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## Exploring the Motivations Behind Borrowing Company Names in Construction Service Auctions: A Case Study in Jambi Province

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### Abstract

The government's procurement of goods and services is a critical component in supporting the implementation of development initiatives in Indonesia, particularly within government agencies. This study examines the factors that drive the practice of borrowing company names in construction consultant service auctions in Jambi Province. Using a normative legal method, the study seeks to identify the motivations behind the involvement of individuals or business entities in such practices. The findings reveal several contributing factors, including the lack of or inconsistency in obtaining a Construction Service Business Entity Certificate (SBU), limited capital, the desire to leverage a well-known name, efforts to avoid the legal process, and ignorance or negligence of legal requirements. Additionally, the misuse of registered names and reliance on established company reputations emerge as significant motivations.

**Keywords:** *Borrowing, Company Names, Service Auctions, Legal Implications*

### Abstrak

Pengadaan barang/jasa pemerintah merupakan komponen penting dalam mendukung pelaksanaan pembangunan di Indonesia, khususnya pada instansi pemerintah. Penelitian ini membahas faktor-faktor yang mendorong praktik peminjaman nama perusahaan dalam lelang jasa konsultan konstruksi di Provinsi Jambi. Penelitian menggunakan metode yuridis normatif untuk mengidentifikasi alasan individu atau badan usaha terlibat dalam praktik tersebut. Hasil penelitian menunjukkan beberapa faktor penyebab, antara lain: ketidaksesuaian atau ketiadaan Sertifikat Badan Usaha (SBU) jasa konstruksi, keterbatasan modal, kebutuhan akan nama yang terkenal, penghindaran proses legalitas, serta ketidaktahuan atau kelalaian. Selain itu, penggunaan nama yang sudah terdaftar dan ketergantungan pada nama besar juga menjadi alasan utama. Praktik ini menyoroti tantangan dalam pelaksanaan lelang yang transparan dan akuntabel di sektor konstruksi.

**Kata kunci:** *Peminjaman, Nama Perusahaan, Lelang Jasa, Akibat Hukum*

## 1. INTRODUCTION

Government procurement of goods and services plays a crucial role in supporting development efforts in Indonesia. The availability of adequate goods and services within government agencies is a key determinant of the successful execution of their tasks and functions. Without sufficient facilities and infrastructure, the smooth implementation of government activities may be hindered, potentially obstructing the achievement of optimal outcomes.<sup>1</sup>

Government procurement financed by the State Budget (APBN) or the Regional Budget (APBD) must adhere to procurement principles, including efficiency, effectiveness, transparency, openness, fair competition, equity (non-discrimination), and accountability. The primary objective of these principles is to prevent abuses of authority or collusion that might result in personal gains detrimental to the state or regional interests, either directly or indirectly.<sup>2</sup>

The tender process for government procurement is particularly susceptible to irregularities. One such irregularity involves the misuse of another company's name in tender participation. In this practice, individuals or entities use the name of another company to enter the tender, falsely representing that company. The company declared the tender winner often does not directly handle project execution but merely lends its name or identity to secure a government procurement contract. This practice can lead to financial losses for the government.<sup>3</sup>

The practice of name borrowing in tenders is not new and has become a common method of participating in government procurement tenders. Such arrangements are often based on informal agreements, though they are sometimes formalized through notarial deeds to create a legal Name Borrowing Agreement. This formalization ensures legal certainty and serves as evidence in the event of disputes or future complications.<sup>4</sup>

These agreements are typically formed by mutual consent between the involved parties, guided by the Principle of Freedom of Contract as stipulated in Article 1338 of the Civil Code (KUHPerdata). This principle asserts that "all agreements made legally are binding as law for those who make them".<sup>5</sup> The freedom of contract allows parties

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<sup>1</sup> Muskibah Muskibah and Lili Naili, "Penerapan Prinsip Kebebasan Berkontrak Dalam Kontrak Standar Pengadaan Barang Dan Jasa Pemerintah Di Indonesia," *Refleksi Hukum: Jurnal Ilmu Hukum* 4, no. 2 (2020): 175–94, <https://doi.org/10.24246/jrh.2020.v4.i2.p175-194>.

