8-30-2018

The Urgency of a Supervisory Institution for the Regional Government-Owned Enterprises (BUMD) of Banten Province, Indonesia

Ray Ferza
Research and Development Agency, Ministry of Home Affairs, Republic of Indonesia; Indonesia

Moh Ilham A. Hamudy
Research and Development Agency, Ministry of Home Affairs, Republic of Indonesia; Indonesia

M. Saidi Rifki
Research and Development Agency, Ministry of Home Affairs, Republic of Indonesia; Indonesia

Follow this and additional works at: https://scholarhub.ui.ac.id/jbb

Recommended Citation
DOI: 10.20476/jbb.v25i2.9828
Available at: https://scholarhub.ui.ac.id/jbb/vol25/iss2/5
The Urgency of a Supervisory Institution for the Regional Government-Owned Enterprises (BUMD) of Banten Province, Indonesia

Ray Ferza¹, Moh Ilham A. Hamudy², M. Saidi Rifki³
Research and Development Agency, Ministry of Home Affairs, Republic of Indonesia
rayferza@gmail.com¹; miah80_bpp@kemendagri.go.id²; saidirifky@gmail.com³

Abstract. Based on data from 2016 Indonesia’s Central Bureau of Statistics (BPS), Regional Government Owned Enterprises (BUMD) failed to perform optimally. The condition of BUMDs varies greatly across Indonesia, but most of them lack of clear direction or guidance from a supervising institution. This paper seeks to highlight the urgency of establishing supervisory institution to guide BUMD in Banten Province by examining efforts on behalf of Province Government of Banten in institutionalizing BUMD supervision in three capacities the supervision of BUMD as limited liability companies, regulatory efforts for BUMD supervision, and the establishment of a supervising institution to guide the BUMD. The study employs a descriptive analysis and utilizes a qualitative approach. Data was retrieved through in-depth interviews and focus group discussions. The study found that regulatory efforts by Province Government of Banten for the supervision of its BUMD were still at minimum in terms of quantity, and the issued regulations have only concerned on financial performance aspect. The Mid-term Development Plan (Rencana Pembangunan Jangka Menengah Daerah, RPJMD) of Banten province has not included BUMD as one of the determinants of its success. The study has further revealed budget constraints for BUMD supervision, legal ambiguities in the supervision of a Limited Liability Company (PT) BUMD, limited human resources, and a complex legal construction in need of adjustment. Establishing clear and focused institution for the supervision of BUMD is an urgent matter for Banten Province. With one in place, the Province could clearly supervise its BUMDs and government guidance thereof would be more comprehensive, not limited to financial performance control.

Keywords: Regional Government-Owned Enterprise (BUMD), supervisory institution, regional government

INTRODUCTION

This study sets out to determine the urgency of establishing of a supervisory institution for the Regional Government-Owned Enterprise (BUMD) of Banten Province, Indonesia. BUMD supervision is defined in this study as the supervision of a BUMD carried out by Regional Apparatus Work Unit (SKPD). Institutionalization defined here as a policy setting that emphasizes the formal and legal aspects of governance structure.

The establishment of BUMD is set forth in Law No. 23 of 2014 on Regional Government. Ownership of enterprises at the regional level for the processing of the region’s wealth is entrusted to the regional government, both provincial and district/city and this enterprise is known as BUMD, with SKPD as its supervisor. The Law No. 23 of 2014 do not specify the supervising institution for the BUMD. The Government Regulation No. 18 of 2016 on The Distribution of Government Affairs also only stated that the establishment of the regional apparatus shall be carried out based on the Region's authority..

The SKPD supervising BUMDs in each region varies
considerably. At the provincial level, for example, out of 33 Provinces only two provinces specify BUMD nomenclature in the unit with echelon-II level. Those provinces are West Java province and DKI Jakarta Province, under the Bureau of Investment and BUMD (West Java Province), and the Agency for the Supervision of BUMD and Investment (DKI Jakarta Province).

In terms of Banten Province, The supervision of Banten BUMD was conducted by the BUMD Promotion and Supervisory Unit of the One-Stop Integrated Service Agency (DPMPTSP) and Bureau of Economy Supervision. Both are entitled as echelon II. Banten Province entrust the development of BUMDs in work units of echelon III or IV level. In DPMPTSP, BUMD was mentioned at echelon III level through the echelon IV level and Bureau of Economy Supervision by the echelon IV level. The differences indicate that there are different preferences between regions on the importance of the development of the BUMD.

