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## **APPENDICES**

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# Appendix for Chapter 1

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**Appendix 1.1 Scope of Work for Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, July 11, 2006**

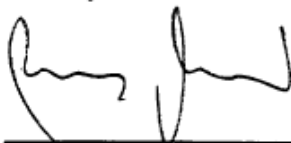
**SCOPE OF WORK  
FOR  
THE STUDY ON REGIONAL WATER SUPPLY DEVELOPMENT PLAN  
FOR GREATER YOGYAKARTA  
IN  
THE REPUBLIC OF INDONESIA**

**AGREED UPON BETWEEN  
THE MINISTRY OF PUBLIC WORKS  
AND  
THE GOVERNMENT OF SPECIAL PROVINCE OF YOGYAKARTA  
AND  
THE JAPAN INTERNATIONAL COOPERATION AGENCY**

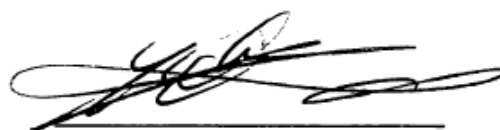
**Jakarta, July 11 , 2006**



**Ir. Agoes Widjanarko, MIP  
Director General  
Directorate General of Human Settlements  
Ministry of Public Works ✓**



**Mr. Bambang S Priyohadi  
Regional Secretary  
The Province of Special Region of ✓  
Yogyakarta**



**Mr. OMURA, Yoshiki ✓  
Leader  
Preparatory Study Team  
Japan International Cooperation  
Agency**

## I INTRODUCTION

In response to the official request of the Government of Republic of Indonesia (hereinafter referred to as "the Government of Indonesia"), the Government of Japan decided to conduct technical cooperation on the Study on Regional Water Supply Development Plan for Greater Yogyakarta "(hereinafter referred to as "the Study") through the Japan International Cooperation Agency (hereinafter referred to as "JICA").

From June 28<sup>th</sup> to July 17<sup>th</sup> 2006, JICA has dispatched the preparatory study team to Indonesia (hereinafter referred to as "the Study Team") and signed on the minutes of meeting on the Scope of Work for the Study on July 11<sup>th</sup> 2006.

Accordingly, JICA, the official agency responsible for the implementation of the technical cooperation projects of the Government of Japan, will undertake the Study in close cooperation with the authorities concerned of the Government of Indonesia.

On the parts of the Government of Indonesia, Ministry of Public Works and Yogyakarta Special Province, shall act as the counterpart agencies to the Japanese team for the Study (hereinafter referred to as "the JICA study team") and also as the coordinating body in relation to other governmental and non-governmental organizations concerned for the smooth implementation of the Study.

The present document sets forth the Scope of Work with regard to the Study and will be valid after the notification of approval by JICA headquarters through JICA Indonesia office to the Indonesian side.

## II OBJECTIVES OF THE STUDY

The objectives of the Study are:

1. to prepare a Master Plan on Regional Water Supply Development Project in Greater Yogyakarta (Yogyakarta Municipality, Sleman Regency and Bantul Regency) with a target year 2020
2. to prepare an Action Plan for the institutional strengthening for the water supply services in Greater Yogyakarta
3. to carry out capacity building of counterparts through the participation in the Study

## III STUDY AREA

The Study area covers Yogyakarta Municipality, Sleman Regency and Bantul Regency as shown in Annex 1.

## IV SCOPE OF THE STUDY

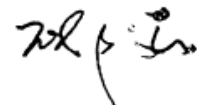
The Study shall be divided into three (3) phases:

### 1. Phasc-I (Formulation of Policy and Strategy)

- (1) To implement pilot projects as urgent countermeasures for the water supply facilities damaged by the earthquake happened in Yogyakarta Special Province in May 2006 as follows:

- 1) Rehabilitation works of water supply facilities of PDAMs of Yogyakarta Municipality, Bantul Regency and Sleman Regency

(2)



- 2) Rehabilitation works of community water supply system in Yogyakarta Municipality, Bantul Regency and Sleman Regency
- (2) To collect the available data and information, such as
    - regional development plan
    - city planning and land use
    - water resources development and management plan
    - public health improvement plan
    - the bulk water supply project, for which Yogyakarta Special Province has DBOT agreement signed on January 15, 2005
  - (3) To carry out inventory survey on the existing water supply facilities
  - (4) To conduct necessary field surveys
    - socio-economic survey (water usage, willingness to pay etc )
    - water quality test
    - investigation of non revenue water
    - ✕ - fluctuation of water flow volume
    - other necessary surveys
  - (5) To evaluate the current institutional, financial and operational aspects of water supply systems (including PDAMs and community water supply systems)
  - (6) To formulate development concept and strategies to improve the water supply situation in urban and rural areas in Greater Yogyakarta

## **2. Phase-II (Formulation of Master Plan)**

- (1) Water demand forecasting.
- (2) Development plan of water source for water supply
- (3) Water quality improvement plan in urban and rural area
- (4) Improvement and extension plan of water supply facilities,
  - a) optimum distribution of water in Yogyakarta municipality and its surrounding areas (necessary reservoirs and distribution network etc)
  - b) existing facilities of PDAMs
  - c) community water supply systems in rural areas
- (5) Institutional development plan
  - a) regulating and monitoring system of the bulk water supply
  - b) capacity development plan of PDAMs in terms of financial and technical aspects( for example reduction of non revenue water, water tariff collection, etc)
  - c) capacity development plan of local governments in evaluation and management of water supply sector including private partnership
- (6) Formulation of an implementation plan (including the selection of priority projects)
- (7) Cost Estimation
- (8) Project evaluation (economic, financial, institutional, technical. social, and environmental)
- (9) Assistance in conducting Initial Environmental Examination

## **Phase-III (Formulation of Action Plan)**

Action plans for the improvement of water supply will be considered through pilot project. The contents of pilot projects will be proposed in the course of the formulation of Master Plan, however, the following activities could be considered as examples.

- (a) Pilot projects
    - a) leakage survey and control project
- (3)

- b) efficient water bill collection system
  - c) GIS for distribution networks
- 3 (b) Feasibility study of the priority projects as long as the possibility of financial arrangement to realize the project is confirmed.

## **V SCHEDULE OF THE STUDY**

The Study will be carried out in accordance with the tentative schedule as attached in Annex-2.

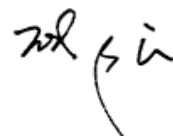
## **VI REPORTS**

JICA shall prepare and submit the following reports to the Government of Indonesia.

1. Inception Report: at the commencement of the Phase-I work (This report will contain the schedule and methodology of the Study.)  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies
2. Progress Report (1): at the end of the Phase-I work (This report will summarize the findings in of the phase I.)  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies
3. Interim Report: at the end of the phase-II work (This report will contain the results of the phase-II work.)  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies
4. Progress Report (2): in the middle of Phase-III work (This report will summarize the findings in the first half of the phase-II study.)  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies
5. Draft Final Report: at the end of the study work (The Government of Indonesia shall submit its comments within one (1) month after receipt of the Draft Final Report.)  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies
6. Final Report: with digital archive within about one (1) month after JICA's receipt of the comments on the Draft Final Report.  
English: Twenty (20) copies  
Indonesian: Twenty (20) copies

## **VII UNDERTAKINGS OF THE GOVERNMENT OF INDONESIA**

(4)



1. To facilitate the smooth conduct of the Study, the Government of Indonesia shall take necessary measures:

(1) To permit the members of the JICA study team to enter, leave and sojourn in the Indonesia for the duration of their assignment therein, and exempt them from foreign registration requirements and consular fees,

(2) To exempt the members of the JICA study team from taxes, duties, fees and any other charges on equipments, machinery and other materials brought into and out the Indonesia for the implementation of the Study,

(3) To exempt the members of the JICA study team from income taxes and charges of any kind imposed on or in connection with any emoluments or allowances paid to the members of the JICA study team for their services in connection with the implementation of the Study,

(4) To provide necessary facilities to the JICA study team for the remittances as well as the utilization of the funds introduced into the Indonesia from Japan in connection with the implementation of the Study,

2. The government of Indonesia shall bear claims, if any arise, against the members of the JICA study team resulting from, occurring in the course of, or otherwise connected with, the discharge of their duties in the implementation of the Study, except when such claims arise from gross negligence or willful misconduct on the part of the members of the JICA study team.

3. Ministry of Public Works and Yogyakarta Special Province shall, at its own expense, provide the JICA study team with the following, in cooperation with other organizations concerned:

- (1) Security-related information on as well as measures to ensure the safety of the JICA study team,
- (2) Information on as well as support in obtaining medical service,
- (3) Available data and information related to the Study,
- (4) Credentials or identification cards, and
- \* (5) Appropriate number of vehicles with drivers
- (6) Available data and information related to the Study,
- (7) Counterpart personnel, and
- (8) Suitable main office with necessary office equipment in Yogyakarta Special Province

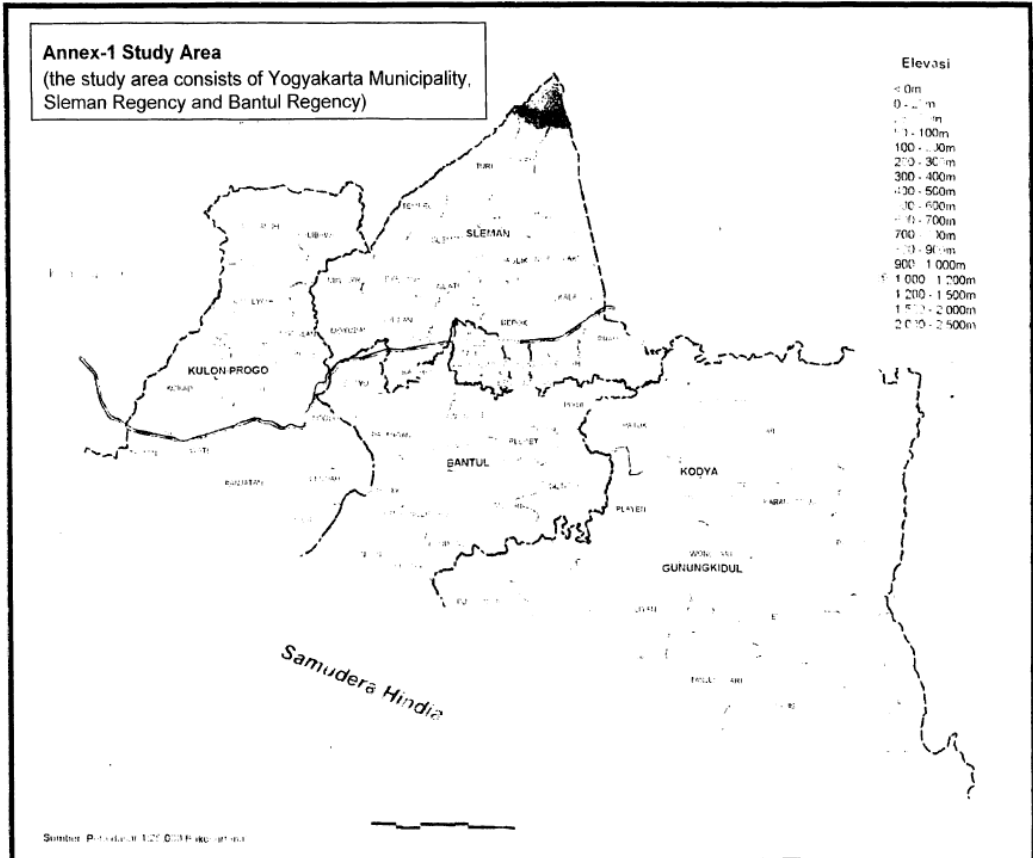
## VIII. CONSULTATION

JICA and Indonesian side shall consult with each other in respect of any matter that may arise from or in connection with the Study.

(5)

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**Annex-1 Study Area**  
(the study area consists of Yogyakarta Municipality, Sleman Regency and Bantul Regency)



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**Annex-2 Tentative Schedule of the Study**

Tentative Schedule

| Month         | 1       | 2 | 3 | 4 | 5 | 6 | 7        | 8 | 9 | 10 | 11 | 12 | 13        | 14 | 15    | 16 | 17     | 18    |
|---------------|---------|---|---|---|---|---|----------|---|---|----|----|----|-----------|----|-------|----|--------|-------|
| Phase         | Phase I |   |   |   |   |   | Phase II |   |   |    |    |    | Phase III |    |       |    |        |       |
| Work Schedule | ←→      |   |   |   |   |   | ←→       |   |   |    |    |    | ←→        |    |       |    |        |       |
| Report        | ▲ IC/R  |   |   |   |   |   | ▲ RR1    |   |   |    |    |    | ▲ IT/R    |    | ▲ PR2 |    | ▲ DF/R | ▲ F/R |

NOTE

- IC/R : Inception Report
- PR1 : Progress Report (1)
- IT/R : Interim Report
- PR2 : Progress Report (2)
- DF/R : Draft Final Report
- F/R : Final Report

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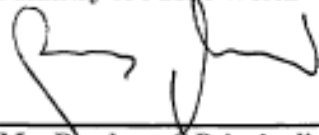
Appendix 1.2 Minutes of Meeting for Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, July 11, 2006

MINUTES OF MEETING  
FOR  
THE STUDY ON REGIONAL WATER SUPPLY DEVELOPMENT PLAN  
FOR GREATER YOGYAKARTA  
IN  
THE REPUBLIC OF INDONESIA  
AGREED UPON BETWEEN  
THE MINISTRY OF PUBLIC WORKS  
AND  
THE GOVERNMENT OF SPECIAL PROVINCE OF YOGYAKARTA  
AND  
THE JAPAN INTERNATIONAL COOPERATION AGENCY

Jakarta, July 11, 2006



Ir. Agoes Widjanarko, MIP  
Director General  
Directorate General of Human  
Settlements  
Ministry of Public Works



Mr. Bambang S Priyohadi  
Regional Secretary  
The Province of Special Region of  
Yogyakarta



Mr. OMURA, Yoshiaki  
Leader  
Preparatory Study Team  
Japan International Cooperation  
Agency

In response to the official request of development studies of the Government of Indonesia, the Japan International Cooperation Agency (hereinafter referred to as "JICA") dispatched the preparatory study team, headed by Mr. Omura Yoshiki (hereinafter referred to as "the Study Team"), to Indonesia from June 28<sup>th</sup> to July 17<sup>th</sup>, 2006 to discuss the Scope of Works (hereinafter referred to as "S/W") for the Study on Regional Water Supply Development Plan for Greater Yogyakarta (hereinafter referred to as "the Study").

During its stay in Indonesia, the Study Team carried out field surveys in the study areas, and held a series of discussions with the Ministry of Public Works, Yogyakarta Special Province (hereinafter referred to as "DIY"), Yogyakarta Municipality, Regencies of Bantul and Sleman, Perusahaan Daerah Air Minum (hereinafter referred to as "PDAM")s of Yogyakarta and Bantul and Sleman and other authorities concerned. The list of those whom the Study Team met with is shown in Appendix 1.

The minutes of meeting have been prepared for the better understanding of the S/W agreed upon between Ministry of Public Works and Yogyakarta Special Province, Yogyakarta Municipality, Regencies of Bantul and Sleman and the Study Team.

The main items that were discussed and agreed by both sides are summarized as follows.

#### **1 Countermeasure for the urgent needs**

JICA will make best efforts in the Study to support for the countermeasure for the urgent needs caused by the earthquake.

In the Phase I of the Study, JICA will implement, as part of pilot project(s), restoration works for water supply facilities of PDAMs and community water supply systems in the Study area. JICA will select the candidate sites and components taking into considerations of the following criteria.

- 1) Priority of Indonesian side
- 2) Urgency
- 3) Effectiveness
- 4) Clear demarcation with Donors' or NGU's activities
- 5) Project output can be fed back to planning process of the Master Plan

#### **2 Institutional arrangement to conduct the Study**

JICA emphasized that close coordination is the key to the Study, which involves one province, one municipality, two regencies and three PDAMs.

The Study Team requested that the Indonesian side should establish a steering committee and a technical committee to implement the Study effectively because there are many stakeholders involved in the Study.

Indonesian side agreed to prepare to establish the steering committee and the technical committee before the commencement of the Study.

JICA suggested member of each committee as following.

- 1) the steering committee composed of representatives from the following organizations:
  - Central government
  - Provincial government
  - Municipal government
  - Regency government
- 2) the technical committee composed of representatives from the following organizations:
  - Ministry of Public Works (Directorate General of Human Settlement & Infrastructure)
  - DIY (BAPEDA, Regional Human Settlement & Infrastructure)

- Yogyakarta Municipality (BAPEDA, Office of Human Settlement & Infrastructure)
- Regency of Bantul (BAPEDA, Office of Public Works)
- Regency of Sleman (BAPEDA, Office of Human Settlement, Infrastructure & Transportation)
- PDAM Tirta Marta of Yogyakarta City, PDAM of Sleman Regency and PDAM of Bantul Regency
- Other related organizations

### 3 Capacity building

Both sides emphasized the importance of capacity building in the process of the Study to facilitate the human resource development of DIY, Yogyakarta Municipality, Regencies of Bantul and Sleman and PDAMs of Yogyakarta, Bantul and Sleman.

### 4 Coordination with other related projects

DIY requested to make the Master Plan in consistence with the bulk water supply project, for which Yogyakarta Special Province has DBOT agreement signed on January 15, 2005. DIY informed that the bulk water supply project was currently suspended because of incapacity of distribution-systems to absorb the bulk water. → 5-2-05

JICA will consider, as given conditions for the Master Plan, the quality and quantity of the bulk water and its delivery points, which shall be reservoirs in Yogyakarta Municipality and Regencies of Bantul and Sleman.

JICA requested and DIY agreed to keep JICA informed of the bulk water supply project in order to implement the study work effectively.

### 5 Undertaking of the Government of Indonesia

JICA will send a study team (hereinafter referred as "JICA study team") to implement the Study. Both side confirmed the following matters.

- 1) As to VII. (1) of S/W, the Study Team requested DIY to take necessary procedures to permit the JICA study team to take available data abroad (including maps and photographs) and information related to the Study. DIY notified that they would provide convenience to the JICA study team as much as possible.
- 2) As to VII. (2) of S/W, the Study Team requested DIY that counterpart personnel of the Study should be selected before the commencement of the Study for ensuring better cooperation, to which DIY agreed.
- 3) As to VII. (3) of S/W, DIY agreed that the office space with office furniture and electricity would be provided in Yogyakarta for the use of the JICA study team, provided that telephone charges will be borne by the JICA study team.
- 4) As to VII. (3) of S/W, DIY requested the Study Team to provide transportation for the JICA study team at JICA's own expense. The Study Team agreed to convey this request to JICA H.Q. for the positive consideration.

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f.i.