<sup>2</sup> Abdul Latif Mahfuz, "Analisis Resiko Hukum Eksistensi Bisnis Pinjaman Online Di Indonesia," *Jurnal Hukum Doctrinal* 6, no. 2 (2021): 110–22, <https://jurnal.um-palembang.ac.id/doktrinal/article/view/3899>.

<sup>3</sup> Anggun Fitrah, Melsinta Dapang, and Ridwan Ridwan, "Analisis Upaya Pemerintah Dalam Menekan Angka Korupsi Di Indonesia," *Jurnal Bela Negara UPN Veteran Jakarta* 1, no. 1 (2023): 36–46, <https://doi.org/10.70377/jbn.v1i1.5221>.

<sup>4</sup> Tresyah Meyrinda Putri, Joni Emirzon, and Abdul Latif Mahfuz, "Pertanggungjawaban Hukum Atas Kehilangan Barang Pengguna Jasa Di PT. Pos Indonesia (Persero) Kecamatan Sirah Pulau Padang Dan Kota Kayuagung," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 2371–82, <https://doi.org/10.37680/almanhaj.v5i2.3958>.

<sup>5</sup> Asni Mustika Rani, "Meningkatkan Kapasitas Produksi Dengan Capacity Planning (Studi Pada PT XYZ)," *Jurnal Manajemen Dan Bisnis Performa* 16, no. 1 (March 2019): 39–49, <https://doi.org/10.29313/performa.v16i1.4571>.

to decide whether to enter an agreement, choose the parties involved, define the agreement's content, and determine its form, provided it does not violate laws, morality, public order, or applicable norms.<sup>6</sup>

Name borrowing in government procurement represents a form of economic collaboration or partnership commonly undertaken by individuals or corporations providing goods and services within the framework of business activities. This practice has occurred historically and continues today in Indonesia.<sup>7</sup>

Name borrowing often arises due to affiliations or common ownership (beneficial ownership) between companies.<sup>8</sup> It may also occur when a company with a strong track record in winning tenders lends its name to deceive auction organizers. Additionally, name borrowing can address situations where tender participants fail to meet the required qualifications or quotas, using another company's name solely to fulfill administrative requirements.<sup>9</sup>

A name-borrowing agreement is often referred to as a nominee agreement. This type of agreement can be understood as a simulated or pretended agreement, wherein the parties involved present it as legitimate while it actually serves an alternative purpose. Consequently, a name-borrowing agreement can be classified as a form of legal evasion, carrying the risk of legal violations in its execution.<sup>10</sup>

The practice of borrowing company names has been widely observed in the procurement of construction goods and services in Jambi Province, particularly within the construction services sector. This practice has been longstanding and is considered commonplace. Name borrowing is typically employed by individuals or business entities that fail to meet the qualifications or fulfill the requirements set by procurement committees for participation in procurement auctions. This phenomenon reflects the high level of public interest in participating in the procurement of goods and services, particularly in construction. However, such interest is often not matched by adequate material preparedness, such as necessary tools or company qualifications. As a result, borrowing company names has become a common strategy to gain eligibility for procurement auctions.<sup>11</sup>

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<sup>6</sup> Tami Rusli, "Asas Kebebasan Berkontrak Sebagai Dasar Perkembangan Perjanjian Di Indonesia," *Pranata Hukum* 10, no. 1 (2015): 24–36, <https://doi.org/10.36448/pranatahukum.v10i1.152>.

<sup>7</sup> Muhammad Rayhan Ramadhan, "Peminjaman Nama Perusahaan Dalam Pengadaan Barang Dan Jasa Pemerintah: Suatu Analisis Hukum Dan Ekonomi" (Universitas Hasanuddin, 2019), <https://repository.unhas.ac.id/id/eprint/4817/>.