The Ministry of Home Affairs of Republic of Indonesia as the axis of regional government at the central level actually assumes a strategic position in the development of BUMD throughout the region in Indonesia The Director General of the Regional Financial Supervision (Ditjen Bina Keuangan Daerah) as the echelon I subordinates of the Ministry of Home Affairs has an echelon II work unit under the nomenclature of the Directorate of Regional Business Service Agency, Regional Owned Enterprise, and Regional Property (Direktorat Badan Layanan Usaha Daerah, Badan Usaha Milik Daerah), dan Barang Milik Daerah This unit was formed to safeguard the development of BUMD. This unit was formed to oversee the development of BUMD.

The current arrangement, where various institutions are charged with supervision of BUMD in different regions and the safeguarding by the Ministry of Home Affairs at the central government level, is inadequate to increase the BUMD performance. BPS Data on profit growth and the regional wealth management for the period of 2006-2015 showed that the overall financial performance of the BUMDs fluctuates and are not optimal. The contribution of BUMD's profit to the region's own revenue (PAD), as shown in Figure 1, presented an average of 6.43% with the downward trend, in the range of 4% in the last two years, not in line with the average growth of the BUMD.

Other problems often occur, such as unqualified managers with insufficient expertise causing inefficiencies of the BUMD and inefficient use of funds. For example, in 2011, PT Pembangunan Kepri had receivables amounting to Rp2.8 billion. The receivables were for lending money to the cooperatives of BUMD employees, Distribution Cooperative Center (PKD), and one private company from Singapore (TanjungPinang Pos, 2011). Another example is the Bekasi Government who was forced to merge Bumi Bumi Putra Jaya (BPJ) and Bumi Bekasi Jaya (BBJ), since they have no clear basic tasks and functions. The budget for the two BUMD reaches Rp 10 Billion per year, for unclear activities (Bekasi District Government, 2016).

In addition, the intervention and bureaucracy to support the BUMD which can't compete with the private sector, causes the BUMD to finally collapse. Weak supervision and control are another problem of BUMD management. The regulatory personnel placed by the regional government are officials in the regional government, which sometimes have no business background at all. As the result, many BUMDs are unprofitable, even bankrupt because of the slow bureaucracy and poor governance. For example, PDAM Way Bumi in Lampung was in a financial problem and could not afford to pay the salaries of its employees (2010-2012). Also, the bankruptcy of the Aneka Industri dan Jasa (AIJ) Company owned by the Government of North Sumatra. In East Java, there are 10 BUMDs identified as unhealthy and are always unprofitable. Three of them were in severe condition, PT Jatim Marga Utama (JMU), PT Jatim Krida Utama (JKU), and PT Jatim Investment Management (JIM) (Augustinus Simanjuntak, 2016).

Although not specifically addressing BUMDs, State-Owned enterprises are widely discussed in several countries. This discussion can be applied for BUMD in Indonesia.

Some of the studies on the state-owned enterprise in other countries are by Szamosszegi and Kyle (2011), Mbo (2017), Kim & Ali (2017), Forfas (Forfas, 2010), OECD (2011), and Miner (2014). Szamosszegi & Kyle (2011) examined the management of state-owned enterprises in China. This study found that the SOE commercial decisions cannot be overruled by the government (in this case by the ministers), but they also revealed that the SOE decision is influenced by government. This is similar to an OECD study which found that the ministers have intervened in the management of the SOEs in some countries.

In addition, Mbo (2017) found a superior management of African SOEs in the telecommunications sector. While other sectors, which are largely controlled by the government, showed poor performance. Similar with Mbo, Kim & Ali (2017) also discussed the challenges and opportunities of SOE in many countries. According to the study, many countries often provide preferable treatments to SOE such as subsidies. However, subsidy in Miner's study (2014) is
mentioned as the commitment of Trans-Pacific Partnership (TPP) members in managing SOE. Miner (2014) found that the commitments have an impact on countries that manage less than a dozen SOEs like Vietnam and Malaysia. He also stated that some of the TPP commitments in managing SOEs are: not to provide subsidies to SOE, providing information in the public web on shareholding ownership, annual income, special legal allowances, and information on subsidized policies, and more.