**1. MINISTRY OF PUBLIC WORKS**

Ir. Agoes Widjanarko, MIP, Director General of CIPTA KARYA

Ir. Pudjastanto S, CES, DEA, Director for Drinking Water Development

Ir. Djoko Murjanto, MSC, Director of Planning and Programming

Ir. Amiruddin CES, Sub-director for Regional I, Directorate for Drinking Water Development

Ir. Bambang Purwanto, MSC, Sub-director for Maintenance & Effort, Drinking Water Development

**2. YOGYAKARTA SPECIAL REGION**

K.G.P.A.A. Paku Alam IX, Vice Governor

Ir. Bambang S. Priyohadi MPA, Regional Secretary

Drs. Sudaryomo Hartosudarmo, Head of Bureau of Cooperation, Regional Secretariat

Ir. Bayudono M.Sc, Head of Bappeda Province

Ir. Edi Siswanto, Head of Regional Planning Division

Ir. Sangidu Umar, MT, Head of Spatial and Environmental Planning, Sub Division of Bappeda

Ir. Nur Indah P, Head of Foreign Cooperation Section, Bureau of Cooperation

**DINAS KIMPRASWIL**

Ir. Tri Harjun Ismaji M.Sc, Head of Dinas KIMPRASWIL Province

Ir. M. Natsir Basuki MM, Head of CIPTA KARYA

Ir. Gatot Saptadi, Head of Planning and Program Section

Ir. Djendra, Head of Bina Program Division

Ir. Frisky Kusuma, Head of Housing and Settlement Section

Ir. Hardjono Sudjanadi MM, Head of Drinking Water and Sewer Development Project

Drs. Purnomo Dwi Ariyanto, BE, MM, Secretary of Private Cooperation, Yogyakarta Water Supply Sector Project

**3. YOGYAKARTA MUNICIPALITY**

Drs. Tri Djoko Susanto, Head of Bappeda

Ir. Suhadi, Staff of Bappeda

Endro Wibisono, ST, Head of Implementation Division, Dinas KIMPRASWIL

#### **4. BANTUL REGENCY**

Ir. Supriyanto Widodo, Head of Bappeda

Ir. Wahid, Head of Infrastructure Section of Bappeda

Ir. Sudaryono, Head of Housing and Settlement Section, Dinas Public Work

#### **5. SLEMAN REGENCY**

Drs. Paulus Suyanto, Head of Bappeda

Ir. Rusdiyanto, Head of Village Planning Sub-Division, BAPPEDA

Ir. Yuni Zaffria, Head of Human Settlement, Infrastructure, and Transportation

Ir. Indra D., Head of CIPTA KARYA

Mirza Anfansury ST,MT, Dinas KIMPRASWILHUB

#### **6. PDAM**

Dachron Saleh SH. Chief Executive Officer of PDAM Tirta Marta Kota Yogyakarta

Agus Triwidodo ST, Technical Director of PDAM Tirta Marta Kota Yogyakarta

Kasno Sutjipto ST, Head of Production of PDAM Tirta Marta Kota Yogyakarta

Ir. Suratno, Chief Executive Officer, PDAM Kabupaten Sleman

Ir. Achadi M.Si, Technical Director, PDAM Kabupaten Sleman

Drs. Dwi Nurwata, Internal Auditor, PDAM Kabupaten Sleman

Ir. Agung Darmadi, Technical Director of PDAM Kabupaten Bantul

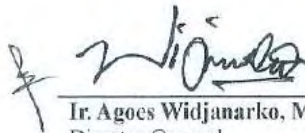
Drs. Yudi Indarto M.Si, Administrator Director of PDAM Kabupaten Bantul

**Appendix 1.3 Minutes of Meeting on the Inception Report for the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, October 19, 2006**

**MINUTES OF MEETING  
ON THE  
INCEPTION REPORT**

**THE STUDY  
ON  
REGIONAL WATER SUPPLY DEVELOPMENT PLAN FOR  
GREATER YOGYAKARTA  
IN  
THE REPUBLIC OF INDONESIA**


Agreed upon in Yogyakarta on October 19<sup>th</sup> 2006  
between



**Ir. Agoes Widjanarko, MIP**  
Director General  
Directorate General of Human  
Settlements  
Ministry of Public Works  
The Government of Indonesia



**Mr. Mamiya Takemasa**  
Team Leader  
JICA Study Team



**Ir. Tri Harjun Ismaji M.Sc**  
Regional Secretary  
The Province of Special Region of  
Yogyakarta

Witnessed by



**Mr. Mizuno Takashi**  
Deputy Resident Representative  
Japan International Cooperation Agency  
(JICA), Indonesia Office

## MINUTES OF MEETING

Based on the agreements, Scope of Work and Minutes of Meeting for “the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia” (hereinafter referred to as “the Study”), signed on July 11<sup>th</sup> 2006 between the Ministry of Public Works, the Government of Indonesia and the Japan International Corporation Agency (hereinafter referred to as “JICA”), the Ministry of Public Works, the Government of Indonesia and the Government of the Province of Special Region of Yogyakarta (hereinafter referred to as “DIY”), as the Counterpart Agencies for the Study, held the Inception Meeting with JICA and the JICA Study Team (hereinafter referred to as “the Study Team”), chaired by Ir. Tri Harjun Ismaji, M.Sc, Regional Secretary, the Province of Special Region of Yogyakarta, on October 17<sup>th</sup> 2006. The participants of the meeting are listed in the Attachment-1.

The Study Team presented twenty (20) copies of the Inception Report in English and in Indonesian. During the meeting the Study Team explained the main contents of the report, work plan/schedule and expected study outputs. The Study Team also explained the proposed project sites for Emergency Pilot Project (hereinafter referred to as “EPP”). Indonesian side agreed on the contents of the Inception Report with some comments. The main comments and agreements reached during the meeting were as follows:

### 1. Steering Committee and Technical Committee

Both sides agreed on establishment of the Steering Committee and Technical Committee and Indonesian side stated that the organizations of respective committee will be issued by Director General of Cipta Karya on behalf of the Ministry of Public Works until the end of November 2006.

### 2. Participants of Workshop

Both sides agreed that respective head of districts/municipality (local administrative bodies) should be invited to the scheduled workshops in the course of the Study.

### 3. Project Sites for the Emergency Pilot Project (EPP)

The Study Team explained the selected project sites for the EPP as listed below and as a result of discussion, both sides agreed to implement the EPP at these project sites. Scopes of the EPP for each project site are listed in Attachment-2 to these minutes.

PDAM Bantul: Unit Dlingo, Unit Trimulyo, Unit Imogiri, Unit Banguntapan,  
Unit Bantul and Unit Sewon

Community Water Supply System in Bantul Regency:  
Desa Terong (1 unit), Desa Mangunan (6 units)

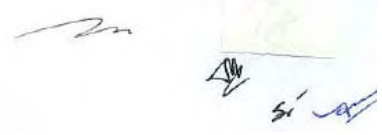
The Study Team stated that the EPP should be completed by the end of February 2007 and the Team



requested and the Indonesian side agreed to assist the Study Team, local consultants selected for detailed design/construction supervision and selected local contractors for procurement/construction work for smooth project implementation.

**4. Detailed Work Schedule**

The Indonesian side requested and the Study Team agreed to provide a detailed work schedule which includes the schedule of stakeholder meeting at the later phase of the Study.





Attachment-1

**List of Participants**

[Indonesian side]

Government of Indonesia, Ministry of Public Works

|                             |  |
|-----------------------------|--|
| Ir. Agoes Widjanarko, MIP   | Director General, Cipta Kaya   |
| Ir. Pudjastanto S, CES, DEA | Director for Drinking Water Development                                    |
| Ir. Amiruddin, CES          | Sub-director for Regional I, Directorate for<br>Drinking Water Development |
| Ir. Sudibyo                 | Staff, Directorate for Drinking Water Development                          |

Government of Yogyakarta Special Region

|                            |                    |
|----------------------------|--------------------|
| Ir. Tri Harjun Ismaji M.Sc | Regional Secretary |
| Ir. Herry Lancono, CES     | BAPEDA DIY         |
| Mr. Aris P., MT            | BAPEDA DIY         |
| Ir. Sangidu Umar, MT       | BAPEDA DIY         |

Dinas Kimpraswil

|                                       |   |
|---------------------------------------|---|
| Ir. M. Natsir Basuki, MM              | Head of CIPTA KARYA   |
| Drs. Purunomo Dwi Ariyanto,<br>BE, MM | Secretary of Private Cooperation,<br>Yogyarta Water Supply Sector Project |
| Mr. Kliwon                            | Bina Program Division   |
| Drs. Endi Harsono                     | Biro Kerjasama, Kepatihan Yogyakarta                                      |
| Ir. Frisky Kusuma                     | CIPTA KARYA Divisi  |

Yogyakarta Municipality

|              |                                |
|--------------|--------------------------------|
| Drs. Baskoro | BAPEDA Yogyakarta Municipality |
|--------------|--------------------------------|

Sleman Regency

|                         |  |
|-------------------------|--|
| Ir. Mirza Anfansory, MT | Human Settlement, Infrastructure and<br>Transportation |
| Mr. Suryantono, ST      | Human Settlement, Infrastructure and<br>Transportation |
| Nur Achmad, ST          | BAPEDA Sleman  |
| Ms. Anna Yustina, ST    | BAPEDA Sleman  |

Bantul Regency

|                   |           |
|-------------------|-----------|
| Mr. Sudaryono, ST | PU Bantul |
|-------------------|-----------|

Attachment - 1

PDAM

Mr. Ery S., ST  
Mr. La Ansihat  
Ir. Suratno  
Ir. Agung Darmadi

PDAM Yogyakarta  
PDAM Yogyakarta  
Chief Executive Officer, PDAM Kabupaten Slema  
Technical Director of PDAM Kabupaten Bantul

**[Japanese side]**

JICA Tokyo Headquarters

Mr. Masuda Shinichi

Water Resources and Disaster Management  
Team I, Group III (Water Resources and  
Disaster Management), Global Environmental  
Department, JICA

JICA Advisor

Mr. Hirakawa Hiroshi

Reconstruction General Advisor 2 for DIY,  
JICA Yogyakarta

Mr. Andre Jaya

Interpreter  
JICA Yogyakarta

Study Team

Mr. Mamiya Takemasa

Team Leader/Water Supply Planning  
Nihon Suido Consultants Co., Ltd.

Mr. Sakai Takeshi

Co-Team Leader / Water Supply Facility  
Planning 1 (Pipeline) / Implementation and  
Evaluation of Pilot Project 1

Mr. Sato Isamu

Nihon Suido Consultants Co., Ltd.  
Water Supply Facility Planning 2  
(Treatment Plant)

Mr. Yabuta Takuya

Nihon Suido Consultants Co., Ltd.  
Water Resource / Hydro-geology  
/ Water Quality

Mr. Kawamura Tetsuji

Nihon Suido Consultants Co., Ltd.  
Community Water Supply  
Nihon Suido Consultants Co., Ltd.

Mr. Yanai Motoo

Implementation Schedule / Cost Estimates /  
Study Coordinator  
Nihon Suido Consultants Co., Ltd.

Attachment - 2

Attachment-2

**Scope of Emergency Pilot Project**

**PDAM Bantul System**

| Project Site     | Scope of Work  |   |
|------------------|--|---|
| Unit Trimulyo    | Shallow Well<br>Repair of Chemical Bldg.<br>Repair of Retaining Wall   | φ1.5m x D6m w/10m casing & screen<br>1 L.S.<br>h = 2.0m x 60m   |
| Unit Sewon       | Repair of Pipe Bridge  | GIP φ100mm x L10m   |
| Unit Dlingo      | Pacake Treatment Plant including intake pump<br>Transmission Pump and Panel<br>Transmission Pipe<br>Power cable<br>Spring Capture<br>Repair of Operation Bldg. | Capacity 5 l/s<br>Centrifugal, Q10 l/s x H60m x 11kW x 2units<br>φ125mm x L800m<br>L800m<br>1 L.S.<br>1 L.S.        |
| Unit Imogiri     | Construction of Pipe Bridge  | GIP φ150mm x L57m   |
| Unit Banguntapan | Reconstruction of Operation Bldg.<br>Pipe Replacement  | Brick structure, 48m <sup>2</sup><br>PVC φ150mm x L1200m  |
| Unit Bantul      | Repair of Operation Bldg.<br>Repair of Storage at Office<br>Repair of Storage at Plant   | Brick structure, 36m <sup>2</sup><br>Concrete block wall, 40m <sup>2</sup><br>Concrete block wall, 40m <sup>2</sup> |

*Note: Specifications and quantities shown in table above may be changed subject to the detailed design.*

Attachment - 3

Community Water Supply System in Bantul Regency

| Project Site  |                   | Scope of Work  |   |
|---------------|-------------------|--|---|
| Desa Mangunan |                   |  |   |
|               | Dusun Mangunan II | Transmission Pipe  | φ25mm x L600m   |
|               | Dusun Mangunan I  | Construction of shallow Well<br>Intake Pump (submersible)<br>Booster Pumo (Centrifugal)<br>Construction of Pump Well<br>Transmission Pipe                  | φ1.0m x H6m<br>Q0.75 l/s x H60m x 1 kW x 1unit<br>Q0.75 l/s x H60m x 1 kW x 1unit<br>Cap. 1m <sup>3</sup> (Brick structure)<br>φ25mm x L50m   |
|               | Dusun Cempluk II  | Construction of shallow Well<br>Intake Pump (submersible)<br>Transmission Pipe   | φ1.0m x H6m<br>Q0.75 l/s x H60m x 1 kW x 1unit<br>φ25mm x L40m  |
|               | Dusun Mangunan    | Intake Pump (submersible)<br>Transmission Pipe   | Q0.75 l/s x H60m x 1 kW x 1unit<br>φ25mm x L50m   |
|               | Dusun Kanigoro    | Intake Pump (submersible)<br>Booster Pump<br>Construction of Pump Well<br>Reconstruction of Reservoir<br>Distribution Pipe<br>Repair of Public Hydrant     | Q0.75 l/s x H60m x 1 kW x 1unit<br>Q0.75 l/s x H60m x 1 kW x 1unit<br>Brick structure 1m <sup>3</sup> x 1no<br>Brick structure, 8m <sup>3</sup> x 1no<br>PVC, φ25mm x L70m<br>Platform, 4 nos |
|               | Dusun Lemahabang  | Intake Pump (submersible)<br>Transmission Pipe<br>Reservoir  | Q0.75 l/s x H60m x 1 kW x 1unit<br>GIP, φ25mmxL150m<br>Brick structure, 8m <sup>3</sup> x 1no   |
| Desa Terong   |                   |  |   |
|               | Dusun Terong I    | Construction of shallow well<br>Intake Pump<br>Transmission Pipe<br>Reservoir<br>Construction of retaining wall<br>for Public Hydrant<br>Distribution pipe | φ1.0m x D6m w/casing (10m)<br>Q0.75 l/s x H60m x 1 kW x 1unit<br>GIP, φ25mmxL500m<br>Brick structure, 8m <sup>3</sup> x 1no<br>h=1.5m x L.5m<br>PVC 25mm x L50m                               |

Note: Specifications and quantities shown in table above may be changed subject to the detailed design.

Attachment - 4

**Appendix 1.4 Minutes of Meeting on the Progress Report No. 1 for the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, March 6, 2007**

**MINUTES OF MEETING  
ON THE  
PROGRESS REPORT NO. 1**

**THE STUDY  
ON  
REGIONAL WATER SUPPLY DEVELOPMENT PLAN FOR  
GREATER YOGYAKARTA  
IN  
THE REPUBLIC OF INDONESIA**

Agreed upon in Yogyakarta on March 6<sup>th</sup> 2007  
between



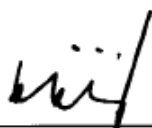
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**Ir. Poedjastanto S. CES, DEA**  
Director for Drinking Water  
Development  
Ministry of Public Works  
The Government of Indonesia



---

**Mr. Mamiya Takemasa**  
Team Leader  
JICA Study Team



---

**Ir. Tri Harjun Ismaji M.Sc**  
Regional Secretary  
The Province of Special Region of  
Yogyakarta

Witnessed by



---

**Mr. Omura Yoshiki**  
Chairman of JICA Advisory Committee  
Senior Advisor  
Institute for International Cooperation  
Japan International Cooperation Agency

## MINUTES OF MEETING

Based on the agreements. Scope of Work and Minutes of Meeting for "the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia" (hereinafter referred to as "the Study"), signed on July 11<sup>th</sup> 2006 between the Ministry of Public Works, the Government of Indonesia and the Japan International Corporation Agency (hereinafter referred to as "JICA"), the Ministry of Public Works, the Government of Indonesia and the Government of the Province of Special Region of Yogyakarta (hereinafter referred to as "DIY"), as the Counterpart Agencies for the Study, held the Steering Committee Meeting with JICA and the JICA Study Team (hereinafter referred to as "the Study Team"), chaired by Ir. Tri Harjun Ismaji, M.Sc, Regional Secretary, the Province of Special Region of Yogyakarta, on March 5<sup>th</sup> 2007. The participants of the meeting are listed in the Attachment-1.

The Study Team presented twenty (20) copies each of the Progress Report No. 1 in English and in Indonesian. During the meeting, the Study Team explained the main contents of the report. Indonesian side agreed on the contents of the Progress Report No. 1 with some comments. The main comments reached during the meeting were as follows:

### 1. Results of Socio-economic Survey

Indonesian side requested and the Study Team agreed to compare the results of the socio-economic survey concerning average household income for Sleman and Bantul Regencies and Yogyakarta Municipality with census data of each region. The Study Team will include the comparison table in the next Interim Report.

### 2. Rural Water Supply

Indonesian side suggested to use terminology "*Air Minum Desa*" instead of "*SIPAS*" for rural water supply since the "*SIPAS*" referred to as very old type of water provision system.

### 3. Service Ratio

Existing water service ratios for each region are shown in the Progress Report No. 1. The Indonesian side requested and the JICA Study Team agreed to present served populations also together with the service ratio in the next Interim Report.

### 4. Equipment for Leakage Survey

Indonesian side stated that the leakage survey which was conducted during the Phase 1 was very valuable for the PDAM. Further leakage surveys were planned to be conducted during the next Phase 2. For the further leakage reduction activities and application of technology transferred by the JICA Study Team, Indonesian side requested to transfer equipment which were used for the leakage survey to Indonesian side after completion of the Study.

The JICA advisory committee agreed to convey this request to JICA Headquarters for consideration.

### 5. Assistance for IEE during Phase 2

Indonesian side requested JICA to provide surveyors and transportation for implementation of IEE. The JICA stated DIY is solely responsible for formalities of EIA/IEE and DIY should secure

necessary budgetary arrangements for the IEE, which was planned to be conducted in September 2007.

**6. Present Status of the Bulk Water Supply Contract**

Referring to lack of authorized information on the bulk water supply project, JICA Team explained the Study for Phase 2 Master Plan is hampered and Phase 2 output might be limited to water demand forecast and its distribution within the service area, and analysis of groundwater balance.