<sup>8</sup> Putri, Emirzon, and Mahfuz, "Pertanggungjawaban Hukum Atas Kehilangan Barang Pengguna Jasa Di PT. Pos Indonesia (Persero) Kecamatan Sirah Pulau Padang Dan Kota Kayuagung."

<sup>9</sup> Sunoto Sunoto, Mery Tjoanda, and Teng Berlianty, "Pertanggungjawaban Hukum Peminjaman Nama Perusahaan Untuk Mengikuti Pengadaan Barang Dan Jasa Pemerintah," *Pamali: Pattimura Magister Law Review* 4, no. 2 (2024): 187–207, <https://doi.org/10.47268/pamali.v4i2.2161>.

<sup>10</sup> Subekti Subekti, *Pokok-Pokok Hukum Perdata*, 21st ed. (Jakarta: Intermedia, 2005).

<sup>11</sup> Abdul Latif Mahfuz, "Penyimpan Pada Bank Buku I Di Indonesia Dalam Menghindari Money Laundry," *Jurnal Ilmiah Hukum Kenotariatan* 9, no. 1 (2020): 1–10, <https://doi.org/10.28946/rpt.v9i1.614>; Victor Marsangap Nainggolan and Habib Adjie, "Peran Dan Tanggung Jawab Pemilik Manfaat Yayasan Ditinjau Dari Peraturan

Corporate law derives from various sources, including parties responsible for creating rules or legal provisions that govern corporate activities. These sources include legislative bodies that enact laws, parties entering into agreements that establish contracts, judges producing jurisprudence, and business communities developing customs (conventions) in commercial activities. Consequently, corporate law comprises rules and provisions distributed across legislation, contracts, jurisprudence, and business conventions, which collectively serve as guiding frameworks for business operations.<sup>12</sup>

Name borrowing is typically conducted through agreements between parties—whether individuals or companies—that are formalized with the involvement of a notary. These agreements are often technical in nature and aim to clearly define the rights and obligations of each party. The responsibilities of individuals or business entities borrowing another company's name as a construction service provider are outlined in agreements negotiated between the lending company and the borrowing party. These agreements apply internally between the involved parties but may give rise to disputes if any provisions are breached.

This study seeks to analyze the impact of company qualifications and experience on decisions to lend a name in construction consultancy service auctions in Jambi Province. The practice of name borrowing is particularly noteworthy in the construction services sector, where qualifications and experience play critical roles in determining a company's eligibility.

The central issue addressed in this study is to gain an in-depth understanding of how factors such as a company's possession of a relevant Business Entity Certificate (SBU) and prior experience in construction projects influence its decision to lend its name to another party. This inquiry is significant because name-borrowing practices can undermine the integrity of procurement auctions, distort healthy business competition, and erode public trust in the execution of construction projects.

By examining these factors, the study aims to provide valuable insights for policymakers in formulating stricter regulations to deter illegal name-borrowing practices. Additionally, the findings are expected to benefit construction consultancy firms by emphasizing the importance of building a strong reputation and adhering to established qualification standards.

## 2. RESEARCH METHODOLOGY

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Presiden Republik Indonesia Nomor 13 Tahun 2018," *Jurnal Hukum* 20, no. 2 (2023): 750–62, <https://ejournal.penerbitjurnal.com/index.php/law/article/view/574>.

<sup>12</sup> Siti Nurwulan and Hendrik Fasco Siregar, "Aspek Normatif Asas Konsensualisme Dalam Penambahan Klausula Kontrak Tanpa Persetujuan Para Pihak," *Rechtsregel: Jurnal Ilmu Hukum* 2, no. 1 (2019): 494–509, <https://doi.org/10.32493/rjih.v2i1.2957>.