In addition to subsidizing, Kim and Ali (2017) also find that it is not uncommon for shareholders to undermine the competitiveness and efficiency of SOEs with corruption, inability, and limited human resources. These problems generally occur in developing countries. Although, according to Kim and Ali, developing countries have been working to reform the SOE management and governance structure to improve their performance. Another study was conducted by Forfas who found the benefit of the existence of SOEs in Ireland. Forfas found that SOEs in Ireland always provides high-quality infrastructure and services at competitive prices to Irish companies. This is to maximize the SOE's contribution and to support economic recovery and opportunities to innovate.

The above studies generally do not discuss the role of SOE supervision in the world or in countries that are the object of the studies, they only analyze the role, management, and challenges of SOEs in macro level. The role of a supervisory institution, such as one to be discussed in this study, is not discussed at all, both in terms of the benefits or the problems.

In Indonesia, Kamaluddin et al. (2015), Muryanto and Djuwityastuti (2014), also Sukmana & Firmansyah (2013) discussed the management of BUMD. Kamaluddin discussed the government strategy in the management of BUMD as a Persero Company. However, the study had many weaknesses, among which, Kamaluddin (2001) did not mention the object of his study. He found that there were problems of supervision and guidance in the management of the BUMD. But it was only mentioned in the abstract, while the discussion only touched on the need for a regulation for the supervision and guidance of the BUMD, without explaining what kind of issues found.

Meanwhile, Budhisulistyawati et al. (2015) and Muryanto & Djuwityastuti (2014) analyzed the problems from the legal side, such as the absence of a legal umbrella that provided direction and guidance in the management of a business entity owned by the region, such as the one for BUMD. According to Muryanto and Djuwityastuti (2014), there is a need to synchronize and harmonize the legal products vertically and horizontally on those governing the management of BUMD. In addition, from the analytic network process method conducted by Sukmana and Firmansyah, which examined the management of the non-financial BUMD, the main problems are the competence of directors, which is still untested, and there were too many interventions from the legislative/executive.

Of all the above studies, no one discussed the role of the supervisory institution for BUMD and SOE. Unlike the previous studies, this study focused on the urgency of the establishment of BUMD supervisory institutions in Banten province. The foci of discussion are: efforts of Banten provincial government in institutionalizing the BUMD supervision, the supervision of BUMD as a Limited Liability Company, the regulative effort for BUMD supervision, and urgency of the establishment of BUMD supervisory institution.

**RESULTS AND DISCUSSION**

Prior to entering at the core of the findings, we would explain a little on the theoretical foundations of this study. There are various patterns of the government's supervision to its ownership function in various parts of the world. The national consultative institution of the Republic of Ireland, Forfas (2010) notes that there are three concepts of institutional supervision between government and its ownership functions.

First, the Centralized model. One of Government institution, either the ministry or the controlling company (holding company) is responsible for the Government's shares in the business entities. The examples are Denmark, the Netherlands, and Spain. The Business Entity was supervised through the Ministry of Finance. Similar with Belgium, but like Indonesia, Belgium has its own Ministry with the nomenclature of the Ministry of SOEs and Participation. The example of
a controlling company (holding company) is Singapore with Temasek as a super holding company. The advantage of such a centralized model is that there is a clear line of responsibility and accountability. The weakness of the Centralized model is the absence of check and balance for the supervisory institution and the potential of abuse of power by the government to the enterprise is higher.

Second, the Decentralization Model. BUMN or BUMD with this model is supervised by different government institutions in accordance with the sector in charge of the Business Entity. For example, at the national level, state-owned Pertamina is supervised by the Ministry of ESDM or at the regional level the Regional Water Company is supervised by the Regional Government Service Unit of the Water Management Office. This pattern was also experienced in the period of 1960-1970. This model offers good sectoral performance, but at the same time, the deep differences between the policy of the enterprise and the policy of the supervisory government institution can be a burden for the entity progress and innovation.

Third, a dual form, a business entity with this model is supervised by two government institutions, the finance ministry to supervise the financial sector and the sectoral ministries to handle specific sector of the business entity. This method offers a more rigorous review system and focuses on corporate policy issues so that the supervision will be more robust.