DIY mentioned it was studying possibility to terminate the bulk water supply contract with PT Citra Tirta Mataram. Under such circumstances, DIY expected revision of the scope of work for accommodating studies on water sources, water treatment and clear water transmission. JICA advisory committee will report DIY's position on water source to the JICA headquarters.

DIY will notify in writing to JICA Indonesia Office of the latest status of water source development by the end of March 2007.

Handwritten signature and initials in black ink, consisting of a stylized name and the letters 'i' and 's'.

Attachment-1

**List of Participants**

[Indonesian side]

Government of Indonesia, Ministry of Public Works

|                             |   |
|-----------------------------|---|
| Ir. Pudjastanto S, CES, DEA | Director for Drinking Water Development                                 |
| Ir. Amiruddin, CES          | Sub-director for Regional I, Directorate for Drinking Water Development |
| Mr. Andreas Suhono          | Directorate Bina Program DJCK<br>Dept. Public Work                      |

Government of Yogyakarta Special Region

|                            |                    |
|----------------------------|--------------------|
| Ir. Tri Harjun Ismaji M.Sc | Regional Secretary |
| Mr. Setyoso H/Bambang      | BAPEDA DIY         |

Dinas Kimpraswil

|                                       |   |
|---------------------------------------|---|
| Ir. Bayudono, MSc                     | Director  |
| Drs. Purunomo Dwi Ariyanto,<br>BE, MM | Secretary of Private Cooperation,<br>Yogyakarta Water Supply Sector Project |
| Mr. Harjono                           | Working unit of drinking water  |

Yogyakarta Municipality

|                      |                            |
|----------------------|----------------------------|
| Mrs. Aries Prastiani | Kimpraswil Kota Yogyakarta |
|----------------------|----------------------------|

Sleman Regency

|                    |                 |
|--------------------|-----------------|
| Mr. Ibnu Subiyanto | Head of Regency |
| Mr. Dibyo          | Bapeda          |
| Mr. Suyanto        | Bapeda          |

Bantul Regency

|               |        |
|---------------|--------|
| Mr. S. Widodo | Bapeda |
|---------------|--------|

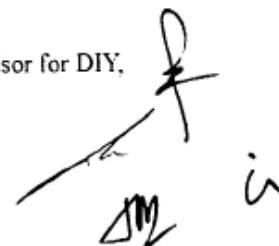
[Japanese side]

JICA Tokyo Headquarters

|                     |   |
|---------------------|---|
| Mr. Omura Yoshiki   | Chairman of JICA Advisory Committee<br>Senior Advisor<br>Institute for International Cooperation, JICA  |
| Mr. Masuda Shinichi | Water Resources and Disaster Management<br>Team I, Group III (Water Resources and<br>Disaster Management), Global Environmental<br>Department, JICA |

JICA Advisor

|                  |  |
|------------------|--|
| Mr. Takeya Kimio | Reconstruction General Advisor for DIY,<br>JICA Yogyakarta |
|------------------|--|



Attachment - 1



JICA Study Team

Mr. Mamiya Takemasa  
Mr. Kobayashi Shinkichi

Mr. Maruyama Teruo

Ms. Matsumura Mika  
Mr. Mori Nobuhiro  
Mr. Ogura Masami

Mr. Kawamura Tetsuji

Team Leader/Water Supply Planning  
Co-Team Leader / Water Supply Facility  
Planning 1 (Pipeline) / Implementation and  
Evaluation of Pilot Project 1  
Corporation Management and Financial Analysis/  
Implementation and Evaluation of Pilot Project 2  
Socio Economy  
Water Policy and Administration  
Water Supply Facility Planning 2  
(Treatment Plant)  
Community Water Supply



Attachment - 2

Appendix 1.5 Letter from DIY to JICA, Ref. No. 690/1242, Dated April 5, 2007



PROVINCIAL GOVERNMENT OF YOGYAKARTA SPECIAL REGION

Kepatihan Danurejan Yogyakarta 55213, INDONESIA  
Phone : +62-274-512655, 512243, 562811, Fax.: +62-274-588613

Yogyakarta, April 5, 2007

Our ref : .....690/1242.

Mr. KATO Keiichi

Resident Representative Japan International Cooperation Agency  
(JICA)

Indonesia Office

JAKARTA

Dear Sir,


First of all, may I on behalf of the Provincial Government and the people of Yogyakarta Special Region, convey my deepest gratitude for your restless effort to assist us.

Concerning with the cooperation between the Government of Indonesia (GoI) and the Government of Japan (GoJ) through Japan International Cooperation Agency (JICA) in providing a technical assistance on the Study of Regional Water Supply for Greater Yogyakarta, and refer to the Minute of Meeting between GoI and JICA on March 5, 2007, I would like to deliver several information to be considered, as follows;

1. In relation with the Design Built Operate and Transfer (DBOT) Agreement between the Provincial Government of Yogyakarta Special Region (YSR) with PT Citra Tirta Mataram (CTM), we, the Provincial Government of YSR, indicate that there is a problem concerning with the continuation of the agreement between The Provincial Government of Yogyakarta Special Region and PT CTM.
2. We are now in the process of evaluating the continuation of the agreement, from the point of view of; technical, administration and legal aspects. Although we have a pessimistic presumption, we have to be very carefully in scrutinizing the agreement documents.
3. We will inform you the result of the evaluation promptly after we decide the policy taken concerning with the continuation of the agreement between the Provincial Government of YSR and PT CTM.
4. We do hope that this problem will not hamper the JICA Technical Assistance on the Study of Regional Water Supply for Greater Yogyakarta.

Please accept our apology for being late to respond to your inquire as we have to be careful in solving the problem, especially in relation with the legal aspect. Thank you for your kind attention.

Yours sincerely,

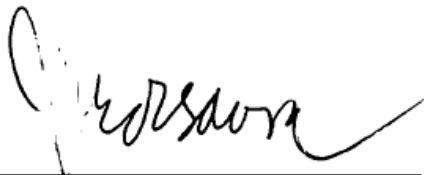
  
Tri Harjun Ismaji  
Regional Secretary  
Provincial Government of Yogyakarta Special Region

**Appendix 1.6 Minutes of Meeting Concerning Scope of Work of the Study for the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, May 29, 2007**

**MINUTES OF MEETING**  
**Concerning**  
**SCOPE OF WORK OF THE STUDY**

**THE STUDY**  
**ON**  
**REGIONAL WATER SUPPLY DEVELOPMENT PLAN FOR**  
**GREATER YOGYAKARTA**  
**IN**  
**THE REPUBLIC OF INDONESIA**

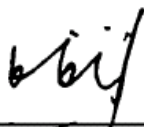
Agreed upon in Yogyakarta on May 29<sup>th</sup> 2007  
between



**Ir. (CES) Poedjastanto, DEA**  
Director for Drinking Water Supply  
Development  
Ministry of Public Works  
The Government of Indonesia



**Mr. Sakata Shokichi**  
Group Director  
Group III (Water Resources and Disaster  
Management)  
Global Environment Department,  
Japan International Cooperation Agency  
(JICA)



**Ir. Tri Harjun Ismaji M.Sc**  
Regional Secretary  
The Province of Special Region of  
Yogyakarta



**Mr. Mamiya Takemasa**  
Team Leader  
JICA Study Team

## MINUTES OF MEETING

Based on the agreements, the scope of work and Minutes of Meeting for "the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia" (hereinafter referred to as "the Study"), signed on July 11<sup>th</sup> 2006 between the Ministry of Public Works (hereinafter referred to as "DPU"), the Government of Indonesia and the Japan International Corporation Agency (hereinafter referred to as "JICA"), DPU, the Provincial Government of Special Region of Yogyakarta (hereinafter referred to as "DIY"), as the Counterpart Agencies for the Study, held the meetings concerning the scope of work of the Study with JICA, chaired by Ir. Tri Harjun Ismaji, M.Sc, Regional Secretary, DIY, on May 28<sup>th</sup> 2007. As a result of the meeting both side come to understanding concerning the matters referred to the below. The participants of the meeting are listed in the Attachment-1.

### 1. Background of the Study

- (1) Conditions of the Study by the original scope of work signed on July 11<sup>th</sup>, 2006

According to the agreed scope of work and minutes of meeting signed on July 11<sup>th</sup> 2006, the Study should be conducted based on information of DBOT Bulk Water Supply Project such as quality and quantity of the bulk water and its delivery points which are reservoirs in Yogyakarta Municipality and Regencies of Bantul and Sleman.

The JICA would prepare water supply development plan for Yogyakarta Municipality and Regencies of Bantul and Sleman based on such information as given conditions.

- (2) Phasing of the Study

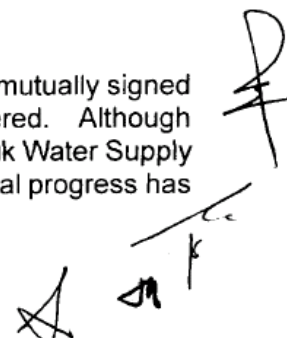
The Study was consisted of three phases such as Phase I: Formulation of Vision/Policy and Strategy, Phase II: Formulation of Master Plan, and Phase III: Formulation of Action Plan. The Phase I was already completed in the end of March 2007.

- (3) Current conditions of the Study

Although the JICA Study Team requested DIY for provision of information concerning the DBOT Bulk Water Supply Project during the Phase I of the Study, authorized information was not provided by the DIY.

### 2. Scope of Work of the Phase II of the Study

As recorded in the Minutes of Meeting on Progress Report No. 1 mutually signed on March 6<sup>th</sup>, 2007 in Yogyakarta, the Study has remained hampered. Although DIY made efforts and issued a letter regarding situation of the Bulk Water Supply Project to JICA on April 5, 2007 (Ref. No. 690/1242), no substantial progress has



been found about the issue.

Under such circumstances, JICA considers that the Phase II study should be limited and JICA, therefore, divided the Phase II of the Study into two parts, Part 1 and Part 2. The Part 1 of Phase II should be the following items because of the lack of the indispensable design information of the Bulk Water Supply Project:

- Future population and water demand forecast,
- Investigation on potential of groundwater source,
- NRW survey, and
- Evaluation of Emergency Pilot Projects.

These items were considered meaningful and being carried out regardless with progress of the Bulk Water Supply Project.

The JICA Study Team was dispatched to Indonesia from May 23, 2007 to conduct the study listed above as Part 1 of Phase II for about two months until the end of July 2007.

JICA stated that the scope of the Part 2 of Phase II for preparation of Master Plan could not be commenced under the current circumstances.

JICA also stated, in case that the necessary information such as the location/capacity of reservoirs and water quantity and quality of bulk water were not provided by Indonesian side, the Study would be regrettably terminated with the completion of the Part 1 of Phase II.

### **3. Conditions for Implementation of the Part 2 of Phase II Study**

Indonesian side requested to continue the Study including the Part 2 of Phase II and Phase III, and to prepare the most appropriate water distribution plan including allocation plan of reservoirs which receive bulk water. Indonesian side indicated the following conditions for the Study.

- Water source: Progo River
- Water quantity: quantity of bulk water is 1,000 l/sec
- Water quality: quality of the bulk water conforms to Indonesian drinking water quality standard
- Location of Treatment Plant: near Mataram Canal
- Alignment of clear water transmission pipe to reservoirs: along Mataram Canal

Replying to the proposal from Indonesian side, JICA mentioned that it would continue the further study as long as the following conditions were fulfilled.

- i) Outputs of the Study shall be utilized by DIY for water supply system

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'D' with a horizontal line through it, and the initials below it are 'AMF'.

development.

- ii) Ministry of Public Works and DIY shall indemnify and keep indemnified JICA and its Study Team against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of, or in relation to the execution of the Study.

Indonesian side agreed to these conditions i) and ii) mentioned above and would submit confirmation in writing for securing the above-mentioned conditions to JICA by July 25, 2007. As it was understood that the Agreement of the DBOT Bulk Water Supply Project prohibited participation of the third party related to the Bulk Water Supply Project, DIY promised to attach documents, which ensure the private contractor of the DBOT Bulk Water Supply Project has no objection to implementation of the Part 2 of Phase II by the JICA Study Team.

Both sides agreed that upon submission of the written confirmation by Indonesian side JICA would examine it in legal aspect.

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature is a stylized, cursive script, and the initials below it appear to be 'A', 'B', and 'C'.

**Attachment-1**

**List of Participants**

**[Indonesian side]**

Government of Indonesia, Ministry of Public Works

|                             |   |
|-----------------------------|---|
| Ir. Pudjastanto S. CES, DEA | Director for Drinking Water Development                                 |
| Ir. Amiruddin, CES          | Sub-director for Regional I, Directorate for Drinking Water Development |

Government of Yogyakarta Special Region

|                            |                    |
|----------------------------|--------------------|
| Ir. Tri Harjun Ismaji M.Sc | Regional Secretary |
|----------------------------|--------------------|

Dinas Kimpraswil

|                                    |                               |
|------------------------------------|-------------------------------|
| Ir. Bayudono, MSc                  | Director                      |
| Ir. Gatot Saptadi                  | Head of CIPTA KARYA           |
| Ir. Priyambodo, MT                 | Head of Planning, CIPTA KARYA |
| Drs. Purunomo Dwi Ariyanto, BE, MM | JICA Counterpart Team         |

**[Japanese side]**

JICA Tokyo Headquarters

|                     |  |
|---------------------|--|
| Mr. Sakata Shokichi | Group Director<br>Group III (Water Resources and Disaster Management),<br>Global Environmental Department, JICA                            |
| Mr. Masuda Shinichi | Water Resources and Disaster Management Team I, Group III (Water Resources and Disaster Management), Global Environmental Department, JICA |

JICA Study Team

|                         |  |
|-------------------------|--|
| Mr. Mamiya Takemasa     | Team Leader/Water Supply Planning<br>Nihon Suido Consultants Co., Ltd.   |
| Mr. Kobayashi Shinkichi | Co-Team Leader / Water Supply Facility Planning I (Pipeline) / Implementation and Evaluation of Pilot Project I<br>Nihon Suido Consultants Co., Ltd. |
| Ms. Nakamura Megumi     | Study Coordinator<br>Nihon Suido Consultants Co., Ltd.   |

Attachment - 1





Appendix 1.7 Letter from DIY to JICA, Ref. No. 019/06663, Dated July 23, 2007



PROVINCIAL GOVERNMENT OF YOGYAKARTA SPECIAL REGION

Kepatihan Danurejan Yogyakarta 55213, INDONESIA  
Phone : +62-274-512655, 512243, 562811, Fax.: +62-274-588613

---

Yogyakarta, July 23rd, 2007  
Our ref : 019/06663.....

President Director  
Japan International Cooperation Agency (JICA)  
Att. Mr. Sakata Shokichi  
Global Environment Department  
TOKYO

Ref : The Study on Regional Water Supply Development Plan for Greater Yogyakarta

Dear Sir,

Refer to the Minutes of Meeting concerning with the Scope of Work of the Study on Regional Water Supply Development Plan for Greater Yogyakarta on May 29th, 2007. May I herewith inform you that The Provincial Government of Yogyakarta Special Region has conducted a meeting with the DBOT Investor (PT. Citra Tirta Mataram, PT-CTM) on July 16th, 2007 to solve the problem concerning with the follow up of the DBOT investment (see attached Minute of Meeting). Several conclusions were achieved, among others;

1. The present condition, especially after the earthquake, is not conducive to proceed the DBOT Agreement. Both parties have a similar perception to cease the project and expected to find most possible way to settle down the agreement.
2. The authorized working are for the DBOT project is from the water resources up to the planned reservoir, and PT-CTM have no objection if any other party conduct a study or develop a project outside their working area.

I would like also to ensure you that the Provincial Government of Yogyakarta Special Region will implement the result of JICA Study of Regional Water Supply Development Plan for Greater Yogyakarta to develop a water supply infrastructure system. Besides, I also ensure that there will be no claim from other party to JICA and JICA Study Team concerning with the implementation of The Study on Regional Water Supply Development Plan for Greater Yogyakarta.

Thank You for your kind attention.

Yours sincerely,



*Tri Harjuna Ismaji*  
Tri Harjuna Ismaji  
Regional Secretary  
Provincial Government of Yogyakarta Special Region

## NOTULEN PERTEMUAN

Hari/tanggal : Senin, 16 Juli 2007.  
Waktu : 13.15 – 14.35 wib  
Tempat : Ruang Rapat Kantor Perwakilan Daerah  
Provinsi DIY Jl. Diponegoro No.52 Menteng  
Jakarta Pusat  
Pokok bahasan : **Pembahasan kontrak *DBOT* antara Pemda  
DIY dengan PT Citra Tirta Mataram  
tentang Penyediaan Air Minum Perkotaan  
Yogyakarta**  
Penyelenggara : **Biro Kerjasama Setda Provinsi DIY**

Sesuai dengan undangan Sekretaris Daerah Provinsi DIY Nomor 119/2669 tanggal 11 Juli 2007, pada hari ini Senin tanggal 16 Juli 2007 diadakan rapat koordinasi yang membahas permasalahan *DBOT Agreement* antara Pemda DIY dengan PT Citra Tirta Mataram tentang Penyediaan Air Minum Perkotaan Yogyakarta.

Rapat dihadiri oleh :

1. Sekretaris Daerah Provinsi DIY
2. Kepala Bappeda Provinsi DIY
3. Kepala Dinas Kimpraswil Provinsi DIY
4. Kepala Biro Kerjasama Setda Provinsi DIY
5. Kepala Biro Hukum Setda Provinsi DIY
6. Kabag. Kerjasama Dalam Negeri Biro Kerjasama Setda Provinsi DIY
7. Sdr. Purnomo Dwi Ariyanto, Staf Dinas Kimpraswil Provinsi DIY
8. PT Citra Tirta Mataram
  - Suratman - Direktur
  - Agusmir - Staf

( Daftar hadir terlampir )

Rapat dipimpin Sekda Provinsi DIY ( Ir. Tri Harjun Ismaji, MSc ), pada awal pertemuan dikenalkan peserta rapat dari Pemerintah Provinsi DIY yang hadir dan kondisi DIY pada saat ini khususnya pasca gempa bumi,

Berkaitan dengan pertemuan pada hari ini disampaikan latar belakang kerjasama *DBOT Agreement* antara Pemda DIY dengan PT Citra Tirta Mataram ( PT CTM ) untuk Penyediaan Air Minum Perkotaan Yogyakarta dan perjalanan sampai dengan pada saat ini adalah antara lain :

1. Dalam rangka pemenuhan kebutuhan air minum di wilayah perkotaan Yogyakarta ( Kota Yogyakarta, Kabupaten Sleman dan Kabupaten Bantul ) sampai dengan tahun 2020 diperlukan air baku lebih kurang sebesar 2.000 liter/detik.