This study employs a normative research methodology with a qualitative approach. Normative legal research is a type of study that focuses on the collection and analysis of secondary data.<sup>13</sup> In this research, the data used consist exclusively of secondary sources, including books, journals, legislation, court decisions, legal theories, and the opinions of prominent legal scholars. The primary data utilized in this study are secondary data. The data collection technique applied in this study is library research. The first step involves recording all findings related to the general motivations for consumption identified in the relevant literature and sources. The second step is to synthesize these findings, incorporating both theoretical frameworks and new discoveries. The third step is to analyze the findings from various readings, taking into account their strengths, weaknesses, and interconnections as they relate to the discussed topic. The final step involves critically evaluating the findings.

### **3. RESEARCH RESULT AND DISCUSSION**

#### **3.1. The Impact of Company Qualifications and Experience on Decisions to Lend a Name in Construction Consultancy Service Auctions in Jambi Province**

Factors contributing to the practice of borrowing company names in the procurement of construction goods and services in Jambi Province, particularly in the auction for construction consultancy services, are closely tied to the stringent requirements outlined in Presidential Decree No. 80 of 2003 on Guidelines for the Implementation of Government Procurement of Goods and Services. These strict requirements often present challenges for construction service providers who fail to meet the qualifications, prompting them to resort to name-borrowing as a solution to participate in the auction.<sup>14</sup>

Some of the key obstacles faced by individuals or business entities in participating in construction services procurement auctions include the following:<sup>15</sup>

##### **1) Lack of a Registered Company**

Individuals or business entities that do not own a registered company but possess adequate capital, equipment, and human resources frequently attempt to participate in auctions by borrowing the name of an established company. One of

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<sup>13</sup> Irwansyah Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, ed. Ahsan Yunus (Yogyakarta: Mirra Buana Media, 2021).

<sup>14</sup> Muhammad Isra, Ilyas Ilyas, and Adwani Adwani, "Perjanjian Pinjam Nama Perusahaan Dalam Pelaksanaan Lelang Pengadaan Jasa Konstruksi Pemerintah Provinsi Aceh," *At-Tasyri: Jurnal Ilmiah Prodi Muamalah* 10, no. 1 (2018): 1–8, <https://doi.org/10.47498/tasyri.v10i1.128>.

<sup>15</sup> Lola Panjaitan, Maswandi Maswandi, and Rafiqi Rafiqi, "Pertanggungjawaban Hukum Bagi Pelaku Usaha Atas Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Dalam Pembangunan Rumah Sakit," *Juncto: Jurnal Ilmiah Hukum* 5, no. 2 (2023): 125–37, <https://doi.org/10.31289/juncto.v5i2.2177>.

the main prerequisites for participating in government goods and services procurement auctions is a valid business license, such as the Construction Services Business License (IUJK), issued by an authorized government agency.

## 2) Inadequate Business Entity Certificate (SBU) Qualification

Construction service providers participating in auctions are required to hold a Business Entity Certificate (SBU) that matches the type of work being offered. In accordance with Law No. 18 of 1999 on Construction Services, construction service providers must fulfill specific requirements, including a valid IUJK, an SBU issued by the Construction Services Development Agency, and, in certain cases, an ISO quality management certification for specialized work.

The practice of borrowing company names has been prevalent for an extended period, particularly in the Bungo and Tebo Provinces, and is commonly observed in the procurement of construction consultancy services. This practice is employed by individuals or business entities that fail to meet auction qualifications and are often not materially prepared. Thus, name-borrowing serves as a viable solution to fulfill auction requirements.<sup>16</sup>

Various forms of irregularities can occur in the procurement of goods and services, including name-borrowing, which is a manifestation of collusion. Collusion in the procurement process can be categorized into two main types:<sup>17</sup>

### 1) Collusion Among Involved Parties

Collusion frequently occurs between business actors and job owners or tender committees. In such cases, business actors collaborate with those responsible for the tender process to ensure outcomes that favor them. This form of collusion may include providing exclusive information, manipulating tender terms and conditions, or prearranging the tender winner before the selection process begins. Collusion also arises between business actors and producers. Business actors may coordinate with specific producers to secure preferential treatment for their products or services during the tender process. Producers, in turn, may offer incentives or benefits to support the collusion, undermining the principles of fair competition.