Currently, the growing trend is the implementation of the centralized model because the world's business community tends to prefer a firmer and clearer line of accountability in doing business. In addition to the above three global models, there are some countries with models a hybrid of the three models, among others can be seen in Figure 2.

Countries like New Zealand, Turkey, Mexico, Greece, Switzerland, and Italy are in the hybrid model. These countries designate between 2 to 3 government institutions to supervise their SOEs. Germany, Slovakia, the Czech Republic is a country with a decentralized model in their SOEs supervision, Finland, and the UK are in a model that tends to be decentralized, while Japan is more in the centralized model. The centralized model is more widely applied (11 countries of the Organization for Economic Co-operation and Development/OECD) than other models (decentralized model in 3 OECD countries and dual models in 6 countries).

Indonesia are more likely in the hybrid model since Indonesia designate between 2 to 3 government institutions to commit supervision. Ministry of BUMN, Ministry of Finance, and each of sectoral ministries were managed to supervise the SoE’s. The way how the regional governments threat their SoE’s (At local levels) are quite
The supervision model as described in the Figure 3 has been conducted since the first presence of BUMD in Banten. With this approach, the contribution of Banten Provincial BUMD to its PAD in terms of financial performance is growing, as seen from Figure 4 on the growth of PAD revenue structure of Regional Budget (APBD).
Based on the above data it can be concluded that the BUMD financial performance shows an increasing trend although the strongest revenue engine by far for Banten Province is the regional tax and the BUMD profit statistically were the poorest. This situation is common across Indonesian regions. On the other side, the multiple supervision units in the bureaucracy potentially produce a vague direction on supervision. A clearer supervision policy that defines the following such as overall objectives of regional government ownership, the regional government’s role in the corporate governance of SOE’s, and how it will implement its policy is urgently required (Forfas, 2010).

Qualitatively, the supervision of BUMDs in Banten Province in the context of non-financial performance is quite bad. There are at least eight legal cases against PT. BGD, including corruption cases handled by the Corruption Eradication Commission (KPK). The subsidiaries of PT. BGD also did not grow ideally, three subsidiaries of PT. BGD have been liquidated due to their poor performance (Titiknol.co.id, 2016).

**Supervision of BUMD as a Limited Liability Company**

As mentioned earlier, the legal form of all BUMD formats in Banten Province, either PT. BGD or its subsidiaries are the limited liability Company (PT). Legally, they are subject to specific law and regulations regarding BUMDs such as Law No. 5 of 1962 concerning Regional Government-Owned Enterprise and Permendagri No. 3 of 1998 on Legal Form of BUMD, also the Law regulating limited liability Company (PT). In the form of a PT, the BUMD slightly benefited because the Law is stipulating its supervision. The supervision is more institutionalized by the regulation. At least, the internal business process of a PT is supported by Law No. 40 of 2007 which recommends any Business Entity with the form of a PT to comply with the code of conduct for good corporate governance. Conceptually, the supervisory institutions for a Limited Liability business entity are comprehensive and multi-sectoral.

As the consequence of the Limited Liability form, the Banten Province BUMDs are also supervised by various institutions at the central level, such as BKPM, Financial Services Authority (OJK), and National Committee on Governance Policy. The OJK, for example, supervise the PT in terms of financial performance and internal business processes, while the National Committee on Governance Policy supervises it in terms of its internal business processes.

All of PT BDG subsidiaries are in the form of limited liability company, with different orientation of its establishment. Their establishment orientation can be seen in Table 1.

