

## CHAPTER III

### METHOD OF RESEARCH

#### A. Type of Research

The type of this research is a normative legal research which means the research is conducted based on the existing library materials. The legal normative research is a research that reviews the documents of study, that is using many secondary data such as books, legislation, court decision, legal theories, dictionary and could be opinion of some experts. This type of normative juridical research is a legal research that lays law as a norm system building. Soerjono Soekanto and Sri Mamudji define the normative juridical research that is the legal research done by examining the literature materials (secondary data) which includes research on legal principles, legal system, vertical and horizontal synchronization level, comparative law and legal history and by explaining the data- existing data, with words or statements not with numbers.<sup>32</sup>

#### B. Research Approach

Approach is needed in a scientific paper to explain and achieve the meaning as well as the objectives of the research. That approach is meant to ensure that the discussion is appropriate with the scope of discussion and can focus to the addressed problem. According to the Liang Gie, an approach is the whole element that is understood to approach a field of

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<sup>32</sup> Soerjono Soekarto and Sri Mamudji, 2001, *Penelitian Hukum Normative Suatu Tinjauan Singkat*, Jakarta, Raja Grafindo Persada, p. 34-35.

study and to understand regular and round knowledge, as well as find reviewed objectives of such knowledge.<sup>33</sup>

There are some recognized approaches in research, they are statute approach, case approach, history approach, comparative approach, and conceptual approach.<sup>34</sup> So, this research use the statute approach and case approach.

### C. Type of Data

The main data used in this research are legal materials which consist of primary legal materials, secondary legal materials, tertiary legal materials, as well as the non-legal materials which support the analysis in this research, they are such as the statistic, infographic, table, and other non-legal documents. The primary legal materials are as follows:

1. Law No. 5 of 1999 on Prohibition Monopoly Practice and Unfair Business Competition;
2. Law No. 18 of 1999 on the Service of Construction;
3. President Regulation No. 54 of 2010 on Procurement of Goods and/or Service Government;
4. Presidential Decree No. 75 of 1999 on Business Competition Supervisory Commission.

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<sup>33</sup> The Liang Gie, 1982, *Ilmu Politik; Suatu pembahasan tentang Pengertian, Kedudukan, Lingkup Metodologi*, Yogyakarta, Gadjah Mada University Press, p.47

<sup>34</sup> Peter Mahmud Marzuki, 2009, *Penelitian Hukum*, Jakarta, Kencana, p. 22

5. State Owned Enterprises Ministry Regulation No. PER-5/MBU/2008 on the General Guidance of Implementation of Goods and/or Services Procurement
6. State Owned Enterprises Ministry Regulation No. PER-15/MBU/2012 on the amendment of the State-Owned Enterprises Ministry Regulation No. PER- 5/MBU/2008 on the General Guidance of Implementation of Goods and/or Services Procurement
7. Business Competition Supervisory Commission Regulation No. 5 of 2009 on Guide of Article 50 letter a;
8. Business Competition Supervisory Commission Regulation No. 2 of 2010 on Guide of Article 22 on Prohibition of Conspiracy in Tender;
9. Business Competition Supervisory Commission Regulation No. 3 of 2011 on Guide of Article 19 letter d on the Discrimination Practice.

Then the secondary legal materials are:

1. Books;
2. Scientific journals;
3. Other legal documents related to the issue;
4. Trusted internet sites;
5. Other non-legal documents related to the issue

#### **D. Data Collection**

The data in this research is collected through the library research. The researcher explains according to the law, regulation, books, journals, news and other documents which support the analysis in this research.

#### **E. Data Analysis**

This research uses prescriptive qualitative analysis, that is studying the objectives of law, values of justice, validity of legislation, concepts of law, and norms of law.<sup>35</sup>

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<sup>35</sup> Peter Mahmud Marzuki, 2010, *Penelitian Hukum*, Jakarta, Kencana, p. 22.