2. Pada bulan Januari 2005 Bapak Gubernur telah menanda tangani Design, Buliding, Operete & Transfer ( DBOT ) Agreement dengan PT. CTM, dalam 2 ( dua ) bahasa Inggris-Indonesia.
3. Penyediaan Air Baku pada awalnya direncanakan diambil dari beberapa mata air di wilayah Kabupaten Magelang Provinsi Jawa Tengah, dan dikarenakan Pemda Magelang ditunggu hampir 1,5 tahun belum memberikan tanggapan, maka Pemerintah DIY merencanakan mengganti sumber air baku program ini dari Sungai Progo.
4. Rencana kerjasama tersebut PT CTM akan menyediakan air dengan kualitas air minum sampai dengan Reservoir, dan ketiga PDAM akan meneruskan/mendistribusikan ke pelanggan.
5. Disampaikan kerjasama DBOT Agreement tersebut diatas masih ditemukan beberapa kelemahan dan kekurangan hal-hal teknis, non teknis, dan hal –hal lain yang masih harus diselesaikan.
6. Hal-hal tersebut diantaranya adalah :
  - Sesuai ketentuan peraturan - perundangan antara lain Keppres No. 7 Tahun 1998, Perpres No. 67 tahun 2005 kerjasama tersebut seharusnya diadakan pelelangan.
  - Sesuai dengan undang-undang No. 32 Tahun 2004 tentang Otonomi daerah, mensyaratkan apabila Pemda akan bekerja sama dengan pihak lain harus mendapat persetujuan DPR-D yang hal ini belum dilakukan
  - Masih diperlukan dukungan pihak lain untuk mendukung kerjasama untuk penyediaan air minum ini antara lain : Pemda Kota/Kabupaten, Pemda Kabupaten Magelang, Pemegang kewenangan sumber air, Masyarakat pengguna air irigasi serta PDAM mengenai pertselujan tarif.
  - Dam beberapa hal teknis lain yang harus dielesaikan seperti tersedianya DED, Dukumen AMDAL, penyiapan sistem perpipaam interkoneksi ke jaringan PDAM, dan lain-lain.

Disampaikan untuk penyelesaian hal tersebut diatas, ada yang dapat ditangani oleh pihak Pemda Provinsi DIY ataupun PT CTM dan ada pula yang harus melibatkan pihak terkait lainnya.
7. Dalam perjalanan pelaksanaan DBOT Agreement juga ditemui kedua belah pihak baik Pemprov DIY maupun PT CTM belum memenuhi beberapa kewajiban yang menjadi tanggungjawabnya masing-masing.
8. Ditegaskan bahwa kebutuhan air minum di Provinsi DIY khususnya diwilayah perkotaan dinilai mendesak untuk segera ditangani.
9. Berkaitan dengan hal-hal tersebut kedepan dan untuk mengantisipasi kekurangan/kelemahan kerjasama tersebut :
  - a) Harus segera dicarikan jalan keluarnya.
  - b) Kalau masih ada hal-hal-hal yang dapat diselesaikan bersama mari kita selesaikan termasuk menanggapi dan mengkomunikasikan hal-hal sesuai dengan surat PT CTM tanggal 15 Januari 2007 ( 4 point )

- c) Pemda Provinsi DIY juga akan meminta bantuan Pemerintah Pusat, apabila ada hal-hal yang tidak bisa ditangani.
- d) Yang penting kita pahami bersama, apabila kita semua mengetahui/ menemukan hal yang tidak sesuai dengan peraturan perundangan, apakah kita berani untuk melanjutkan kerjasama ini.

**Tambahan penjelasan :**

Kepala Dinas Kimpraswil Provinsi DIY ( Ir. Bayudono, MSc ) :

1. Dengan kekurangan dan kelemahan yang telah ditemukan tersebut baik teknis maupun non teknis, antara lain mengenai pelelangan untuk memenuhi peraturan perundangan yang ada, persetujuan tarif dari PDAM, kiranya harus dicarikan jalan keluar sesegera mungkin karena masyarakat telah memerlukan air minum.
2. Masih diperlukan pemahaman tentang dukungan masyarakat mengenai tarif air minum. Sangat sulit dengan kondisi pada saat ini bila tarif masih harus dibahas dengan DPR-D yang belum sepaham tentang penyediaan air minum untuk masyarakat khususnya mengenai tarif.
3. Apakah PT CTM mempunyai pengalaman tentang hal tersebut diatas.
4. Diperlukan penjelasan secara konkrit dari PT Citra Tirta Mataram, agar masalah dapat segera diselesaikan.

Kepala Biro Hukum Setda Provinsi DIY ( Agung S, SH.Mhum. ) :

1. Secara hukum dari perjanjian DBOT Agreement tersebut yang masih ditemukan beberapa kelemahan.
2. Selain itu ada beberapa kewajiban dari kedua belah pihak belum dipenuhi.

**Tanggapan dari PT Citra Tirta Mataram**

( Suratman – Direktur )

- a) Terkait dengan kerjasama DBOT Agreement antara Pemda Provinsi DIY dengan PT CTM yang sempat tertunda begitu lama pihak PT CTM sempat merasa bingung, selain pihak PT CTM juga memahami kondisi dan situasi pada saat ini di Provinsi DIY khususnya kondisi pasca gempa bumi.
- b) Disampaikan proposal yang pernah dikirim ke Pemda DIY pada waktu itu ( tahun 2005 ), pada saat ini telah tidak sesuai lagi dan dipastikan tidak dapat berjalan mengingat perubahan kondisi khususnya perubahan harga disemua komponen. Sehingga diperkirakan apabila kerjasama tersebut diteruskan masih harus diadakan perhitungan ulang dan dipastikan akan berpengaruh berubah /bertambahnya biaya investasi.
- c) Masih diperlukan tanggapan keseriusan atas kerjasama ini dari pihak-pihak terkait antara lain : Pemda Kota/Kabupate, PDAM dan Instansi pemberi ijin air baku.

- d) Selain dari hal-hal tersebut diatas untuk meneruskan kerjasama tersebut yang terpenting adalah kapasitas air baku yang diperkenankan dan persetujuan harga jula ( tarif ) dari PDAM.
- e) PT Citra Tirta Mataram minta komunikasi ini dapat berjalan kembali untuk mencari jalan keluar yang terbaik dan memerlukan surat tanggapan dari Pemda DIY dalam rangka membuat laporan kepada owner ( PT. Boustead Singapore Ltd. ).
- f) PT CTM juga sependapat untuk diadakan kajian ulang dalam rangka mengambil keputusan konkrit tindak lanjut kerjasama DBOT Agreement ini.

Hal-hal lain yang dibahas dalam pertemuan :

- o Akan diadakan kajian ulang mengenai hal-hal teknis antara lain sumber air baku maupun alternatif sumber lain yang memungkinkan.
- o Diperlukan apresiasi dan mungkin PT CTM mempunyai pengalaman di daerah lain dalam dan luar Indonesia, yang dapat dijadikan acuan untuk penyelesaian masalah tersebut.
- o Dimahami bersama bahwa harga yang ditawarkan dulu sudah tidak dapat dilaksanakan lagi dengan kondisi situasi pada saat ini.
- o Perlu diadakan inventarisasi lebih cermat lagi mengenai hal teknis dan non teknis ( khususnya peraturan dan perundangan ) yang berlaku.
- o Dijelaskan secara konkrit batasan pekerjaan yang dilaksanakan oleh PT Citra Tirta Mataram yaitu menyediakan air kualitas air minum sampai di reservoir PDAM sedangkan PDAM menyalurkan air sampai dengan konsumen. Sedangkan untuk menyalurkan ke sistem perpipaan PDAM masih diperlukan perpipaan interkoneksi agar air dapat bermanfaat dan hal ini akan dibantu pemerintah.
- o Pemda DIY dan PT CTM sepakat segera akan mengadakan pertemuan kembali untuk menyelesaikan masalah/kendala yang timbul sesegera mungkin baik di Yogyakarta maupun di Jakarta.

KESIMPULAN PERTEMUAN :

1. Kedua belah pihak ( Pemda Provinsi DIY maupun PT CTM ) akan mengadakan Inventarisasi permasalahan yang timbul atas tindak lanjut pelaksanaan DBOT Agreement untuk mencari jalan keluar dan penyelesaiannya.
2. PT Citra Tirta Mataram memahami kondisi dan situasi DIY khususnya setelah peristiwa gempa bumi yang terjadi di DIY
3. PT Citra Tirta Mataram tidak mempersoalkan apabila Pemda Provinsi DIY akan bekerjasama dengan pihak lain diluar skop kegiatan yang dikerjasamakan untuk melengkapi hal-hal teknis sistem penyediaan air minum perkotaan Yogyakarta dimaksud.
4. Akan diadakan komunikasi yang lebih intensif untuk menyelesaikan secara konkrit atas permasalahan yang timbul dari kerjasama DBOT tersebut diatas.

5. Agar pertemuan dicapai hasil yang maksimal perlu disiapkan hal-hal penting antara lain :
  - o Tanggapan Pemda Kota/Kabupaten dan PDAM untuk tindak lanjut kerjasama dimaksud.
  - o Tanggapan PDAM atas perhitungan tarif yang pernah ditawarkan oleh PT Citra Tirta Mataram melalui Pemda Provinsi DIY.
  - o Kepastian dari Instansi berwenang mengenai perijinan sumber air baku.
  - o Apresiasi dan usulan penyelesaian permasalahan khususnya hal-hal kelemahan yang ditemui terkait dengan perturan & perundangan yang berlaku.
6. Akan diadakan pertemuan kembali dalam waktu yang tidak terlalu lama di Jakarta, setelah kedua belah pihak mempunyai acuan usulan penyelesaian dan jalan keluar untuk mengambil langkah-langkah konkrit kerjasama dimaksud

Demikian untuk menjadikan periksa dan atas perhatian Bapak/Ibu kami mengucapkan terima kasih.

Hormat saya,

Yang membuat :



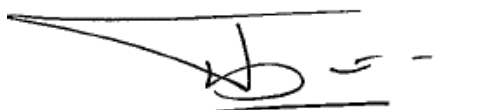
Punomo Dwi Ariyanto

**Appendix 1.8 Minutes of Meeting on Draft Technical Report for the Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia, February 14<sup>th</sup>, 2007**

**MINUTES OF MEETING  
ON  
DRAFT TECHNICAL REPORT**

**THE STUDY  
ON  
REGIONAL WATER SUPPLY DEVELOPMENT PLAN FOR  
GREATER YOGYAKARTA  
IN  
THE REPUBLIC OF INDONESIA**

Agreed upon in Yogyakarta on February 14<sup>th</sup> 2008  
between



**Ir. Tamin M. Zakaria Amin, M.Sc**  
Director of Water Supply Development  
Ministry of Public Works  
The Government of Indonesia



**Mr. Omura Yoshiki**  
Chairman of JICA Advisory Committee  
Senior Advisor  
Institute for International Cooperation  
Japan International Cooperation Agency



**Ir. Tri Harjun Ismaji M.Sc**  
Regional Secretary  
The Province of Special Region of  
Yogyakarta



**Mr. Mamiya Takemasa**  
Team Leader  
JICA Study Team

## MINUTES OF MEETING

Based on the scope of work and the minutes of meeting signed on July 11<sup>th</sup>, 2006 for the "Study on Regional Water Supply Development Plan for Greater Yogyakarta in the Republic of Indonesia" (hereinafter referred to as "the Study"), the Ministry of Public Works, Department of Public Works, the Provincial Government of Special Region of Yogyakarta (hereinafter referred to as "DIY) and the Japan International Cooperation Agency (hereinafter referred to as "JICA) held a steering committee on the outputs of Part 1 of Phase II of the Study chaired by Ir. Tri Harjun Ismaji, MSc, Regional Secretary, DIY, on February 13<sup>th</sup>, 2008. Those present to the steering committee are listed in Attachment - 1. The following are conclusions of the committee:

### 1. Acceptance of the Report

The Team handed over to the Indonesian side the Draft Technical Report of both English and Indonesian versions, which described and summarized outputs of Phase I and Part 1 of Phase II of the Study. The Team explained the main contents of the report in the workshop preceding the steering committee on the same day. As the conclusion of the steering committee, the draft technical report was accepted in principle by the Indonesian side, and the Team will finalize the report reflecting those comments made during the workshop and steering committee. The final report will be handed over by the JICA Indonesia Office in April 2008.

### 2. Completion of the Study

JICA explained that the Study will be regrettably concluded with completion of Part 1 of Phase II of the Study as defined in the minutes of meeting agreed upon on May 29<sup>th</sup>, 2007. JICA also explained that the Study could not be proceeded for preparation of Master Plan because a written confirmation fulfilling conditions for continuation of the study, which was also agreed on May 29<sup>th</sup>, 2007, has not regrettably been submitted.

Indonesian side understood the situation and will accept the Technical Report as an official final output of the Study after finalization reflecting comments made.

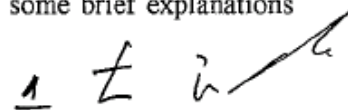
### 3. Comments on the Draft Technical Report

Indonesian side requested to conduct additional study listed below and to include the results into the Final Technical Report:

- Comparative study on several raw water sources,
- Comparative study on options/cases on institutional arrangements including advantages and disadvantages analysis, and
- Improvement of sanitation system.

JICA and the Team replied that original scope of work of the Study, which was agreed on July 11<sup>th</sup>, 2006 did not include study on raw water sources; therefore, JICA and the Team will not conduct comparative study on raw water sources.

Regarding institutional arrangement, the Team agreed to add some brief explanations for each case/option in the Final Report.





JICA and the Team stated that the comparative study regarding institutional arrangements and improvement of sanitation system would be conducted in the course of preparation of Master Plan in future.

1 t s /

**Attachment-1**

**List of Participants**

[Indonesian side]

Government of Indonesia, Ministry of Public Works

|                                 |   |
|---------------------------------|---|
| Ir. Tamin M. Zakaria Amin, M.Sc | Director of Water Supply Development                            |
| Ir. Alex Abdi Chalik, M.T       | Head of Sub Directorate of<br>Water Supply Investment           |
| Ir. Fatwan Tanjung, M.T         | Head of Sub Directorate Development Region I of<br>Water Supply |
| Ir. Amiruddin, CES              | Secretary of Technical Team, Study of RWSDGY                    |

Government of Yogyakarta Special Region

|   |  |
|---|--|
| Ir. Tri Harjun Ismaji M.Sc                | Regional Secretary                           |
| Dra. Suhartuti Soetopo APth,<br>MApp, Sc. | Deputy for Facility and Investment           |
| Mr. Nur Syahrir Rahardjo                  | Head of Bureau of Cooperation                |
| Ir. Herry Lancono, CES                    | Head of Infrastructure Section of BAPEDA DIY |

Dinas Kimpraswil

|                                       |  |
|---------------------------------------|--|
| Ir. Bayudono, M.Sc                    | Head of Dinas Kimpraswil DIY Province                                      |
| Ir. Rani Fauzi, M.T                   | Head of Sub Dinas Program, Kimpraswil DIY<br>Province                      |
| Ir. Gatot Saptadi                     | Head of Sub Dinas Cipta Karya, Kimpraswil DIY<br>Province                  |
| Ir. Nono Cahyono Dipl, SE, M.T        | Head of Planning Department, Sub Dinas<br>Program, Kimpraswil DIY Province |
| Drs. Purnomo Dwi Ariyanto,<br>BE, M.M | Counterpart of JICA Study Team, RWSDGY                                     |

Yogyakarta Municipality

|                           |               |
|---------------------------|---------------|
| Ir. Hari Setyowacono, M.T | Bappeda       |
| Ir. Eko Suryo, M.T        | PU Yogyakarta |

Sleman Regency

|                          |               |
|--------------------------|---------------|
| Ir. Dwi Anto Sudiby, M.T | BAPEDA Sleman |
| Ir. Mirza Anfansory, M.T | PU Sleman     |

Bantul Regency

|                              |           |
|------------------------------|-----------|
| Drs. Riantiarno, M.Si        | Bappeda   |
| Drs. Supriyanto Widodo, M.Si | Bappeda   |
| Drs. Supratomo, M.M          | PU Bantul |

PDAM

|                         |                 |
|-------------------------|-----------------|
| Drs. Imam Priyono, M.Si | PDAM Yogyakarta |
| Agus Tri, ST            | PDAM Yogyakarta |
| Ir. Suratno             | PDAM Sleman     |
| Ir. Achadi Budi C. M.Si | PDAM Sleman     |
| Ir. Agung Darmadi       | PDAM Bantul     |
| Drs. Yudi Indarto, M.Si | PDAM Bantul     |
| Sukardiyono, SH         | PDAM Bantul     |

Attachment - 1

**【Japanese side】**

JICA Tokyo Headquarters

Mr. Omura Yoshiaki

Mr. Masuda Shinichi

Chairman of JICA Advisory Committee  
Senior Advisor  
Institute for International Cooperation, JICA  
Water Resources and Disaster Management  
Team I, Group III (Water Resources and  
Disaster Management), Global Environmental  
Department, JICA

JICA Study Team

Mr. Mamiya Takemasa

Mr. Kobayashi Shinkichi

Mr. Mori Nobuhiro

Mr. Kawamura Tetsuji

Team Leader/Water Supply Planning  
Co-Team Leader / Water Supply Facility  
Planning 1 (Pipeline) / Implementation and  
Evaluation of Pilot Project 1  
Water Policy and Administration  
Community Water Supply

*n t i*

## **Appendix for Chapter 3**

- Appendix 3.1**      **Republic of Indonesia Number 7 of 2004 Concerning Water Resources**
- Appendix 3.2**      **President Regulation Number 42, Year 2005 Concerning National Committee for the Acceleration of Infrastructure Provision Policy**
- Appendix 3.3**      **Presidential Regulation of the Republic of Indonesia Number 67 of 2005 Concerning the Cooperation between the Government and the Business Entities in the Provision of Infrastructure**
- Appendix 3.4**      **Regulation of the President of the Republic of Indonesia Number 36 Year 2005 Concerning Land Procurement for Implementation of Development for Public Interest**
- Appendix 3.5**      **Minister of Finance of the Republic of Indonesia Extract Regulation of the Minister of Finance Number 38/Pmk.01/2006 Concerning Procedural Instructions for Risk Control and Management in Provision of Infrastructure**
- Appendix 3.6**      **Decision of the Coordinating Minister for Economic Affairs as Head of the National Committee for the Acceleration of Infrastructure Provision Number: Kep-01/M.Ekon/05/2006 Concerning Organization and Working Procedures of National Committee for the Acceleration of Infrastructure Provision**
- Appendix 3.7**      **Coordinating Minister for Economic Affairs Regulation as Head of the National Committee for the Acceleration of Infrastructure Provision Number PER-03/M.EKON/06/2006**
- Appendix 3.8**      **Regulation of the Coordinating Minister for Economic Affairs as Head of the National Committee for the Acceleration of Infrastructure Provision Number: Per-04/M.Ekon/06/2006 Concerning Procedures for Evaluation of Public Private Projects in the Provision of Infrastructure Which Require Government Support**

**Appendix 3.1      Republic of Indonesia Number 7 of 2004 Concerning Water Resources**

Source:

[http://air.bappenas.go.id/modules/doc/pdf\\_download.php?prm\\_download\\_id=49  
&sbf=21&prm\\_download\\_table=15&PHPSESSID=8148f11697a2dc745117f2cd4  
b22b17f](http://air.bappenas.go.id/modules/doc/pdf_download.php?prm_download_id=49&sbf=21&prm_download_table=15&PHPSESSID=8148f11697a2dc745117f2cd4b22b17f)

LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 7 OF 2004  
CONCERNING

**WATER RESOURCES**

WITH THE GRACE OF THE ALMIGHTY GOD  
PRESIDENT OF THE REPUBLIC OF INDONESIA

Considering :

- a. whereas water resource is a gift from the Almighty God that provides benefit for the welfare of the entire people of Indonesia in all sectors;
- b. whereas in order to respond to the imbalance between the availability of water that tends to continue to decrease and the need for water that continues to increase, water resources must be managed by observing the harmony between the social, environmental and economic functions;
- c. whereas it is important to provide guidance for water resources management to achieve synergy and a harmonious integration among the regions, among the sectors, and among the generations;
- d. whereas in accordance with the spirit of democratization, decentralization, and transparency within the social, civic, and governance system, it is important that the community be given a role in the management of water resources;
- e. whereas Law Number 11 of 1974 concerning Irrigation no longer conforms to the growing needs, and changes in the life of the community, thus it needs to be replaced with a new law;
- f. whereas based on the consideration as referred to under points a, b, c, d, and e, it is necessary to establish a law concerning water resources;

Bearing in mind : Article 5 paragraph (1), Article 18, Article 18A, Article 20 paragraph (2), Article 22 point D paragraph (1), paragraph (2), paragraph (3), Article 33 paragraph (3) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia;

With the Joint Approval of  
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA AND  
THE PRESIDEN REPUBLIC OF INDONESIA  
DECIDED:

To promulgate : LAW ON WATER RESOURCES.