### Tabel 1. Profile and Legal Bases of PT. BDG Subsidiaries

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Subsidiary</th>
<th>Core Business</th>
<th>Orientation</th>
<th>Legal Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>PT. Banten Inti Gasindo</td>
<td>Gas Production</td>
<td>Profit</td>
<td>Governor Decision No. 674/Kep 264-Huk/2006</td>
</tr>
<tr>
<td>2.</td>
<td>PT. BJB Syariah</td>
<td>Banking</td>
<td>Profit</td>
<td>Deed of Establishment No.4/2016</td>
</tr>
<tr>
<td>3.</td>
<td>PT. Graha Banten Lampung Sejahtera</td>
<td>Sunda Strait Bridge Construction (Central Government Program)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>PT. Graha Makmur Coalindo</td>
<td>Offshore Gold Mining</td>
<td>Profit</td>
<td>Notary Deed</td>
</tr>
<tr>
<td>5.</td>
<td>PT. Duta Bandara Banten</td>
<td>Infrastructure)</td>
<td>Airport Construction Profit</td>
<td>Ammendment No.1</td>
</tr>
<tr>
<td>6.</td>
<td>PT. Sarana Gas Industri Banten</td>
<td>Industrial Gas Service</td>
<td>Services</td>
<td>Deed of Establishment No.7/2013</td>
</tr>
<tr>
<td>7.</td>
<td>PT. Banten Monorail Indonesia</td>
<td>Construction of Monorail</td>
<td>Services</td>
<td>Deed of Establishment No.3/2014</td>
</tr>
<tr>
<td>8.</td>
<td>PT. Banten Mandiri Express</td>
<td>Logistic</td>
<td>Services</td>
<td>Deed of Establishment No.3/2014</td>
</tr>
<tr>
<td>9.</td>
<td>PT. Credit Guarantee of Banten Region</td>
<td>Credit Guarantee</td>
<td>Services</td>
<td>Deed of Establishment No.10/2014</td>
</tr>
<tr>
<td>10.</td>
<td>PT. Banten Global Pariwara</td>
<td>Advertising</td>
<td>Profit</td>
<td>Deed of Establishment No.3/2014</td>
</tr>
<tr>
<td>11.</td>
<td>PT. Banten Global Edukasi</td>
<td>Empowerment</td>
<td>Services</td>
<td>Deed of Establishment No.7/2014</td>
</tr>
</tbody>
</table>

Source: processed from various secondary data .

PT. BGD subsidiaries have different objectives, either profit-oriented or service-oriented objectives. The characteristics of a profit-oriented business entity would differ from those of a service-oriented entity. A service-oriented company has the following characteristics. First, the main objective is to serve the community in a region;
Second, the initiatives are based on the aspirations of the community; Third, strategic decisions are not in the hand of the majority shareholder; Fourth, the company is democratic and is a representation of the participative aspirations of the communities; Fifth, restricted profit distribution (Defourny & Nyssens, 2010, p.22).

The different characters of the profit-oriented entity and the service-oriented entity call for different supervisory treatment. Supervision of a profit-oriented entity is conducted carefully, specific and full of calculation; while those on the service-oriented entity are more general, participatory and put more focus on qualitative aspects. As mentioned earlier, the Banten provincial government put the Bureau of Economic and Administration Development in charge of supervising the BUMD and the Bureau establish a holding company, namely PT. BGD, to implement this duty.

PT. BGD was established to supervise its subsidiaries. Service-oriented subsidiaries with small net income are allowed to provide dividends in a longer period of time compared to profit-oriented subsidiaries with large net income. PT BDG supervision to its subsidiaries was mainly on the financial performance aspect. The other performance aspects, such as internal business processes, are supervised by the other supervisory institutions. PT. The BGD is planning to widen its holding from investment holding to operational holding. The strategy to put PT. BGD as a parent company in a holding model could be seen as a positive step toward improvement in terms of institutionalising supervisory policy. A holding company could provide profit gaining by synergy and profit of the subsidiaries, seek to manage subsidiary company, create a full cycle for an activity and synergy, and the utmost is PT BDG came up as the core of decision-making (Hosseini, Fallah, Bagherlu, & Mahmudian, 2013).

**Regulative Efforts of BUMD Supervision**

Since the establishment of Banten province, its first BUMD is the Banten Global Development (BGD), with the legal entity of a Regional Company (Perusahaan Daerah/PD). PD Banten was established in 2003 and changed its legal entity to a Limited Liability Company (PT) and acted as a holding company in 2009. The Bureau of Economics and Development Administration that has been designated as the supervisory SKPD of the BUMD since 2007 is responsible for the process of formulating regional policies related to the supervision of BUMD.