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<sup>16</sup> Miggi Sahabati, "Perjanjian Nominee Dalam Kaitannya Dengan Kepastian Hukum Bagi Pihak Pemberi Kuasa Ditinjau Dari Undang – Undang Pokok Agraria, Undang – Undang Penanaman Modal, Dan Undang–Undang Kewarganegaraan" (Universitas Indonesia, 2011), <https://lib.ui.ac.id/detail.jsp?id=20233693>.

<sup>17</sup> Suzanalisa Suzanalisa and Nuraini Zachman, "Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Mengedarkan Obat Tanpa Izin Edar," *Legalitas: Jurnal Hukum* 14, no. 1 (2022): 146–55, <https://doi.org/10.33087/legalitas.v14i1.323>.

Collusion can also occur among competing tender participants. In such cases, participants may cooperate to manipulate the tender results, share strategic information, or agree on one participant winning the tender with a profit-sharing arrangement. This practice compromises the integrity of the tender process and disadvantages honest competitors. Collusion in the tender process significantly affects the quality and efficiency of project implementation. It results in uncompetitive bidding, reduced quality of work, and an unhealthy business environment. Therefore, efforts to prevent and address collusion are critical to maintaining fairness and transparency in the tender process.

## 2) Collusion Among Tender Participants (Horizontal)

Collusion among tender participants, commonly referred to as horizontal collusion, occurs when participants enter into agreements to manipulate the outcomes of the tender process for their collective benefit. Such agreements undermine fair competition and disadvantage honest participants. This form of horizontal collusion may involve setting bid prices, where participants agree to submit predetermined bids. Additionally, participants may exchange confidential strategic information, compromising the transparency and fairness of the tender process. These practices severely undermine the integrity of the tender process. By eliminating healthy competition, horizontal collusion often results in inefficient project outcomes and uncompetitive pricing. To address this issue, strict oversight and enforcement of regulations are essential to prevent and deter such collusion.

Factors Encouraging the Practice of Borrowing Company Names include:

### 1) Lack of an Official Business Entity

A significant factor driving individuals or business entities to engage in the practice of borrowing company names is the absence of an official business entity. This situation commonly arises when individuals or groups aspire to participate in specific tenders or projects but fail to meet the administrative requirements necessary to establish their own business entity. Consequently, they borrow the name of an existing company to fulfill these requirements.

### 2) Desire for High Profits

The motivation to secure substantial financial gains also contributes to the practice of borrowing company names. In some cases, individuals or groups exploit the reputation of established companies to secure lucrative projects. This approach

allows them to reap financial benefits without investing the time or effort to build their own credibility.

### 3) Risk Avoidance

Borrowing a company name is also a strategy employed by parties seeking to avoid risks associated with legal liability, project failure, or financial losses. By using the name of another company, these individuals or entities aim to shift potential risks onto the legitimate owner of the borrowed name.

### 4) Failure to Meet Sub-Qualifications and Blacklisting

Some individuals or business entities resort to borrowing company names because they do not meet the required sub-qualifications for specific tenders or projects. Additionally, entities that have been blacklisted due to prior violations often engage in this practice to circumvent the selection process. By borrowing another company's name, they attempt to deceive the system and regain access to tenders or projects.

### 5) As a Partnering Business Entity

The practice of borrowing a company name can also occur within the framework of partnerships or mentoring arrangements. Smaller or newly established businesses may leverage the name of a more prominent and experienced company to gain the trust of clients and stakeholders. While sometimes undertaken with positive intentions, this practice must be carefully monitored to ensure compliance with business regulations and ethical standards.

Factors Influencing the Practice of Borrowing Company Names include:<sup>18</sup>

#### 1) Limited Capital

A primary factor driving the practice of borrowing company names is insufficient capital. Many individuals or business entities lack the financial resources needed to establish their own companies. In such cases, borrowing the name of an existing company provides a quick and cost-effective solution to participate in business activities without incurring substantial expenses for legal and operational compliance.