CHAPTER I  
GENERAL PROVISIONS

Article 1

Reference to the following under this law shall mean:

1. Water resources shall mean water, water source, and water force contained in it.
2. Water shall mean all water present in, above, or under the ground's surface, this definition comprises surface water, ground water, rain water, and sea water that exist on land.
3. Surface Water shall mean all water that exists on the ground surface.
4. Ground Water shall mean water that exists in the ground surface or the rocks under the ground's surface.
5. Water Source shall mean the natural and/or artificial place or container for water that exists at, above, or under the ground surface.
6. Water Force shall mean the potential contained in water and/or in the water source that is able to provide benefits or generate losses for the life and livelihood of human as well as their environment.

7. Water Resources Management shall mean the effort of planning, implementation, observation, and evaluation in regard to the conservation of water resources, exploitation of the water resources, and the control of the destructive force of water.
8. Water Resources Management Scheme shall mean the basis framework in planning, implementing, observing, and evaluating the conservation of water resources, exploitation of the water resources, and the control of the destructive force of water.
9. Water Resources Management Plan shall mean the result of a comprehensive and integrated planning that is necessary to manage the water resources.
10. River Area shall mean the integrated water resources management area in one or more river flow areas and/or small islands having an acreage that is less or the same as 2.000 km<sup>2</sup>.
11. River Flow Area shall mean a land area that constitutes an integral part of the river and the river branches, which serve a function to accommodate, store, and flow water that originated from the rainfall into the lake or the sea in a natural manner, of which on land boundary serves as a topographic divider and the sea boundary up to the water area is still affected by the on land activities.
12. Ground Water Curvature shall mean an area that is constrained by hydrogeological borders, where the entire hydrogeological event such as the supplemental, flow, and discharge process of the ground water takes place.
13. Water usage right shall mean the right to obtain and use or exploit water for various needs.
14. Water utilization right shall mean the right to obtain and use water.
15. Water exploitation right shall mean the right to obtain and exploit water.
16. Regional government shall mean the head of the region along with other instruments of the autonomous region as the regional executive body.
17. Central Government, hereinafter referred to as the Government, shall mean the instrument of the Republic of Indonesia consisting of the President and the ministers.
18. Water resources conservation shall mean the effort to maintain the existence as well as the sustainability of the circumstance, nature, and function of the water resources so as it will continue to be available in a sufficient quantity and quality to meet the needs of living beings, either at the present time or in the future.
19. Utilization of water resources shall mean the effort to regulate order, provide, utilize, develop, and exploitation of water resources in an optimum manner so as it can function effectively and efficiently.
20. Control the destructive force of water shall mean the effort to prevent, overcome, and restore the damage to the environmental quality due to the destructive force of water.
21. Destructive force of water shall mean the water force that may have a detrimental impact on life.
22. Planning shall mean an activity process to determine the action to be taken in a coordinated and directed manner within the framework of achieving the objectives of the water resources management.
23. Operation shall mean the regulation, allocation as well as the provision of water and water source to optimize the utilization of the water resources infrastructure.
24. Maintenance shall mean the maintenance of the water source and water resources infrastructure aimed to guarantee the preservation of the function of the water source and water resources infrastructure.
25. Water resources infrastructure shall mean the water construction and other constructions that support the management of water resources management, either directly or indirectly.
26. Manager of water resources shall mean the institution authorized to manage the water resources.

Article 2

Water resources shall be managed based on the principle of conservation, balance, public benefit, integrity and harmony, justice, independence, as well as transparency and accountability.

Article 3

Water resources shall be managed in a comprehensive, integrated, and environmentally friendly manner with the aim to realize the benefits of water resources in a sustainable manner for the greater welfare of the people.

#### Article 4

Water resources shall serve a social, environmental, and economic function that will be implemented and realized in a harmonious manner.

#### Article 5

The State guarantees everyone's right to obtain water for their minimum daily basic needs in order to achieve a healthy, clean, and productive life.

#### Article 6

- (1) Water resources shall be controlled by the state and used for the greater welfare of the people.
- (2) The management of water resources as referred to in paragraph (1) shall be carried out by the Government and/or regional government by continuing to recognize the traditional right of the local traditional law community and any similar rights, to the extent that it does not contradict the national interest as well as the laws and regulations.
- (3) Traditional right of the traditional law community over water resources as referred to in paragraph (2) shall continue to be recognized to the extent that it still exists and has been affirmed with the local regional regulations.
- (4) The water utilization right shall be determined based on the state's authorities as referred to in paragraph (1).

#### Article 7

- (1) Water utilization right as referred to in Article 6 paragraph (4) shall take the form of water utilization right and water exploitation right.
- (2) Water utilization right as referred to in paragraph (1) may not be leased or assigned, partially or entirely.

#### Article 8

- (1) Water utilization right may be obtained without any permit in order to fulfill the daily basic needs for individuals and for smallholder estate crops within the irrigation system.
- (2) Water utilization right as referred to in paragraph (1) shall require permit in the event that:
  - a. the method of utilization is carried out by changing the natural condition of the water source;
  - b. is aimed for the interests of a group that requires a significant amount of water; or
  - c. is used for smallholder estate crops outside of the existing irrigation system.
- (3) Permit as referred to in paragraph (2) shall be granted by the Government or regional government in accordance to their authorities.
- (4) Water utilization right as referred to in paragraph (1) shall comprise the right to flow water from or to their land through another person's land that lies adjacent to their land.

#### Article 9

- (1) Water exploitation right may be given to individuals or enterprises pursuant to the permit from the Government or regional government in accordance to their authorities.
- (2) Holder of the water exploitation right may flow water above another person's and based on the approval from the holder of rights over the relevant land.
- (3) The approval as referred to in paragraph (2) may take the form of indemnity or compensation agreement.

#### Article 10

Provisions concerning the right to use water as referred to in Article 7, Article 8, and Article 9 shall be further regulated under a government regulation.

#### Article 11

- (1) To guarantee a water resources management that is able to provide benefits for the greater interest of the community in all sectors of life, a water resources management scheme shall be prepared.
- (2) The water resources management scheme as referred to in paragraph (1) shall be prepared based on the river area under the principle of integrity between the surface water and ground water.
- (3) The preparation of the water resources management scheme as referred to in paragraph (2) shall be carried out by involving the participation of the community and the business circle as much as possible.
- (4) Water resources management scheme shall be based on the principle of balance between the effort to conserve and exploit the water resources.
- (5) Provisions concerning the water resources management scheme as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 12

- (1) The management of surface water shall be based on the river area.
- (2) The management of ground water shall be based on the ground water curvature.
- (3) Provisions concerning the management of surface water and the management of ground water as referred to in paragraph (1) and paragraph (2) shall be further regulated under a government regulation.

### CHAPTER II AUTHORITIES AND RESPONSIBILITIES

#### Article 13

- (1) The river area and the ground water curvature as referred to in Article 12 paragraph (1) and paragraph (2) shall be stipulated under a Presidential Decree.
- (2) The president shall determine the river area and the ground water curvature as referred to in paragraph (1) by observing the considerations of the National Council of Water Resources.
- (3) The stipulation of the river area as referred to in paragraph (1) shall comprise the river area in one regency/municipality, trans regency/municipality river area, trans provincial river area, trans national river area, and nationally strategic river area.
- (4) The stipulation of the ground water curvature as referred to in paragraph (1) comprises the ground water curvature in one regency/municipality, trans regency/municipality ground water curvature, trans provincial ground water curvature, and trans national ground water curvature.
- (5) Provisions concerning the criteria and procedure to determine the river area and the ground water curvature shall be further regulated under a government regulation.

#### Article 14

The authorities and responsibilities of the Government shall comprise of:

- a. determining the national policy on water resources;
- b. determining water resources management scheme at the provincial river area, trans national river area, and nationally strategic river area;
- c. stipulating the water resources management plan in the trans provincial river area, trans national

river area, and nationally strategic river area;

- d. stipulating and managing the water source conservation area at the trans provincial river area, trans national river area, and nationally strategic river area;
- e. managing the water resources in the trans provincial river area, trans national river area, and nationally strategic river area;
- f. regulating, stipulating, and granting permit for the provision, designation, utilization, and exploitation of the water resources in the trans provincial river area, trans national river area, and nationally strategic river area;
- g. regulating, stipulating, and providing technical recommendation for the provision, designation, utilization and exploitation of ground water in the trans provincial ground water curvature and trans national ground water curvature;
- h. to establish a National Council of Water Resources, water resources council for the trans provincial river area, and the water resources council for the nationally strategic river area;
- i. to facilitate the settlement of trans provincial disputes in the management of water resources;
- j. stipulating the norm, standard, criteria, and guidance in regard to managing the water resources;
- k. to maintain the effectiveness, efficiency, quality, and order in the management of water resources at the trans provincial river area, trans national river area, and nationally strategic river area; and
- l. to provide technical assistance in the management of water resources to the provincial government and the regencies/municipal government.

#### Article 15

The authorities and the responsibilities of the provincial government shall comprise of:

- a. stipulating policies in managing the water resources in its area based on the national policies on water resources by observing the interests of the surrounding provinces;
- b. stipulating the water resources management scheme for the trans regency/municipality river area;
- c. stipulating the water resources management plan for the trans regency/municipality river area by observing the interests of the surrounding provinces;
- d. stipulating and managing the water source conservation area at the trans regency/municipality river area;
- e. managing the water resources in the trans regency/municipality river area by observing the interests of the surrounding provinces;
- f. regulating, stipulating, and to grant permits for the provision, designation, utilization and exploitation of water resources in the trans regency/municipality river area;
- g. regulating, stipulating, and providing technical recommendation for the provision, acquisition, designation, utilization and exploitation of the ground water in the trans regency/municipality ground water curvature;
- h. to establish a water resources council for or under another name at the provincial level and/or in the trans regency/municipality river area;
- i. to facilitate the settlement of trans regency/municipality disputes in managing the water resources;
- j. to assist the regency/municipality within its area in fulfilling the basic needs of the community for water;
- k. to maintain the effectiveness, efficiency, quality, and order in managing the water resources in the trans regency/municipality river area; and
- l. to provide technical assistance in managing the water resources to the regencies/municipal government.

#### Article 16

The authorities and responsibilities of the regencies/municipal government shall comprise of:

- a. stipulating the policies in managing the water resources in its area pursuant to the national policy

on water resources and the policy in managing the provincial water resources by observing the interests of the surrounding regencies/municipalities;

- b. stipulating the water resources management scheme in the river area in a regency/municipality;
- c. stipulating the water resources management plan in a river area within one regency/municipality by observing the interests of the surrounding regencies/municipalities;
- d. stipulating and managing the water source conservation area in the river area within one regency/municipality;
- e. managing the water resources in the river area within one regency/municipality by observing the interests of the surrounding regencies/municipalities;
- f. regulating, stipulating, and to grant permits for the provision, designation, utilization and exploitation of ground water in its area as well as the water resources in the river area within one regency/municipality;
- g. to establish the water resources council for or under another name at the regency/municipality level and/or in the river area within one regency/municipality;
- h. to fulfill the minimum daily basic need for water of the community in its area; and
- i. to maintain effectiveness, efficiency, quality, and order in managing the water resources in the river area within one regency/municipality.

#### Article 17

The authorities and responsibilities of the government of villages or as referred to under another name shall comprise of:

- a. the management of water resources in the village areas that have not been carried out by its community and/or government by considering the principle of public benefit;
- b. to maintain effectiveness, efficiency, quality, and order in managing the water resources order in managing the water resources under its responsibility;
- c. to fulfill minimum daily basic need of the village residents for water in accordance to the existing availability of water; and
- d. to observe the interests of other villages in managing the water resources in its area.

#### Article 18

Part of the authorities of the Government in managing the water resources as referred to in Article 14 may be carried out by the regional government in accordance to the laws and regulations.

#### Article 19

- (1) In the event the regional government has not been able to implement part of their authorities as referred to in Article 15 and Article 16, the regional government may delegate the said authorities to the government level above it in accordance to the laws and regulations.
- (2) The implementation of part of the authorities of the regional government to manage the water resources as referred to in Article 15 and Article 16 must be acquired by the government level above it in the event:
  - a. the regional government is unable to implement part of the authorities to manage the water resources so as to endanger the public interest; and/or
  - b. in the event of a trans provincial or trans regency/municipality dispute.

### CHAPTER III CONSERVATION OF WATER RESOURCES

#### Article 20

- (1) The conservation of water resources is aimed to maintain the sustainability of the water



resources' ability to provide support, ability to accommodate, and function.

- (2) The conservation of water resources as referred to in paragraph (1) shall be carried out by means of the protection and conservation of the water source, preservation of water, as well as the management of the water's quality and controlling water pollution by using the water resources management scheme stipulated for each river area as a point of reference.
- (3) Provisions concerning the conservation of water resources as referred to in paragraph (2) shall become one of the points of reference in preparing the spatial planning.

#### Article 21

- (1) The protection and preservation of the water source is aimed to protect and preserve the water source as well as the surrounding environment thereof against any damage or disturbance caused by the forces of nature, including drought and human acts.
- (2) The protection and preservation of water source as referred to in paragraph (1) shall be carried out by means of:
  - a. maintaining the sustainability of the function of the water absorption and water catchments areas;
  - b. controlling the utilization of the water source;
  - c. water filling at the water source;
  - d. regulating the pre facilities and sanitation facilities;
  - e. protection of the water source in relation to the development activities and the utilization of land at the water source;
  - f. controlling the cultivation of land at the upstream area;
  - g. regulating the water source demarcation area;
  - h. forest and land rehabilitation; and/or
  - i. preservation of the conservation forest, wildlife reserve, and natural preservation area.
- (3) Effort to protect and preserve the water source as referred to in paragraph (2) shall be used as the basis in administrating the land.
- (4) The protection and preservation of the water source shall be carried out by vegetative means and/or civil engineering by means of social, economical, and cultural approach.
- (5) Provisions concerning the protection and preservation of the water source as referred to in paragraph (2) shall be further regulated under a government regulation.

#### Article 22

- (1) Water preservation is aimed to maintain the existence and availability of water or water quantity, in accordance to its function and purpose.
- (2) Water preservation as referred to in paragraph (1) shall be carried out by means of:
  - a. storing excess water during the rain so as it can be used when it becomes necessary;
  - b. to conserve water by means of efficient and effective utilization; and/or
  - c. controlling the usage of ground water.
- (3) Provisions concerning water preservation as referred to in paragraph (2) shall be further regulated under a government regulation.

#### Article 23

- (1) The management of water quality and water pollution control is aimed to maintain and restore the water quality that enters and exists in the water sources.
- (2) The management of water quality as referred to in paragraph (1) shall be carried out by repairing the water quality in the water source and water resources infrastructure.
- (3) Water pollution control as referred to in paragraph (1) shall be carried out by preventing the entrance of water pollution in the water source and water resources infrastructure.
- (4) Provisions concerning the management of water quality and water pollution control as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 24

Every person or enterprises shall be prohibited from carrying out activities that may damage the water source and its pre facilities, disturb the effort to preserve water, and/or cause water pollution.

#### Article 25

- (1) The conservation of water resources shall be carried out in the river, lake, reservoir, swamp, ground water curvature, irrigation system, water catchments area, wildlife reserve area, natural preservation area, forest area, and coastal area.
- (2) The regulation of the conservation of water resources within the wildlife reserve area, natural preservation area, forest area, and coastal area shall be regulated under the laws and regulations.
- (3) Provisions concerning the conservation of water resources as referred to in paragraph (1) shall be further regulated under a government regulation.

### CHAPTER IV EXPLOITATION OF THE WATER RESOURCES

#### Article 26

- (1) The exploitation of water resources shall be carried out by means of administrating, provision, usage, development, and utilization of the water resources by using the water resources management scheme as the point of reference as stipulated under the river area.
- (2) Exploitation of the water resources is aimed to utilize the water resources in a sustainable manner by prioritizing the fulfillment of the basic need of the community life in a fair manner.
- (3) Exploitation of the water resources as referred to in paragraph (1) shall be exempted for the wildlife reserve area and natural preservation area.
- (4) Exploitation of the water resources shall be carried out in an integrated and fair manner, either between the sectors, between the regions or among the community groups by encouraging the cooperation scheme.
- (5) Exploitation of the water resources shall be based on the conjunction between rain water, surface water, and ground water by prioritizing the exploitation of surface water.
- (6) Everyone shall be obligated to conserve water as much as possible.
- (7) Exploitation of the water resources shall be carried out by prioritizing the social function in order to achieve justice by observing the principle of the beneficial user of water shall pay the water resources management service fee and by involving the role of the community.