Banten Provincial Government and Banten Provincial Parliament (DPRD) issued several regulations relating to the BUMD, either in collaboration with the parliament through regional regulations or through the Governor's Regulation/Governor's Decree. First, Regional Regulation No. 54 of 2002 on the Establishment of Regional Companies. This regulation was issued to form a BUMD owned by Banten Provincial Government. This was the first formal policy issued. This regulation leads to the incorporation of a regional company as an investment holding company. It also provided guidelines related to the internal business process of the parent company, such as the term of office for the leader of the company, subsidiary matters, the legal form of subsidiary company, the establishment and liquidation of a subsidiary, the internal control unit, and the issue of joint operations. Second, the Governor Decree No. 9 of 2003 on PD. BGD. This regulation was issued as a follow up of the Regional Regulation No. 54 of 2002 and stated the name of the regional company as Banten Regional Development Company (PD BGD). Third, Regulation No. 7 of 2009 on Changes in the Legal Entity of PD Banten Global Development Company into Limited Liability Company, to transform the legal form from PD to PT. It also contained several regulatory articles governing the finances of PT. BGD related to shares, internal business processes on mergers, consolidations, and acquisitions of subsidiaries, the background of the Board of Commissioners and the Board of Directors, as well as the Board of Commissioners' supervision to the Board of Directors.

The Provincial Government of Banten has also provided capital to PT. BGD. There were two regional regulations related to government capital injection for the BUMD, first Perda No. 1 of 2012 on the subscription of the Regional Shares to PT. Bank Jabar Banten Syariah, and Additional subscription of Regional Shares to PT. BGD. Second, Regulation No. 5 of 2013 on the Additional subscription regional shares to the Limited Liability Company of Banten Global Development for the Establishment of Regional Development Bank of Banten. The two Regulations were issued to increase the financial capacity of the BUMD.

The Regulation No. 3 of 2013 on the Establishment of Limited Liability Company of Banten Regional Credit Guarantee was formed as the legal foundation for the establishment of PT. Jamkrida Banten. Several important points related to the business process of PT. Jamkrlda Banten was also described in this Regulation. The Regional Regulation No. 4 of 2013 on subscription of shares in the Limited Liability Company of Banten Regional Credit Guarantee was issued to strengthen the financial performance of this BUMD.

During the period of 2012-2014, the Banten Provincial Government issued many regulations. There were 49 Governor regulations in 2012, 42 in 2013 and 91 in 2014. However, the regulations were mostly focused on the financial performance of the BUMD. As seen in Regulation No. 4 of 2012 on RPJMD of Banten Province, the policy programs for BUMDs included in the RPJMD of Banten Province were in the form of grant allocation and the increase of shareholding, both aims to strengthen the financial capacity of the BUMD. Its annual policy was also focusing on the financial performance, the RKPD issued in the form of Governor Regulations over the last three years did not reflect a policy that would explicitly lead to the growth of the BUMD.

The Governor Regulation no. 10 of 2012 regarding the 2013 Banten Province RKPD, showed the direction of regional economic policy associated with BUMD Banten, by increasing the shareholding to banks and PT. BGD. The Governor Regulation No. 13 of 2013 regarding the 2014 Banten Province RKPD, did not include the plan for the BUMD. The Governor Regulation No 16 of 2014 on the 2015 Banten RKPD included an increase of shareholding to PT. Jamkrlda Banten as one of the agenda.

The supervision program of the Banten Provincial
Government in the same fiscal year was implemented in the form of socialization and organizational management technical guidance, to PT. Jamkrida Banten and BPRs in Banten Province by the Bureau of Economic and Administrative Development of Banten Province. This can be seen from the Budget Implementation Report (DPA) of Banten Province of the Fiscal Year 2015. The Governor Regulation No 30 of 2015 on the 2016 Banten RKPD mandated the program to increase access of SME to the regional credit guarantee through the Department of Cooperatives and SMEs, while PT. BGD was not included in the plan.

Problems in BUMD Supervision

The earmark pattern inherent in the regional budget has provided a challenge for the Banten BUMD supervision process. Budget allocations for mandatory functions in the regions (such as education, health, infrastructure, etc.) by setting aside some percentage of the total APBD, tend to leave no allocation for other matters such as BUMD supervision. Various opportunities to carry out socialization related to the needs of the implementation of BUMD could not be realized due to lack of budget allocation from the APBD.

Limitations of the regional budget for the supervision of BUMD was caused by the regulation made by the Ministry of Home Affairs in the Central Government, such as the Ministry Regulation No. 52 of 2012 on Investment Management, which stated that the subscription of share through the separation of regional wealth is sourced from the remaining or unused budget. It implies that the funding of BUMD supervision is not a matter of priority. The limited regional fiscal capacity, in general, has caused the supervision of BUMD in Banten unable to reach its maximum level. Regulation in the central level is not in sync with the facts in the region.