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<sup>18</sup> Hendri Saleh, "Praktik Perjanjian Pinjam Nama (Nominee) Di Kota Denpasar Bali Perspektif Hukum Positif Dan Hukum Islam," *Ay-Syir'ab: Jurnal Ilmu Syari'ab Dan Hukum* 54, no. 1 (2020): 59–82, <https://doi.org/10.14421/ajish.v54i1.587>.



## 2) Desire for a Recognized Name

Another significant factor is the desire to benefit from the reputation of an established and well-known company. Newly founded businesses often borrow names from reputable companies to gain instant recognition among the public and business partners. This strategy accelerates market entry and brand awareness without requiring extensive efforts to build a reputation from scratch.

## 3) Avoidance of Legal Processes

The complexity and perceived burdens of legal processes, including registration, licensing, and regulatory compliance, are common reasons for borrowing company names. Some business actors consider these procedures time-consuming and costly, prompting them to take shortcuts by using the name of an already established company.

## 4) Ignorance or Negligence

Ignorance or negligence regarding the legal and ethical consequences of borrowing a company name is another significant driver. Some parties may not fully comprehend the risks involved, such as potential lawsuits or reputational damage if the practice is uncovered. This lack of awareness often results in inadvertent violations of business regulations and ethics.

## 5) Use of Registered Names Without Permission

In some instances, individuals or entities use the name of a registered company without official authorization. This unauthorized use often aims to secure advantages, such as winning tenders or forming strategic partnerships. Such actions are typically deliberate and constitute clear violations of legal and ethical standards.

## 6) Reliance on Established Reputations

Dependence on the reputations of prominent companies is another motivating factor. Businesses that borrow the names of well-known companies aim to enhance consumer trust and expedite business growth. The positive reputation of a larger, established company provides a sense of credibility and reliability, encouraging customers and partners to engage more readily in transactions or collaborations.

The practice of borrowing or using nominee arrangements is often employed in the business sector to circumvent various restrictions or regulations. The motivations

behind such practices include factors such as those outlined above and often reflect a mix of strategic and opportunistic behavior.<sup>19</sup>

### 1) Avoiding Ownership Restrictions

The practice of name borrowing is frequently employed by foreign entities to circumvent ownership restrictions imposed by certain countries. Many nations enforce regulations limiting foreign ownership of company shares, either through caps on the percentage of ownership or requirements for local partnerships in ownership structures.

To bypass these regulations, foreign entities often collaborate with local individuals or businesses. By borrowing the name of a local company, they create the impression that the enterprise is entirely domestically owned. This approach enables them to continue operating and generating profits, even though it constitutes a formal violation of applicable laws. While this practice benefits foreign entities, it also carries several negative implications. In addition to breaching regulations, it may harm local partners and create unfair competition in the business environment. Therefore, robust oversight is essential to prevent the misuse of regulations through name-borrowing practices.

### 2) Strict Regulations on Foreign Ownership

Many countries impose stringent regulations on corporate ownership by foreign nationals to protect domestic economic interests and encourage active local participation in business. These restrictions often include caps on foreign share ownership or mandates for partnerships with local entities. To navigate these limitations, foreign entities frequently employ nominees or third parties as formal representatives in ownership structures.

In such arrangements, the nominee serves as the legal owner while actual control remains with the foreign party. This strategy allows foreign entities to operate businesses without explicitly violating ownership rules. However, the use of nominees entails significant legal and ethical implications. Both parties face legal risks if their arrangement is discovered. Furthermore, this practice can erode public trust in the integrity of the nation's business system. Enhanced regulatory oversight and stringent enforcement measures are necessary to prevent abuse of this system.

### 3) Tax Avoidance

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<sup>19</sup> Anak Agung Ayu Reditha Saras, "Penggunaan Vie Structure Untuk Praktik Nominee Dalam Praktik Penanaman Modal Di Indonesia," *Unes Law Review* 6, no. 2 (2023): 4964–75, <https://doi.org/10.31933/unesrev.v6i2.1318>.