#### Article 27

- (1) The administration of the water resources as referred to in Article 26 paragraph (1) is aimed to stipulate the utilization of the water source zone and the water designation in the water source.
- (2) The stipulation on the utilization of the water source zone as referred to in paragraph (1) shall constitute as one of the points of reference to compose or change the regional spatial plan and the water resources management plan in the relevant river area.
- (3) The stipulation on the utilization of the water resources zone shall be carried out by:
  - a. allocating the zone to serve the protective and cultivation functions;
  - b. to utilize the basis of the study result and the result of the hydrologically technical measurement;
  - c. by observing the water source space that is constrained by the water source demarcation line;
  - d. to observe the interests of various types of utilization;
  - e. to involve the role of the surrounding community and other concerned parties; and
  - f. to observe the function of the area.
- (4) The provisions and procedure to stipulate the water source zone shall be further regulated under

a government regulation.

#### Article 28

- (1) The stipulation on the designation of water in the water source as referred to in Article 27 paragraph (1) in every river area shall be carried out by observing:
  - a. water source's ability to provide support;
  - b. amount and distribution of the population as well as its growth projection;
  - c. calculation and projection of the water resources requirements; and
  - d. utilization of the existing water.
- (2) Government and the regional government have supervised the implementation of the provisions on the designation of water as referred to in paragraph (1).
- (3) Provisions concerning the stipulation on the designation of water as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 29

- (1) The provision of water resources as referred to in Article 26 paragraph (1) is aimed to fulfill the need for water and water force as well as to fulfill various needs in accordance to quality and quantity.
- (2) The provision of water resources in every river area shall be carried out in accordance to the administration of the water resources that have been stipulated to fulfill basic need, environmental sanitation, agriculture, energy, industry, mining, transportation, forestry and bio diversity, sport, recreation and tourism, ecosystem, esthetique, as well as other needs as determined in accordance to the laws and regulations.
- (3) The provision of water to fulfill the daily basic needs and irrigation for the smallholder estate crops in the existing irrigation system that became places the provision of water resources as the main priority over all needs.
- (4) The priority sequence for the provision of water resources other than those referred to in paragraph (3) shall be determined for each river area by the Government or the regional government in accordance to their authorities.
- (5) In the event the stipulation of the priority sequence in regard to the provision of water resources as referred to in paragraph (4) shall incur losses for the users of water resources, the Government or the regional government shall be obligated to stipulate the compensation to the users.
- (6) The provision of water resources as referred to in paragraph (2) shall be planned and determined as part of the water resources management plan for each river area by the Government or the regional government in accordance to their authorities.

#### Article 30

- (1) The provision of water resources shall be carried out based on the water resources management plan stipulated for each river area.
- (2) The Government or the regional government may take action to provide the water resources to fulfill urgent needs based on the consideration of the local needs and condition.

#### Article 31

Provisions concerning the provision of water resources as referred to in Article 29 and Article 30 shall be further regulated under a government regulation.

#### Article 32

- (1) The utilization of water resources as referred to in Article 26 paragraph (1) is aimed to utilize the water resources and its pre facilities as the media and/or material.
- (2) The utilization of water resources shall be carried out in accordance to the administration and the water resources provision plan that has been stipulated under the water resources management plan for the relevant river area.
- (3) The utilization of water from the water source to fulfill the daily basic needs, social, and the smallholder estate crops shall be prohibited from incurring any damage to the water source and its environment or the relevant public pre facilities.
- (4) The utilization of water to fulfill the daily basic needs that is carried out by means of the water resources infrastructure must be carried out based on the approval of the rightful parties to the relevant pre facilities.
- (5) In the event the utilization of water as referred to in paragraph (3) in actuality incurred damage to the water source, the relevant party is obligated to provide compensation.
- (6) In utilizing the water, everyone or enterprises shall try to utilize the water by recycling and to reuse the water.
- (7) Provisions concerning the utilization of water resources as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 33

In the event of an emergency, the Government and/or the regional government shall regulate and stipulate the utilization of water resources for conservation purposes, construction preparation, and fulfillment of the priority to utilize water resources.

#### Article 34

- (1) The development of water resources as referred to in Article 26 paragraph (1) in the river area is aimed to increase the benefits of the function of water resources to fulfill raw water requirements for household, agriculture, industrial, tourism, defense, mining, energy, transportation purposes, and for various other purposes.
- (2) The development of water resources as referred to in paragraph (1) shall be carried out without disturbing the environmental balance.
- (3) The development of water resources as referred to in paragraph (1) shall be carried out based on the water resources management plan and the regional spatial planning that has been stipulated by considering:
  - a. the water resources' ability to provide support;
  - b. the uniqueness and aspiration of the region as well as the local community;
  - c. the financing capability; and
  - d. the conservation of bio diversity in the water source.
- (4) The development of water resources as referred to in paragraph (2) shall be carried out by means of public consultation, through the survey, investigation, and planning phases, as well as based on the technical, environmental, and economic feasibility.
- (5) The potential of the impact that may arise due to the development of the water resources as referred to in paragraph (2) must be handled comprehensively by involving various relevant parties in the planning phase.

#### Article 35

- The development of water resources as referred to in Article 34 paragraph (1) shall comprise of:
- a. the surface water in the river, lake, swamp, and other surface water sources;
  - b. The ground water in the ground water curvature;
  - c. rain water; and
  - d. sea water that exists on land.

#### Article 36

- (1) The development of surface water in the river, lake, swamp, and other surface water sources as referred to in Article 35 point a shall be carried out by observing the characteristic and function of the relevant water source.
- (2) Provisions on the development of river, lake, swamp, and other surface water sources shall be further regulated under a government regulation.

#### Article 37

- (1) Ground water as referred to in Article 35 point b shall constitute as one of the water resources that have a limited presence and of which damage may generate a vast impact and is difficult to restore.
- (2) The development of ground water in the ground water curvature shall be carried out in an integrated manner in the development of the water resources in the river area by preventing damages to the ground water.
- (3) Provisions concerning the development of ground water shall be further regulated under a government regulation.

#### Article 38

- (1) The development of function and the benefits of rain water as referred to in Article 35 point c shall be carried out by developing the weather modification technology.
- (2) Enterprises and individuals may utilize clouds by means of the weather modification technology after obtaining a permit from the Government.
- (3) Provision on the utilization of cloud by means of the weather modification technology shall be further regulated under a government regulation.

#### Article 39

- (1) The development of the function and benefits of the sea water that exists on land as referred to in Article 35 point d shall be carried out by observing the environmental function.
- (2) Enterprises and individuals may utilize the sea water that exists on land for business activities after obtaining the water resources exploitation permit from the Government and/or regional government.
- (3) Provisions on the utilization of sea water that exists on land shall be further regulated under a government regulation.

#### Article 40

- (1) The fulfillment of the raw water requirement for household drinking water purposes as referred to in Article 34 paragraph (1) shall be carried out by means of developing the drinking water provision system.
- (2) The development of the drinking water provision system as referred to in paragraph (1) shall become the responsibilities of the Government and the regional government.
- (3) The state owned enterprises and/or regionally owned enterprises shall carry out the development of the drinking water provision system.

- (4) Cooperatives, private enterprises, and the community may participate in the development of the drinking water provision system.
- (5) Regulation on the development of the drinking water provision system is aimed to:
  - a. establish a quality management of drinking water and drinking water service at an affordable price;
  - b. achieve a balanced interest between the consumer and the service provider; and
  - c. improves the efficiency and scope of service of drinking water.
- (6) The development of the drinking water provision system as referred to in paragraph (1), paragraph (2), paragraph (3) and paragraph (4) shall be carried out in an integrated manner by developing the sanitation pre facilities and facilities as referred to in Article 21 paragraph (2) point d.
- (7) In order to achieve the objectives of the development of the drinking water provision and sanitation system as referred to in paragraph (5) and paragraph (6), the Government may establish bodies that exist under and are accountable to the minister who is responsible for water resources.
- (8) Provisions on the development of the drinking water provision system, the state owned enterprises and/or regionally owned enterprises that shall develop the drinking water provision system, participation of the cooperatives, private enterprises, and the community in developing the drinking water provision system, and the establishment of bodies as referred to in paragraph (1), paragraph (3), paragraph (4), and paragraph (7) shall be further regulated under a government regulation.

#### Article 41

- (1) Fulfillment of the raw water requirements for agriculture as referred to in Article 34 paragraph (1) shall be carried out by means of developing the irrigation system.
- (2) Development of the primary and secondary of the irrigation system shall become the authorities and responsibilities of the Government and regional government under the condition that:
  - a. The development of the trans provincial primary and secondary irrigation system shall become the authorities and responsibilities of the Government;
  - b. The development of the trans regency/municipality primary and secondary irrigation system shall become the authorities and responsibilities of the provincial government;
  - c. The development of the primary and secondary irrigation system in one regency/municipality shall become the authorities and responsibilities of the relevant regencies/municipal government.
- (3) Development of the tertiary irrigation system shall become the right and responsibilities of the water using farmer group.
- (4) Development of the irrigation system as referred to in paragraph (2) shall be carried out by means of involving the community.
- (5) Development of the primary and secondary irrigation system may be carried out by the water using farmer association or other parties in accordance to their need and ability.
- (6) Provisions on the development of the irrigation system shall be further regulated under a government regulation.

#### Article 42

- (1) Development of the water resources for industrial and mining purposes as referred to in Article 34 paragraph (1) shall be carried out to fulfill the raw water requirement in the processing and/or exploration process .
- (2) Provisions on the development of water resources for industrial and mining purposes shall be further regulated under a government regulation.

#### Article 43

- (1) Development of water resources for energy purposes as referred to in Article 34 paragraph (1) may be carried out to fulfill a personal need and to be further exploited.
- (2) Provisions on the development of the water resources for energy purpose shall be further regulated under a government regulation.

#### Article 44

- (1) Development of the water resources for transportation purposes as referred to in Article 34 paragraph (1) may be carried out in the river, lake, reservoir, and other water sources.
- (2) Provisions on the development of water resources as a network of transportation pre facilities shall be further regulated under a government regulation.

#### Article 45

- (1) The utilization of water resources shall be carried out by observing the social function and environmental conservation.
- (2) The utilization of surface water resources that comprises one river area may only be carried out by a state owned enterprise or regionally owned enterprise engaging in the field of water resources management or cooperation between state owned enterprises with a regionally owned enterprises.
- (3) The utilization of water resources other than those referred to in paragraph (2) may be carried out by individuals, enterprises, or cooperation between enterprises pursuant to the exploitation permit from the Government or regional government in accordance to their authorities.
- (4) Utilization as referred to in paragraph (3) may take the form of:
  - a. water utilization in a certain location in accordance to the requirements stipulated under a permit;
  - b. utilization of a water content in a certain location in accordance to the requirements stipulated under a permit; and/or
  - c. utilization of the water force in a certain location in accordance to the requirements stipulated under a permit.

#### Article 46

- (1) The Government or regional government in accordance to their authorities, shall regulate and stipulate the allocation of water in the water source for the utilization of the water resources by the enterprises or individuals as referred to in Article 45 paragraph (3).
- (2) The allocation of water for the utilization of water resources as referred to in paragraph (1) must be based on the water allocation plan stipulated in the water resources management plan for the relevant river area.
- (3) Water allocation with respect to the utilization as referred to in paragraph (1) shall be stipulated under the water resources exploitation permit from the Government or regional government.
- (4) In the event the water resources management plan has not been stipulated, the water resources exploitation permit for the said river area shall be stipulated based on the temporary allocation of water.

Article 47

- (1) The Government shall be obligated to supervise the quality of service for:
  - a. the state owned enterprises/regionally owned enterprises managing the water resources; and
  - b. other enterprises and individuals who holds the water resources exploitation permit.
- (2) The Government and/or regional government shall be obligated to facilitate the community complaints from the enterprises and individuals as referred to in paragraph (1).
- (3) The enterprises and individuals as referred to in paragraph (1) shall be obligated to participate in the conservation of water resources and to improve the welfare of the surrounding community.
- (4) The water resources utilization plan shall be carried out by means of public consultation.
- (5) The utilization of water resources shall be carried out by encouraging the participation of small and medium business enterprises.

Article 48

- (1) The utilization of water resources in one river area that shall be carried out by means of constructing and/or utilizing the distribution channel may only be used for other river areas in the event the availability of water still exceeds the requirement of the residents of the relevant river area.
- (2) The utilization of water resources as referred to in paragraph (1) shall be based on the water resources management plan for the relevant river area.

Article 49

- (1) The utilization of water for other state shall not be permitted, unless the provision of water for various needs as referred to in Article 29 paragraph (2) has been met.
- (2) The utilization of water for other states as referred to in paragraph (1) must be based on the water resources management plan for the relevant river area, and by observing the interest of the surrounding area.
- (3) The water utilization plan for other states shall be carried out by means of the public consultation process by the government in accordance to their authorities.
- (4) The utilization of water for other states as referred to in paragraph (2) and paragraph (3) must obtain a permit from the Government based on the recommendation from the regional government and in accordance to the laws and regulations.

Article 50

Provisions on the utilization of water resources shall be further regulated under a government regulation.

CHAPTER V  
MANAGEMENT OF THE DESTRUCTIVE FORCE OF WATER

Article 51

- (1) The control of the water's destructive force shall be carried out comprehensively and shall comprise preventive, handling, and restoration efforts.
- (2) The control of the destructive force of water as referred to in paragraph (1) shall be prioritized to the preventive effort by means of preparing a control plan for the destructive force of water that is composed in an integrated and comprehensive manner in managing the water resources scheme.
- (3) The control of the destructive force of water as referred to in paragraph (1) shall be carried out by involving the community.
- (4) To control the destructive force of water as referred to in paragraph (1) shall become the responsibilities of the Government, regional government, as well as the manager of the water resources for the river area and community.

Article 52

Everyone or enterprises shall be prohibited to carry out activities that may generate the destructive force of water.

Article 53

- (1) Prevention as referred to in Article 51 paragraph (1) shall be carried out by means of physical and/or non physical activities or by means of balancing the upstream and downstream river area.
- (2) Preventions referred to in paragraph (1) shall be prioritized more on the non physical activities.
- (3) The option of activities as referred to in paragraph (1) shall be determined by the manager of the relevant water resources.
- (4) Provisions on the prevention of damage and disasters due to the destructive force of water shall be further regulated under a government regulation.

Article 54

- (1) The handling of the destructive force of water as referred to in Article 51 paragraph (1) shall be carried out by means of mitigation of disasters.
- (2) Handling as referred to in paragraph (1) shall be carried out in an integrated manner by the relevant institution and community by means of a disaster handling coordination agency at the national, provincial, and regency/municipality level.
- (3) Provisions on the handling of damages and disasters due to the destructive force of water shall be further regulated under a government regulation.

Article 55

- (1) Handling of disasters due to the destructive force of water at the national scale shall become the responsibilities of the Government.
- (2) Disasters due to the destructive force of water at the national scale shall be stipulated under a Presidential Decree.

Article 56

In the event of a dangerous situation, the governor and/or regent/mayor shall be authorized to take emergency action to handle the destructive force of water as referred to in Article 55 paragraph (1).

Article 57

- (1) The restoration of the destructive force of water as referred to in Article 51 paragraph (1) shall be carried out by means of restoring the environmental function and the water resources infrastructure system.
- (2) The restoration as referred to in paragraph (1) shall become the responsibilities of the Government, regional government, manager of the water resources, and the community.
- (3) Provisions on the restoration of the destructive force of water as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 58

- (1) The control of the destructive force of water shall be carried out in the river, lake, reservoir and/or dam, swamp, ground water curvature, irrigation system, rain water, and sea water that exist on land.
- (2) Provisions on the control of the destructive force of water in the river, lake, reservoir and/or dam, swamp, ground water curvature, irrigation system, rain water, and sea water that exists on land as referred to in paragraph (1) shall be further regulated under a government regulation.

### CHAPTER VI PLANNING

#### Article 59

- (1) Water resources management planning shall be composed to produce a plan that function as a point of reference and guidance to conserve the water resources, exploit the water resources, and control the destructive force of water.
- (2) Water resources management planning shall be carried out based on the principle of water resources management as referred to in Article 2.
- (3) Water resources management planning shall be composed in accordance to the water resources management scheme as referred to in Article 11.
- (4) The water resources management plan shall constitute as one of the elements in preparing, reviewing, and/or completing the regional spatial planning.

#### Article 60

- (1) Water resources management planning shall be prepared in accordance to the procedure and requirements through the stages stipulated under the nationally applying planning standard comprising the inventorying of water resources, composing, and stipulating the water resources management plan.
- (2) Provisions on the procedure and requirements in regard to planning as referred to in paragraph (1) shall be further regulated under a government regulation.

#### Article 61

- (1) Inventories of the water resources as referred to in Article 60 paragraph (1) shall be carried out on each river area throughout Indonesia.
- (2) Inventorying as referred to in paragraph (1) shall be carried out in a coordinated manner on each river area by the relevant manager of the water resources.
- (3) Inventorying as referred to in paragraph (2) may be carried out by another party pursuant to the stipulated terms and procedures.
- (4) Managers of the water resources must maintain the results of the inventorying process and update the data in accordance to the development of the situation.
- (5) Provisions on the inventorying of the water resources shall be further regulated under a government regulation.

#### Article 62

- (1) Preparation of the water resources management plan as referred to in Article 59 paragraph (3) on each river area shall be carried out in a coordinated manner by the competent authority in accordance to their scope of duties by involving the stakeholders in the water resources.
- (2) The competent authority in accordance to their scope of duties shall publicly announce the draft of the water resources management plan to the community.
- (3) The community shall be entitled to declare their objection against the draft of the water resources management plan that has been announced within a certain period in accordance to the local condition.
- (4) The competent authority may review the draft of the water resources management plan based on the objections of the community as referred to in paragraph (3).
- (5) The draft of the water resources management plan shall be stipulated by the competent authority to be used as the water resources management plan.
- (6) The water resources management plan on each river area shall be specified into the relevant program to manage the water resources by the government institutions, private sector, and community.
- (7) Provisions on water resources management planning shall be further regulated under a government regulation.

### CHAPTER VII IMPLEMENTATION OF THE CONSTRUCTION, OPERATION AND MAINTENANCE

#### Article 63

- (1) The construction of the water resources infrastructure shall be carried out based on the norms, standard, guidance, and manual by utilizing the technology and local resources as well as prioritizing security, work safety, and sustainability of the ecological function in accordance to the laws and regulations.
- (2) Everyone or enterprises shall be prohibited from carrying out the construction of water resources infrastructure that is not based on the norm, standard, guidance, and manual as referred to in paragraph (1).
- (3) Everyone or enterprises that are carrying out the construction work on the water source must obtain a permit from the Government or regional government in accordance to its authorities.
- (4) The construction of pre facilities and facilities of the water resources located above another party's land shall be carried out after the process of indemnity and/or compensation out to the rightful parties has been carried in accordance to the laws and regulations.
- (5) Provisions on permit as referred to in paragraph (3) shall be further regulated under a government regulation.