On the other hand, PT. Jamkrida Banten complained about the regulation of regional financial management which mandated the use of the accrual accounting system in the region which impacted the financial management in the BUMD, although its core business of providing the credit guarantee for SME businesses in the region is not suitable with the accrual system. With a core business of credit guarantee, it is more appropriate and optimal if combined with accounting techniques that are not referring cash basis as in the accrual accounting system.

PT. Jamkrida Banten experience provided a notable note to the BUMD supervision pattern. The regulation in the central government is clearly not in synergy with the fact in the regions, where BUMDs with their varied core businesses have their own specific need. Also noted, that since 2014, all regional governments are required to use accrual accounting systems to improve the accountability of the regional financial performance. This turns out to be a paradox when it is applied to BUMD which is a business institution. The Government of Banten Province as the supervisor of Banten BUMD have included the accrual accounting requirements to PT Jamkrida Banten business process as one of its BUMD.

The Ministry of Home Affairs Regulation No. 52 of 2012 on the Guidelines for the Management of Regional Investment also required the region to provide an Independent Team first before disbursing the regional budget in the framework of investment. The team is obligated to perform the preview to the investment project. To some extent, such workflow tends to complicate the development of local enterprises in the region in terms of financial performance because it is too bureaucratic and convoluted when competition in the business world where BUMD compete requires significant budget acceleration for to increase the financial capacity of the BUMD in doing business.

Another obstacle is the legal ambiguity, which made it difficult for the Banten Provincial Government to supervise its BUMDs. This is because the laws governing the PT is dualistic. In the context of BUMD, the Laws governing the BUMD in the form of a PT are Law No. 23 of 2014 on Regional Government and Law No. 40 of 2007 on the Limited Liability Company. Other than that, for the BUMD in the form of PT, the supervising institutions are multi-sectoral. This has an impact on its complicated legality. The BUMD in the form of PT. should coordinate to MoHA and with Ministry of Law and Human Rights for its legal aspects. For other aspects such as supervision of good corporate governance, Banten Provincial Government has something to do with many institutions to adhere to such as the OJK, the BPKP, the Inspectorate General, the National Committee of Governance Policy, the Public Auditor hired by BUMD, and the Internal Auditor of BUMD itself.

The Banten Provincial government also suffer from lack of human resources. The Bureau of Economic and Administrative Development as the SKPD mandated by Banten Government to supervise the BUMD lacks qualified human resources. The number of employees cannot support their functional duties.

Coping with BUMD Supervision Problems

Banten Provincial Government had established the BUMD supervisory institutions by establishing the Bureau of Economic and Administration Development and transforming the Regional Company (PD) BGD into investment holding company in the form of a limited liability company. PT. BGD, later on, would act as an investment and operational holding company. In this format, PT. BGD would act as the super holding company for its subsidiaries.

Currently, the existing supervisory institution applied by the Provincial Government of Banten consists of three institutions, first, the Bureau of Economics and Administrator Development which acts as the supervisory SKPD to the BUMD in general, second, PT. BGD as investment holding company with BUMD status in the form of Regional Company, and third, technical SKPDs which in several stages participate in supervising the BUMD operations such as by The Cooperative and SOE Office to PT. Jamkrida.

The BUMD supervisory institutions in Banten Province are very complicated. The provincial government of Banten is not capable to be the regional regulators to supervise the BUMD. While the Bureau of Economic and Administration Development formed as a policy maker on the BUMD supervision can only issue Regional Regulations supporting the BUMD capital as
well as Governor Regulation and Governor Decree issued for the subscription of share in the BUMD. So far, only one Governor’s Decree issued relating to the performance of the BUMD from the non-financial side, which was on Selection of the Board of Directors of PT. Jamankrida.

The subsidiaries of PT BDG are all Limited Liability Companies, with two distinct orientations, profit, and service. This adds to the complexity of the supervision. The service-oriented BUMDs are in social enterprise category, which has a gray area in its supervision because although it has a service orientation but the format is the limited liability company which has the character of a for-profit oriented company. The Banten provincial Government also plans to establish PD Market, which will be separate from PT. BDG.

