram City Government team. This is intended to avoid mistakes and fraud before this application is given. So this protection is carried out in the pre-pactum phase, where the government issues a policy in the form of supervision, tracking, identification, and the object granted is the Mataramku Lapor application. This is important, considering that the procurement of goods and services to support the implementation of Smart City is not done through tenders so there are no announcements, evaluations or determination of winners. The absence of this tender is reasonable, because the transfer of the Mataramku Lapor application is a grant. In the grant agreement, it is stated that the first 1 (one) year of management and maintenance and transformation of the application is still the responsibility of the PT. TOWER BERSAMA before being handed over to the Government of the City of Mataram. This agreement is a form of legal protection that provides legal clarity on the creation of copyrighted works

⁶ Salim H.S, dan Erleas Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, PT. Raja Grafindo Persada, Jakarta, 2014.

between the copyright holder, namely PT. TOWER BERSAMA and the government that uses the work and explains the authority of the government in using the copyrighted work.

3.3 *Dispute Settlement in Procurement of Goods and Services Mataramku Application Report Related to Copyright Against Third Party Claims*

3.3.1 *General Review of Dispute Settlement*

Understanding disputes in the Indonesian dictionary is a conflict or conflict. Conflict means opposition or opposition between people, groups, or organizations against one object of the problem. Meanwhile, according to Ali Achmad argues: a dispute is a conflict between two or more parties that starts from a different perception of an interest or property that can cause legal consequences for both.⁷

From the two opinions above, it can be said that a dispute is a behavior of conflict between two or more people which can cause a legal consequence and therefore can be given legal sanction for one of the two.

Settlement of disputes is divided into 2 (two), namely:

a) Settlement of disputes through court (Litigation)

Litigation is a dispute resolution process in a court where all parties to a dispute face each other to defend their rights before a court

b) Settlement of off-court disputes (Non Litigation)

In settling disputes through non-litigation, we have known the Alternative Dispute Resolution (ADR), which is explained in Article 1 number (10) of Law Number 30 of 1999 concerning Arbitration and ADR, which reads as follows:

“Alternative dispute resolution is a dispute resolution or dissenting institution through a procedure agreed upon by the parties, namely the settlement of disputes outside the court by means of consultation, mediation, conciliation, or expert judgment.”

3.3.2 *Dispute Settlement in Procurement of Mataramku Lapor Goods and Services Related to Copyright Against Third Party Claims*

Prior to the grant application, the Communication and Information Agency will first conduct a study first to the local location, the Mataram City Government makes an agreement in accordance with what is agreed that for the first 1 (one) year the legal protection is still held by PT. TOWER BERSAMA before being handed over to Mataram City Government but after 1 (one) year and submission of application copyrights to the Mataram City Government, the settlement of the dispute is done by submitting a draft addressed to the legal section that helps the Mataram City Government for legal protection, so PT. TOWER BERSAMA will follow what written in the agreement, the most important thing is that the Mataram City Government does not step outside the agreement corridor, so that the application of Mataramku Lapor cannot be copied or used by other parties without agreement.

Therefore, the dispute resolution adopted by the Mataram City Government if there is a legal problem or there is a third party lawsuit, namely by submitting a draft or requesting protection from the Mataram City Legal Department, which is authorized to settle the dispute, the initial step to resolve the dispute taken by the Mataram City Legal Department is

⁷ Ali Achmad Chomzah, *Seri Hukum Pertanahan III Penyelesaian Sengketa Hak Atas Tanah dan Seri Hukum Pertanahan IV Pengadaan Tanah Instansi Pemerintah*, Jakarta, Prestasi Pustaka, Hal 14, 2003.

settlement of litigation disputes in the form of mediation or helping both parties to disagree to find an agreement, if the mediation process does not get an agreement then the Legal Department of the Mataram City Government takes the non-litigation route in the form of arbitration ie the parties to the dispute agree to request an intermediary to a third party namely the arbitrator .

IV. CONCLUSION

1. The substance of the agreement in the procurement of Mataramku Lapor application goods and services related to copyright includes: (i) legal subjects; (ii) object of agreement law; (iii) some rights and obligations of the parties to the regional grant agreement. This legal subject is a contractor who grants Smart City service applications and hardware to the Command Center room. Substantially, this agreement is based on legal acts of granting. In this case there is a unilateral act where the contract is PT. Tower Bersama grants the Smart City service application to the Mataram City Government. It is clear that the object of the grant agreement law is the application of technology services which are categorized as material objects, where their physical appearance and appearance are not visible but the benefits can be felt or enjoyed by the user. In the agreement, considering that the object is an application regulated in the copyright regime, the contractor is obliged to prove and guarantee that the content or content of the application that is granted is legal and valid. Another substance regulated in this regional grant agreement is the obligation to provide training to the Mataram City Government staff in operationalizing applications for the public interest.
2. Legal protection provided by the government in this case is protection in the form of preventive programs. This preventive legal program is a preventive program carried out by the government against possible irregularities committed by contractors. The purpose of this prevention is to avoid the occurrence of a claim from a third party for the work or product application used by the city government in serving the interests of the community. One form of government legal protection policy that requires or ensures that the contractor, namely PT. Tower Bersama is the owner (creator) or legitimate rights holder, for the copyrighted work inherent in the Mataramku Lapor application. In addition, other safeguards provided by the government are:
First, the establishment of the Smart City development team in the city of Mataram in 2017. This was seen in the policy of the Mataram City Government which issued by Mayor's Decree No. Mataram. 580/IV/2017. This policy is aimed at providing minimum service standards for the public interest. In addition, this policy is also intended to prevent the occurrence of irregularities committed by other parties.
Second, the formation of the task force response. City smart city in 2017. The policy was based on the Mayor's Decree No. Mataram. 992 / X / 2017 which aims to improve the quality of services, especially in handling public complaints in the implementation of the procurement of goods and services of Mataramku Lapor.
3. Settlement of disputes in Mataramku Lapor procurement of goods and services by the City Government of Mataram in the event of a legal problem or a third party claim that is by submitting a draft or requesting protection from the Mataram City Legal Department authorized to complete disputes, the initial steps to settle disputes taken by the Legal Department of the Mataram City. The Government Department of Mataram City

Government takes non litigation arbitration, namely the parties to the dispute agree to request an intermediary from a third party, namely the arbitrator. However, the Legal Department will also see the Mataram City Government acting outside the existing agreement or remain in the corridor that is in accordance with the agreement, if it remains in the corridor in accordance with the agreement but the application is still claimed by the third the party of the legal section will show the agreed agreement. Because the Mataramku Lapor application is a grant from PT. TOWER BERSAMA, then what resolves the lawsuit is PT. TOWER BERSAMA with the third party and is clearly stated in the agreement.

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