#### Article 64

- (1) The operation and maintenance of the water resources consists of the maintenance of the water source as well as the operation and maintenance of the water resources infrastructure.
- (2) The operation and maintenance as referred to in paragraph (1) comprises the regulation, implementation, monitoring, and evaluation to guarantee the preservation of the function and benefit of the water resources.
- (3) The operation and maintenance of water resources shall be carried out by the Government, regional government, or manager of water resources in accordance to their authorities.
- (4) The operation and maintenance of water resources infrastructure constructed by the enterprises, community group, or individuals shall become the duties and responsibilities of the constructing parties.
- (5) The community shall participate in the operation and maintenance work as referred to in paragraph (1).
- (6) The operation and maintenance of irrigation system shall be stipulated as follows:
  - a. the operation and maintenance of primary and secondary irrigation system shall become the authorities and responsibilities of the Government and regional government in accordance to their authorities,
  - b. the operation and maintenance of the tertiary irrigation system shall become the rights and responsibilities of the water using farmer community.
- (7) Everyone or enterprises shall be prohibited from carrying out activities that may damage the water resources infrastructure.
- (8) Provisions on the operation and maintenance of the water resources shall be further regulated under a government regulation.

CHAPTER VIII  
WATER RESOURCES INFORMATION SYSTEM

Article 65

- (1) To support the water resources management, the Government and regional government shall manage the water resources information system in accordance to their authorities.
- (2) Water resources information as referred to in paragraph (1) comprises information concerning the hydrological, hydrometeorological, hydrogeological conditions, water resources policies, water resources infrastructure, water resources technology, the environment of the water resources and its surrounding area, as well as the social, economical and cultural activities of the community relating to the water resources.

Article 66

- (1) Water resources information system as referred to in Article 65 paragraph (1) shall constitute the water resources information distributed and managed by various institutions.
- (2) The water resources information network as referred to in paragraph (1) must be able to be accessed by various stakeholders in the field of water resources.
- (3) The Government and regional government may establish the technical implementing unit to carry out the activities of the water resources information system.

Article 67

- (1) The Government and regional government as well as the manager of the water resources, in accordance to their authorities, shall provide water resources information for all of the stakeholders in the field of water resources.
- (2) In order to carry out information providing activities as referred to in paragraph (1), all of the Government institutions, regional government, legal entity, organization, and agencies as well as individuals engaging in the activities relating to water resources shall submit reports concerning the result of their activities to the Government institution and regional government that are responsible for the field of water resources.

- (3) The Government, regional government, manager of water resources, legal entity, organization, agencies and individuals as referred to in paragraph (1) and paragraph (2) shall be responsible to guarantee the accuracy, truth, and timeliness of the information being submitted.

Article 68

- (1) To support the management of water resources information system, it is necessary to manage the hydrological, hydrometeorological, and hydrogeological river area information system at the national, provincial, and regencies/municipality level.
- (2) The policies in regard to the management of the hydrological, hydrometeorological, and hydrogeological information system shall be stipulated by the Government based on the recommendation of the National Council of Water Resources.
- (3) The management of the hydrological, hydrometeorological, and hydrogeological information system as referred to in paragraph (1) shall be carried out by the Government, regional government, and manager of the water resources in accordance to their authorities.
- (4) The management of the hydrological, hydrometeorological, and hydrogeological information system as referred to in paragraph (3) may be carried out by means of cooperation with other parties.

Article 69

Provisions on water resources information system as referred to in Article 66, Article 67, and Article 68 shall be further regulated under a government regulation.

REGIONAL/MUNICIPAL GOVERNMENT IX  
CULTIVATION AND SUPERVISION

Article 70

- (1) The Government and regional government shall empower the stakeholders and water resources institutions in a planned and systematic manner to improve the work performance of the water resources management.
- (2) The empowerment as referred to in paragraph (1) shall be carried out in the activities of planning, construction, supervision, operation and maintenance of water resources by involving the role of the community.
- (3) The community group at their own initiative may carry out empowerment efforts for their own interest by using the objectives of empowerment as referred to in paragraph (1) and paragraph (2) as their points of reference.
- (4) The empowerment as referred to in paragraph (1) shall be organized in the form of education and training, research and development, as well as assistance.

Article 71

- (1) The minister responsible for water resources and the minister relating to the field of water resources shall stipulate the standard of special education in the field of water resources.
- (2) The provision of education in the field of water resources may be carried out, either by the Government, regional government or the private sector in accordance to the special educational standard as referred to in paragraph (1).

Article 72

- (1) Research and development of science and technology in the field of water resources shall be carried out to support and improve the working performance of the water resources management.
- (2) The minister responsible for science and technology, after receiving recommendations from the minister responsible for water resources and the minister relating to the water resources, shall

stipulate the necessary policies and guidance within the framework of carrying out research and development for science and technology as referred to in paragraph (1).

- (3) The Government and regional government in accordance to their authorities shall carry out research and development of science and technology in the field of water resources.
- (4) The Government and regional government shall support and create a supportive condition to improve the implementation of research and development of technology in the field of water resources by the community, business circle, and universities.

#### Article 73

The Government will facilitate protection over the rights of inventors and scientific findings and technological innovation in the field of water resources in accordance to the laws and regulations.

#### Article 74

- (1) Assistance and training in the field of water resources shall be aimed to empower the stakeholders and institutions at the river area.
- (2) The Government and regional government, in accordance to their authorities and responsibilities to manage the water resources, shall stipulate guidance for the assistance and training activities as referred to in paragraph (1).
- (3) The Government institutions and regional government relating to the management of water resources management must provide support and cooperation to provide assisting and training work.

#### Article 75

- (1) To guarantee the achievement of water resources management, supervisory activities shall be carried out on all process and results of the implementation of the water resources management on each river area.
- (2) The Government and regional government in accordance to their authorities and responsibilities shall carry out the supervisory work as referred to in paragraph (1) by involving the role of the community.
- (3) The role of the community in the supervisory work as referred to in paragraph (2) shall be carried out by means of submitting reports and/or complaints to the competent authority.
- (4) The Government shall stipulate the guidance for reports and complaints from the community in supervising the management of water resources.

#### Article 76

Provisions on empowering and supervising the water resources management as referred to in Article 70 and Article 75 shall be further regulated under a government regulation.

### CHAPTER X FINANCING

#### Article 77

- (1) The financing of water resources management shall be stipulated based on the actual need for water resources management.
- (2) The types of financing for water resources management shall comprise of:
  - a. information system costs;
  - b. planning costs;
  - c. construction costs;
  - d. operational, maintenance costs; and
  - e. monitoring, evaluation and community empowerment costs.

- (3) Source of fund for every type of financing may take the form of:
  - a. government budget;
  - b. private sector budget; and/or
  - c. proceeds from the water resources management service fees.

#### Article 78

- (1) The financing of water resources management as referred to in Article 77 paragraph (1) shall be borne by the Government, regional government, state owned enterprises/regionally owned enterprises that manages the water resources, cooperatives, other enterprises, and individuals, either respectively or in the form of a cooperation.
- (2) The financing of water resources management that became the responsibilities of the Government and regional government as referred to in paragraph (1) shall be based on their respective authorities in managing the water resources.
- (3) The financing of the construction and operation and maintenance of the irrigation system shall be regulated as follows:
  - a. the financing of construction, operation and maintenance of the primary and secondary irrigation system shall become the responsibilities of the Government and regional government in accordance to their authorities; and may involve the participation of the farmer community,
  - b. the financing of the construction of the tertiary irrigation system shall become the responsibilities of the farmers, and may be assisted by the Government and/or regional government, except for tap buildings, a 50 m channel from the tap building, and the tertiary box as well as other supplementary tertiary buildings shall become the responsibilities of the Government and/or regional government,
  - c. the financing of the operation and maintenance of the tertiary irrigation system shall become the responsibilities of the farmer, and may be assisted by the Government and/or regional government.
- (4) In the event of an emergency need to exploit the water resources in the trans provincial river area, trans reGENCY/municipality, and nationally strategic, the financing of the management thereof shall be jointly stipulated by the Government and the relevant regional government through the cooperation scheme.

#### Article 79

- (1) The financing of water resources management as referred to in Article 77 paragraph (1) that is aimed to utilize the water resources exploited by the cooperatives, state owned enterprises/regionally owned enterprises that manages the water resources, other enterprises and individuals shall be borne by them respectively.
- (2) With respect to the social, welfare, and public safety service, the Government and regional government within a certain limit may provide financial aid for the management activities to the state owned enterprises/regionally owned enterprises that manage the water resources.

#### Article 80

- (1) The use of water resources to fulfill the daily basic needs and for smallholder estate crops shall not be charged with water resources management service fee.
- (2) The users of water resources other than those referred to in paragraph (1) shall bear the water resources management service fee.
- (3) The stipulation of the amount of water resources management service fee as referred to in paragraph (2) shall be based on a rational economic calculation that can be accounted for.
- (4) The stipulation of the unit value of the water resources management service fee for every type of water resources utilization shall be based on the economic capability considerations of the user group and volume of water resources utilization.
- (5) The stipulation of the unit value of the water resources management service fee for the type of



non business utilization shall be exempted from the rational economic calculation as referred to in paragraph (3).

- (6) The manager of water resources shall be entitled to receive the proceeds of fund collected from the user of the water resources management service as referred to in paragraph (2).
- (7) The funds collected from the users of water resources as referred to in paragraph (6) shall be used to support the implementation of a sustainable management of water resources in the relevant river area.

#### Article 81

Provisions on the financing of water resources management as referred to in Article 77, Article 78, Article 79, and Article 80 shall be further regulated under a government regulation.

### CHAPTER XI RIGHTS, OBLIGATIONS, AND ROLES OF THE COMMUNITY

#### Article 82

In managing the water resources, the community shall be entitled to:

- a. to obtain information relating to the management of water resources;
- b. to obtain a reasonable compensation for the damages suffered by them due to the management of water resources;
- c. to obtain benefit from the management of water resources;
- d. to declare objection against the water resources management plan that has been declared within a certain period in accordance to the local condition;
- e. to submit a report and complaint to the competent authority with respect to the losses that they have suffered in relation to the management of water resources; and/or
- f. to file a claim to the court of justice in regard to various issues of water resources that is detrimental to their life.

#### Article 83

In utilizing their water utilization right, the community that holds the water utilization right shall be obligated to observe the public interest that is realized through their role in conserving the water resources as well as the protection and securing the water resources infrastructure.

#### Article 84

- (1) The community shall have an equal opportunity to play a role in the planning, implementation, and supervisory process on the water resources management.
- (2) Provisions on the role of the community to manage the water resources as referred to in paragraph (1) shall be further regulated under a government regulation.

### CHAPTER XII COORDINATION

#### Article 85

- (1) The water resources management shall comprise of trans sectoral and trans regional interests that requires an integrated act to maintain the sustainability of the function and benefits of water and water source.
- (2) Water resources management as referred to in paragraph (1) shall be carried out by means of coordination by integrating the interests of various sector, area, and the stakeholders in the field of water resources.

#### Article 86

- (1) The coordination as referred to in Article 85 paragraph (2) shall be carried out by a coordinating vehicle called the water resources council or as referred otherwise.
- (2) The coordinating vehicle as referred to in paragraph (1) shall have the main duties to prepare and compose the policies as well as strategy to manage the water resources.
- (3) The coordinating vehicle as referred to in paragraph (1) shall consist of members from the governmental and non governmental elements in an equal number based on the principle of representation.
- (4) The composition of organization and work order of the coordinating vehicle as referred to in paragraph (1) shall be further regulated under a Presidential Decree.

#### Article 87

- (1) Coordination at the national level shall be carried out by the National Council of Water Resources established by the Government, and at the provincial level it shall be carried out by the coordinating vehicle called the water resources council for the province or under another name established by the provincial government.
- (2) With respect to the coordination at the regencies/municipality level a coordinating vehicle can be established under the name of the water resources council for the regency/municipality or under another name by the regencies/municipal government.
- (3) The coordinating vehicle at the river area may be established in accordance to the requirements for water resources management in the relevant river area.
- (4) The working relationship between the coordinating vehicles at the national, provincial, regencies/municipality level, and the river area shall be consultative and coordinative by nature.
- (5) Guidance pertaining to the establishment of the coordinating vehicle at the provincial, regencies/municipality level, and the river area shall be further regulated under a ministerial decree responsible for the water resources.

### CHAPTER XIII SETTLEMENT OF DISPUTE

#### Article 88

- (1) Settlement of the dispute pertaining to the water resources on the first stage shall be endeavored to be carried out based on the principle of the deliberation to reach a consensus.
- (2) In the event that no consensus can be achieved from the dispute settlement as referred to in paragraph (1), the parties may endeavor to settle the dispute out of court or through the court of justice.
- (3) The dispute settlement out of court as referred to in paragraph (2) shall be carried out by means of arbitration or alternative dispute settlement in accordance to the laws and regulations.

#### Article 89

Disputes pertaining to the authorities to manage the water resources between the Government and the regional government shall be settled in accordance to the laws and regulations.

### CHAPTER XIV LAW SUITS FROM THE COMMUNITY AND ORGANIZATION

#### Article 90

Community that has suffered detrimental impacts due to various issues of water resources management shall be entitled to file a class action suit to the court of justice.

#### Article 91

The government institution responsible for water resources shall act for the interests of the community in the event of an indication that the community is suffering impacts due to the water pollution and/or water source damage that affects the life of the community.

#### Article 92

- (1) Organizations responsible for the field of water resources shall be entitled to file a claim against the person or enterprises that carried out the activities that damaged the water resources and/or its pre facilities, for the interest of sustaining the function of the water resources.
- (2) The claim as referred to in paragraph (1) shall be constrained to the claim to carry out certain acts relating to the sustainability of the function of the water resources and/or claims to pay the costs that have actually been expended.
- (3) The organization that is entitled to file the claim as referred to in paragraph (1) must fulfill the following requirements:
  - a. takes the form of community organization that holds a status as a legal entity and engages in the field of water resources;
  - b. states the objective of incorporation of the organization in the articles of association for the interest relating to the sustainability of the function of the water resources; and
  - c. has carried out the activities in accordance to the articles of association.

#### CHAPTER XV INVESTIGATION

#### Article 93

- (1) In addition to the investigators of the Police Force of the Republic of Indonesia, civil servant officials who hold a scope of duty and responsibility in the field of water resources may be given special authorities as an investigator as referred to in the Code of Criminal Procedure.
- (2) The civil investigators as referred to in paragraph (1) shall be authorized to:
  - a. verify a report or information on the occurrence of a criminal act pertaining to the water resources;
  - b. examine a person or enterprise suspected to have committed a criminal act pertaining to the water resources;
  - c. summon a person to provide testimonies and examined as a witness or suspect in the criminal act pertaining to the water resources;
  - d. to examine the water resources infrastructure and halt the equipments suspected to have been used to commit the criminal act;
  - e. to seal and/or confiscate the activity tools used to commit the criminal act as evidence;
  - f. to request the assistance of an expert within the framework of implementing their duties to investigate the criminal act pertaining to the water resources;
  - g. to prepare and sign the minutes and deliver it to the investigator with the Police Force of the Republic of Indonesia; and/or
  - h. to cease the investigation in the event of insufficient evidence or should the said event is not deemed to be a criminal act.
- (3) The civil investigator as referred to in paragraph (2) shall notify the commencement of an investigation to the investigator with the Police Force of the Republic of Indonesia.
- (4) The civil investigator as referred to in paragraph (2) shall submit the results of the investigation to the public attorney via the investigators with the Police Force of the Republic of Indonesia, in accordance to the Code of Criminal Procedure.

#### CHAPTER XVI CRIMINAL PROVISIONS

#### Article 94

- (1) The following criminal act shall be subjected to a maximum jail sentence of 9 (nine) years and a maximum penalty of Rp1.500.000.000,00 (one billion five hundred million rupiah):
  - a. Everyone who deliberately committed acts that incurred damages to the water source and its pre facilities, disturb the effort to preserve water, and/or causes water pollution as referred to in Article 24; or
  - b. everyone who deliberately committed acts that may generate the destructive force of water as referred to in Article 52.
- (2) The following criminal act shall be subjected to a maximum jail sentence of 6 (six) years and a maximum penalty of Rp1.000.000.000,00 (one billion rupiah):
  - a. everyone who deliberately committed acts of water utilization that are detrimental to other people or parties and damages the function of the water source as referred to in Article 32 paragraph (3); or
  - b. everyone who deliberately carried out activities that damages the water resources infrastructure as referred to in Article 64 paragraph (7).
- (3) The following criminal act shall be subjected to a maximum jail sentence of 3 (three) years and a maximum penalty of Rp500.000.000,00 (five hundred million rupiah):
  - a. everyone who deliberately leases or assigns part or the entire water utilization right as referred to in Article 7 paragraph (2);
  - b. everyone who deliberately exploits the water resources without permit from the competent authority as referred to in Article 45 paragraph (3); or
  - c. everyone who deliberately carries out water resources infrastructure construction activities that are not based on the norms, standard, guidance, and manual as referred to in Article 63 paragraph (2);
  - d. everyone who deliberately carried out construction activities on the water source without obtaining any permit from the Government or regional government as referred to in Article 63 paragraph (3).

#### Article 95

- (1) The following criminal act shall be subjected to a maximum jail sentence of 18 (eighteen) months and a maximum penalty of Rp300.000.000,00 (three hundred million rupiah):
  - a. everyone who due to their negligence has caused damage to the water resources and its pre facilities, disturbs effort to preserve water, and/or cause water pollution as referred to in Article 24; or
  - b. everyone who due to their negligence has carried out activities that may generate the destructive force of water as referred to in Article 52.
- (2) The following criminal act shall be subjected to a maximum jail sentence of 1 (one) year and a maximum penalty of Rp200.000.000,00 (two hundred million rupiah):
  - a. everyone who due to their negligence has carried out water utilization actions that are detrimental to other people or parties and damages the function of the water source as referred to in Article 32 paragraph (3); or;
  - b. everyone who due to their negligence has carried out activities that damages the water resources infrastructure as referred to in Article 64 paragraph (7).
- (3) The following criminal act shall be subjected to a maximum jail sentence of 6 (six) months and a maximum penalty of Rp100.000.000,00 (one hundred million rupiah):
  - a. everyone who due to their negligence has exploited the water resources without permit from the competent authority as referred to in Article 45 paragraph (3);
  - b. everyone who due to their negligence has carried out construction activities on the water resources infrastructure that are not based on the norms, standard, guidance, and manual as referred to in Article 63 paragraph (2);
  - c. everyone who due to their negligence has carried out construction activities on the water source without permit as referred to in Article 63 paragraph (3).

#### Article 96

- (1) In the event the crime pertaining to the water resources as referred to in Article 94 and Article 95 is committed by an enterprise, the criminal sanction shall be imposed on the relevant enterprises.
- (2) In the event the criminal act as referred to in paragraph (1) is imposed to an enterprise, the criminal sanction imposed shall be a penalty of fine plus one third of the fine imposed.

#### CHAPTER XVII TRANSITORY PROVISIONS

#### Article 97

Upon the enactment of this Law, all implementing regulations relating to water resources shall remain to be effective to the extent it does not contradict or to the extent that no new implementing regulation has been issued pursuant to this Law.