BUMD of Banten Provincial Government also demands additional consideration on aspects of the legal form of a PT which has various supervision by different institutions. The same problem also applies to BUMD in the form of Perseroan. Both types of Business Entities, state-owned enterprises at the central level and the BUMD will have multisectoral supervisory institutions if they are using the legal form of Limited Liability Company.

The policy displayed by Banten Provincial Government using PT. BDG as a super holding company refers to Temasek, Inc. in Singapore. Where the role of the state is only in the ownership of the shares, while the rest, either in terms of operational and investment, is given to Temasek, Inc. (Wicaksono, 2008, p.157). However, the dream and the reality are still far apart as indicated by PT. BDG’s bad records related to its corruption.

The establishment of the supervisory institution for BUMD in the Banten provincial government as a check and balance institution, and the plan to establish a new BUMD (PD. Markets) that are separate from PT BDG holding add to the urgency of the establishment of BUMD supervision institution.

In the Central level legislation, there is a regulation that can accommodate the needs of Provincial Governments in institutionalizing BUMD development in an organization. Government Regulation No. 41 of 2007 on Regional Apparatus Organizations, for example, has opened the way for Provincial Government to establish a technical institute, either in the form of a body or an office.

In this context, the way for Banten Provincial Government to promote BUMD supervision is wide open. Technical institutions in the form of BUMD Supervision Agency is a solution for BUMD supervision in Banten Province. Institutionalization of BUMD supervision in the form of an agency has the following advantages: first, overcoming the issue of work overload in the Bureau of Economic and Administration of Development, the supervision effort would be more structured and focused. Second, the supervision efforts could be part of the Banten administration plans through the regional planning document.

Third, as stated in the aforementioned Forfas’s study, a governmental body effectively responsible for the running of a government-owned enterprise can provide a function of check and balance, which is necessary to supervise the BUMD. Fourth, the BUMD has a governance parenting relationship with the supervisory body to keep the BUMD performance within the bureaucratic corridor. This agency can be the bridge between the business sector and the bureaucracy, especially in the aspect of legal ambiguity which often become a problem (if necessary the Head of the supervisory agency is also the President Commissioner of PT BDG). Fifth, the BUMD supervisory agency could produce BUMD-related regulations for various dimensions of company performance.

Kwiatkowski (2014:148) notes five characteristics of Government-Owned Enterprises that have been proven to promote the performance of State-Owned Enterprises, among others: the management of the company’s share composition; the independence of audit institutions and the board of directors; The government subsidies based on credible constraints; The Merit-based leadership recruitment system, as well as a workable incentive schemes. These five characteristics currently are not available in the BUMD of Banten Province and there is no specific technical institution charged with its supervision.

Actually attempts to establish a BUMD supervisory agency in a regional technical institution have been done before. One of the regions conducting this is the DKI Jakarta Province. The Province combined the supervision of BUMD and investment affairs within one regional technical agency (the Board of BUMD Supervision and Investment of DKI Jakarta). There were two Governor regulations issued in the fiscal year of 2015-2016, each supported the BUMD performance improvement according to the Macias concept (2009), related to the determination of BUMD leadership and the incentive schemes for the BUMD leaders. The governor regulations are Governor Regulation No 180 of 2015 on the Fourth Amendment of Governor Regulation No. 109 of 2011 on the Management of BUMD and Governor Regulation No 242 of 2015 on Guidelines for the Remuneration of the Board of Directors, The Supervisory Board and the Board of Commissioners of BUMD.

CONCLUSION

A clear and focused institution for the supervision of BUMD is an urgency for the Banten Province. With that, the Banten Province would have a clear direction in the supervision of its BUMDs and the government guidance to the BUMD would be more comprehensive and not limited to financial performance control. The solution is by adapting the general practices in several countries. Banten Province may increase the level of the supervisory institution on the bureaucratic structure, from echelon III level to echelon II level or to streamline the bureaucratic structure by handing the supervisory function on to the Holding Company PT. BDG, Banten Province only needs to have a representation on the Board of Commissioner.

ACKNOWLEDGEMENT

The authors would like to thank the Head of Research and Development Agency of the Ministry of Home Affairs (BPP Kemendagri), Republic of Indonesia, who has facilitated this research and to our sources in Banten who provided significant assistance, we would like to convey our greatest appreciation.
REFERENCES