Name borrowing is also commonly utilized as a tactic for tax avoidance. Individuals or companies may use another party's name to reduce their tax liabilities, circumvent tax authorities' oversight, and manipulate financial reports for personal gain. In addition to evading taxes, this practice is often employed to obscure the true ownership of a business. Many business owners seek to remain anonymous or avoid detection by authorities. By using another party's name, they can conduct operations discreetly while avoiding direct accountability. Such practices have severe adverse effects on the tax system and the broader economy. They not only reduce government revenue but also undermine the principles of equity and fairness in taxation. Therefore, stronger regulatory monitoring and strict enforcement are crucial to deter tax evasion through name-borrowing schemes.

#### 4) Compliance with Local Regulations

Certain countries require foreign companies to incorporate local ownership or management as part of their domestic economic protection policies. These regulations are designed to ensure that local communities benefit directly from the presence of foreign businesses, whether through managerial involvement or profit sharing. To meet these regulatory requirements, some foreign companies resort to name-borrowing practices. They collaborate with local individuals or entities willing to act as formal owners or managers. This arrangement allows the foreign company to operate legally under local regulations while retaining full control over business operations.

While borrowing names enables foreign companies to meet legal requirements, this practice often undermines transparency and accountability. It frequently creates the illusion of compliance without delivering tangible benefits to local communities. Consequently, policy evaluation and stringent monitoring are necessary to ensure that regulations effectively support local economic development objectives. A key factor driving the practice of name borrowing is the desire to capitalize on the reputation and trust associated with well-established companies. Companies with prominent names are often perceived as more reliable and have broader market access. By leveraging such reputations, business actors aim to attract customers or business partners without the effort required to build credibility from the ground up.

Additionally, limited access to capital or resources motivates some companies to engage in name borrowing. Many business actors lack the financial means or operational capacity to establish and manage their own enterprises. Under these circumstances, borrowing names is perceived as a practical solution for remaining competitive in the market. However, the practice of name borrowing carries significant risks. Legally, it is

often prohibited and can result in severe consequences for all parties involved. Moreover, this practice fosters unhealthy competition, potentially harming both governments and communities. To mitigate these negative impacts, stricter oversight and rigorous law enforcement are essential.<sup>20</sup>

## CONCLUSION

One of the primary reasons individuals or business entities engage in the practice of borrowing company names is their inability to establish a qualified business entity. This includes the lack of a Construction Consultant Service Business Entity Certificate (SBU) that meets the required qualifications. The absence of a properly certified business entity makes it challenging for them to participate in construction service procurement auctions in a legal and legitimate manner. Limited capital is another significant factor. Many business actors lack the financial resources needed to establish their own business entities and instead opt to borrow the name of a well-known company. By leveraging the reputation of an established company, they aim to enhance their chances of securing a particular auction or project without investing substantial time and money in building a reputation from the ground up.

Additionally, some business actors' resort to name borrowing to circumvent what they perceive as a complicated and time-consuming legal process. Ignorance or negligence regarding the legal consequences of this practice is another common factor. These individuals may not fully understand the risks or negative impacts of their actions, both for themselves and for the other parties involved. A clear prohibition on the practice of borrowing company names could significantly reduce opportunities for business actors to exploit this concept for specific purposes. Such a ban would also serve as an effective measure to prevent unlawful practices, promote fair business competition, and encourage business actors to comply with legal requirements in a more transparent and ethical manner.

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<sup>20</sup> Kevin Pahlevi, Paramita Prananingtyas, and Sartika Nanda Lestari, "Analisis Yuridis Terhadap Penggunaan Saham Pinjam Nama (Nominee Arrangement) Ditinjau Dari Peraturan Perundang – Undangan Di Indonesia," *Diponegoro Law Journal* 6, no. 1 (2017): 1–19, <https://doi.org/10.14710/dlj.2017.15544>.

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