#### Article 98

Permits relating to the management of water resources that have been issued prior to the enactment of this law shall remain to be effective until the expiry of its time period

#### CHAPTER XVIII CLOSING PROVISIONS

#### Article 99

With the application of this Law, then Law Number 11 of 1974 concerning Irrigation (State Gazette of the Republic of Indonesia Year 1974 Number 65, Supplement to the State Gazette Number 3046) shall be declared no longer effective.

#### Article 100

This Law shall commence to enter into force at the date of its promulgation.

So that everyone may take cognizance thereof, this Law is promulgated by announcing it in the State Gazette of the Republic of Indonesia.

Legalized in Jakarta  
on March 18, 2004  
PRESIDENT OF THE REPUBLIC OF INDONESIA,  
signed  
**MEGAWATI SOEKARNOPUTRI**

Promulgated in Jakarta  
on March 18, 2004  
SECRETARY OF THE REPUBLIC OF INDONESIA,  
signed

**BAMBANG KESOWO**

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2004 NUMBER 32

Duplicate copy,  
Deputy Secretary of the Cabinet  
Law and Legislation Division

**Lambock V. Nahattands**

**ELUCIDATION  
LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 7 OF 2004  
CONCERNING**

**WATER RESOURCES**

**GENERAL**

1. Water resource is a gift from the Almighty God that provides benefit for the welfare of the entire people of Indonesia in all sectors. In compliance with Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, this law states that water resources shall be controlled by the state and utilized for the greater welfare of the people in a fair manner. As the state hold control over water resources, the state guarantees the right of every person to procure water for their daily basic needs and the state shall regulate rights over water. The state's control over water resources shall be carried out by the Government and/or regional government by continuing to acknowledge and respect the elements of traditional community along with their traditional rights, such as the traditional right of the local traditional community and other similar rights, to the extent that they still exist and still conforms to the community development and the principle of the Unitary State of the Republic of Indonesia.
2. The regulation of water right shall be carried out by means of the stipulation of water utilization rights, namely the right to obtain and use or exploit water for various purposes. Water utilization rights in such sense does not constitute the right of ownership over water, however it is confined to the right to procure and utilize or exploit a certain amount (quota) of water in accordance to the allocation designated by the government to the water user, be it those that must obtain a permit or those that is not subject to the obligation to obtain a permit. The right to use water to fulfill the daily basic needs, smallholder estate crops (smallholder estate crops), and non business activities are called water utilization right, whereas the right to use water to fulfill business needs, be it the utilization of water for secondary production materials, shall be called water exploitation right.  
The amount of water allocation that is stipulated shall not be absolute by nature and must be complied as set forth in the permit, however it may be reviewed in the event the requirements or circumstances based on which the permit is given and the water's availability in the relevant water resources has undergone significant changes in comparison to the availability of water at the time of the allocation.
3. The right to use water to fulfill the daily basic needs for individuals and smallholder estate crops located within the irrigation system shall be guaranteed by the Government or regional government. The right to use water to fulfill the daily basic needs for individuals and smallholder estate crops shall comprise of the rights to flow water from or to their land through neighboring lands that are owned by other people. The Government or regional government shall guarantee the allocation of water to fulfill the daily basic needs for individuals and smallholder estate crops by continuing to observe the availability of water in the said river area and by continuing to preserve order and peace.
4. The community's increasing need for water continues to strengthen the economic value of water in comparison to its social value and function. The said condition holds the potential to generate trans sectoral, trans regional conflict as well as conflicts among the concerned parties that are related to the water resources. From another angle, the management of water resources that relies more on the economic value will have a tendency to side with the owner of the capital and may ignore the social function of the water resources.  
Given the said consideration, this law provides more protection to the interests of the

economically underprivileged group by applying the principle of water resources management that is able to synchronize its social, environmental, and economical functions.

5. Water as the source of life for the community has a naturally dynamic presence and flows to a lower area without regard to the administrative borders. The presence of water follows the hydrological cycle that is closely related to the weather condition at an area so as to render an unequal availability of water at every time and every area. The development of the number of population and the increase of community activities changes the environmental function that generates a negative impact on the conservation of water resources and the increase of the destructive force of water. The aforementioned situation demands an integrated water resources management from the upstream down to the downstream based on the river area in one water resources management scheme without being affected by the administrative borders passed by it.
6. Based on the foregoing, the regulation of authorities and responsibilities with respect to the management of water resources by the Government, provincial government, and regencies/municipal government shall be based on the location of the relevant river area, namely:
  - a. the trans provincial river area, trans national river area, and/or nationally strategic river area shall fall under the authorities of the Government.
  - b. the trans regencies/municipal river area shall fall under the authorities of the provincial government;
  - c. the river areas that are fully located within one regencies/municipal area shall fall under the authorities of the regencies/municipal government;In addition, this law also grants the authority to manage water resources to the village government or any other title reference providing that the existing authorities have not been executed by the community and/or government on such area. The authorities and responsibilities with respect to the management of water resources shall comprise the regulation, stipulation, and grant of permit for the allocation, utilization, and utilization of water resources in the river area still within the framework of water conservation and control over its destructive force.
7. The water resources management scheme is the basic framework in planning, implementing, observing, and evaluating the water resources conservation activities, the utilization of water resources, and the control over the destructive force of water in every river area based on the principle of integrity between the surface water and ground water. The water resources management scheme shall be prepared under the coordination between the relevant institution, based on the preservation principle, the principle of equitable social, environmental, and economic functions, public benefit principle, principle of integrity and principle of harmony, justice principle, principle of independence, as well as the principle of transparency and accountability. The said water resources management scheme shall furthermore be implemented in the water resources management plan. It is important to involve the community's role as well as the roles of the business community, be it cooperatives, state owned enterprises, regionally owned enterprises or private enterprises as much as possible in preparing the management scheme. In compliance to the democracy principle, the community is not only given a role in the composition of the water resources management scheme, but it also plays a role in the planning, construction, operation and maintenance, observation, as well as supervision process over the management of water resources.
8. The water resources management plan is a master plan for the conservation of water resources, the utilization of water resources, and the control of the destructive force of water that is composed in a coordinated manner based on the river areas. The said plan shall become the basis in preparing the water resources management program that will be further detailed in the activity plan of each relevant institution. The said water resources management plan shall comprise the plan to provide water resources and exploit the water resources. The provision of

water to fulfill the daily basic needs and irrigation for the smallholder estate crops under the existing irrigation system shall become the main priority in the provision of water above all other necessities. Due to the diverseness of the availability of water resources and the types of water resources requirement in a certain location, the sequence of priority with respect to the provision of water resources for other necessities shall be stipulated in accordance with the local needs.

9. The utilization of water resources shall be carried out by continuing to observe the social function of water resources and the preservation of the environment. The utilization of water resources that comprised one river area may only be carried out by a state owned enterprise or a regionally owned enterprise engaging in the field of water resources management or a cooperation between the two, with the aim of putting forward the principle of synchronizing the social function, environmental function, and economic function of the water resources.
10. The utilization of water resources in certain locations may be given to state owned enterprises or regionally owned enterprises that does not engage in the management of water resources, private enterprises and/or individuals based on the exploitation plan that has been prepared after consulting the public and obtaining the water resources exploitation permit from the government. The regulation on the management of water resources is intended to regulate and provide the allocation of raw water for certain business activities. The said exploitation of water resources may take the form of the exploitation of raw water as a raw production material, as one of the media or main element of a business activity, such as the drinking water regional company, mineral water company, other packaged drinking water, water power plant, white water rafting sport, and as a supplementary material for the production process, such as water for the water cooling system or water to rinse the products of mining exploration. The said exploitation activity does not comprise control over the water source, but merely confined to the right to use water in accordance to the stipulated allocation and to use part of the water source for the construction of the necessary facilities and infrastructures such as the construction of the facilities and infrastructures at a lake. The said management of water resources shall be carried out in compliance with the rules as regulated under the stipulated norms, standards, guidance's, manuals (NSPM).
11. Water in the hydrological cycle may take the form of water present in the air in the form of water vapor and rain; on land it may take the form of snow and surface water in the river, channel, reservoir, lake, swamp, and sea water; as well as ground water. Sea water has a different characteristic and requires special handling and regulation, whereas sea water present on land shall be subject to the provisions contained under this law. The utilization of sea water on land for business purpose, be it by means of technical engineering or by natural means due to the impact of rise and ebb of tide, needs to observe the environmental function and must obtain a permit from the Government or regional government in accordance to their authorities, and based on the procedure and standard of permit according to the stipulated technical and administrative guidance.
12. In order to implement water resources management in a sustainable manner, the beneficial recipients of the water resources management service, in principle, must bear the management cost in accordance to the benefit that they receive. This obligation does not apply to the people who use water for their daily basic needs and for the social interests and safety of the public. Due to the limitation of the capability of the water utilizing farmers, the utilization of water for smallholder estate crops shall be released from the obligation to finance the water resources management service without eliminating the obligation to bear the cost to develop, operate, and maintain the tertiary irrigation system.
13. This law is composed in a comprehensive manner and accommodates a comprehensive regulation that not only comprises of the water resources management sector, but also comprise of the water resources management process. Bearing in mind that water resources pertains to the interest of many sectors, as its flow area may penetrate the administrative territorial

boundaries, and constitutes a basic need to sustain the life of the community, this law stipulates the importance of establishing a water resources management coordination forum of which members shall consist of representatives from the concerned parties, be it from the governmental nongovernmental element. The said coordination forum shall be established at a national and provincial level, whereas at the regency/municipality level and the river areas such forum shall be established according to the need. The said coordination forum is expected to be able to coordinate various interests of the institution, agency, community, and other stakeholders of the water resources in managing the water resources, particularly in formulating the policies and strategies in regard to water resources management, and to encourage the increase of the community's role in water resources management. In carrying out its duties, the said coordination forum shall technically receive guidance from the Government, in this case the ministry that is responsible for water resources.

14. To guarantee legal certainty and law enforcement in regards to water resources management, civil investigators who are given the authority to conduct an investigation will be required in addition to the investigators from the Police Force of the Republic of Indonesia. Furthermore, with regard to various issues of water resources that pose detrimental effects on life, the community shall be entitled to file a class action suit, whereas in regard to various water resource disputes, the community may seek out dispute settlements, either by out of court means via arbitration or alternative dispute settlement in accordance to the laws and regulations.
15. In order to conform to the paradigm changes and to anticipate the complexity of the development of the water resources issue; placing water in a social, environmental, and economic dimension in a harmonious manner; to realize an integrated water resources management; to accommodate the demands of decentralization and regional autonomy; to give better attention to the basic right over water for the entire people; to realize a more democratic policy making mechanism and process as well as water resources management plan, it is important to establish a new law to replace Law Number 11 of 1974 concerning Irrigation.

## ARTICLE PER ARTICLE

### Article 1

Sufficiently clear

### Article 2

The Conservation Principle shall mean that the utilization of water resources shall be carried out by maintaining the preservation of the water resources' function in a sustainable manner.

The Principle of Balance shall mean balance between the social function, environmental function, and economic function.

The Principle of Public Benefit shall mean that water resources management shall be carried out to provide a greater benefit for the public interest in an effective and efficient manner.

The Principle of Integrity and Harmony shall mean that water resources management shall be carried out in an integrated manner in order to achieve harmony for various interests by observing the dynamic natural characteristic of water.

The Principle of Justice shall mean that water resources management shall be equally distributed to all layers of the community in the country so as each citizen shall be entitled to obtain the same opportunity to play a role and enjoy the real results.

The Principle of Independence shall mean that water resources management shall be carried out by observing the capability and superiority of the local resources.

The Principle of Transparency and Accountability shall mean that water resources management shall be carried out in a transparent and accountable manner.

### Article 3

Reference to water resources management shall comprehensively comprise every management areas covering conservation, exploitation, and the control of the destructive force of water, and comprises one

management area system in whole that covers all of the planning, implementation, as well as observation and evaluation process.

Reference to an integrated water resources management shall mean a management that is carried out by involving all of the trans sectoral and trans administrative area stakeholders.

Reference to environmentally friendly water resources management shall mean a management that observes the balance between the ecosystem and the environment's ability to provide support.

Reference to sustainable water resources management shall mean water resources management that is not only aimed for the interests of the present generation, but also for the interests of the future generation.

### Article 4

Reference to water resources having a social function shall mean that water resources prioritize the public interest over individual interest.

Reference to water resources having an environmental function shall mean that water resources constitutes a part of the ecosystem as well as a place to sustain the lives of flora and fauna.

Reference to water resources having an economic function shall mean that water resources may be utilized to support business activities.

### Article 5

This provision shall mean that the state holds the obligation to organize various efforts to guarantee the availability of water for everyone residing within the territory of the Republic of Indonesia. The said guarantee shall become the joint responsibility of the Government and regional government, including guaranteeing access for everyone to the water source to obtain water. The extent of daily minimum basic need for water shall be determined based on the guidance to be stipulated by the Government.

### Article 6

#### Paragraph (1)

Sufficiently clear

#### Paragraph (2)

Reference to the Government and/or regional government's implementation of control over water resources shall mean the authority granted by the state to the Government and the regional government in regulating the water resources.

Reference to rights that are similar to traditional right shall mean rights that have been previously recognized under various titles from each area that has the same meaning as traditional right, for example:

*tanah wilayah pertuanan* in Ambon; *panyam peto* or *pewatasan* in Kalimantan; *wewengkon* in Java, *prabumian* and *payar* in Bali; *totabuan* in Bolaang-Mangondouw, *torluk* in Angkola, *limpo* in South Sulawesi, *murru* in Pulau Buru, *paer* in Lombok, and *panjajaan* in Tanah Batak.

#### Paragraph (3)

In regard to the recognition of the existence of a traditional law community's traditional right including such similar right, it should be understood that the reference to traditional law community is a group of people who are bound to their traditional legal order together with a union of traditional law that is based on the similarity of residence or based on hereditary relation. The traditional right of a traditional law community is deemed still existing in the event it fulfilled three elements, namely:

- a. traditional community element, namely the presence of a group of people who still felt that they are bound by their traditional legal order as members of a certain legal union, who recognized and implemented the stipulations of the said union in their daily lives;
- b. territorial element, namely the presence of a certain traditional land that function as the environment where the members of the said legal union live and where they fulfill their daily living requirements; and
- c. the element of relationship between the said community and the area, namely the presence of a traditional law order pertaining to the management, control, and utilization of their traditional right that continues to apply and complied by the members of the said legal union.

#### Paragraph (4)

Sufficiently clear

**Article 7**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to the disallowance to lease or assign shall mean that the water utilization right given to the applicant may not be leased and assigned to other parties under any reason whatsoever. In the event the said water utilization right is not utilized by the holder of the water utilization right, the Government or regional government may revoke the relevant water utilization right.

**Article 8**

Paragraph (1)

Reference to the daily basic needs shall mean the utilization of water in or water taken from the spring water (not from the distribution channel) to fulfill the daily living requirement for personal purposes in order to attain a healthy, clean and productive life, for example for religious worship, drinking, cooking, bathing, washing and lavatory purposes.

Reference to smallholder estate crops shall mean the agricultural cultivation comprising various commodities namely the food crop agriculture, fisheries, livestock farming, plantation, and forestry managed by the people at a certain acreage that requires a maximum of 2 liters of water per second per family unit.

Reference to the irrigation system comprises of the irrigation infrastructure, irrigation water, irrigation management, irrigation management institution, and human resources.

Paragraph (2)

The provisions under this paragraph are intended to realize order in the implementation of the plan to provide water resources.

Reference to changing the natural condition of the water source shall mean to elevate, decrease the height, and changing the course of the water source.

Elevation shall mean an act to render the water in the water source to be positioned at a higher level, for example the construction of a dam. The definition of elevation comprised the pumping of water from the water source for the smallholder estate crops.

Decreasing the height shall mean an act to render the water in the water source to be positioned at a lower level or to go lower than it's normal level, for example excavation or dredging the river.

Changing course shall mean an act to render the water in the water course and the water source's course to deviate from its normal course.

Paragraph (3)

Sufficiently clear

Paragraph (4)

The right to flow water through other people's land is intended so as other people will not encounter any problem in exercising their water utilization right. In the event that the water is used for smallholder estate crops outside of the existing irrigation system, the right to flow water through other people's land shall be based on the agreement of both parties.

**Article 9**

Paragraph (1)

Reference to individuals shall mean non enterprise subjects who require water for their business needs for example fishpond business and home industries.

Paragraph (2)

The said approval shall be made in writing.

Paragraph (3)

Reference to compensation shall mean the provision of compensation to the holders of the land right in regard to the relinquishment of rights over land, building, plants, and other items above it, of which amount shall be determined based on the agreement of both parties.

Compensation shall mean the provision of compensation to the holders of the land rights in regard to the holders of the water exploitation right's water flow passage above their land area so as the holders of the rights over such land were unable to fully utilize the rights over the land that they own. The amount of compensation shall be determined based on the agreement of the parties. The same also applies to the traditional law community.

In the event it affects the state's asset, the indemnity or compensation shall be carried out pursuant to the laws and regulations.

**Article 10**

Sufficiently clear

**Article 11**

Paragraph (1)

Reference to the community shall mean the whole Indonesian people as individuals, group of

people, traditional community, business entity, or people who merged under an institution or community organization.

Paragraph (2)

The principle of integrity between the surface water and ground water shall be executed by observing the authorities and responsibilities of each institution in accordance to their principle duties and function.

Paragraph (3)

The involvement of the community and the business circle in the preparation of the water resources management scheme is intended to collect inputs, issues, and/or the desires of the stakeholders to be processed and accommodated in the guidance in regard to water resources management policies for river areas. The involvement of the community and the business circle is carried out by consulting the public at least through 2 (two) stages.

The first stage of public consultation is intended to collect inputs, issues, and/or the desires of the community and the business circle with regard to water resources management for river areas. The second stage of public consultation is intended to socialize the existing scheme in order to obtain feedback from the community and the business circle surrounding the relevant river area. Reference to business circle herein shall mean the cooperatives, state owned enterprises, as well as regionally owned enterprises and the private sector.

Paragraph (4)

Reference to the balance between conservation and exploitation efforts shall mean a proportional treatment for the conservation and exploitation of water resources activities.

Paragraph (5)

Sufficiently clear

**Article 12**

Sufficiently clear

**Article 13**

Paragraph (1)

Sufficiently clear

Paragraph (2)

The National Council of Water Resources shall mean a vehicle to coordinate the stakeholders of water resources at a national level as referred in Article 87.

The considerations of the National Council of Water Resources to the President shall be given based on the inputs received from the relevant regional government.

Paragraph (3)

The stipulation of the nationally strategic river areas shall be evaluated based on the following parameters/aspects:

1. the extent and vastness of the water resources potential in the relevant river area;
2. the number of sectors and number of people in the relevant river areas;
3. the extent of social, environmental, and economic impact to national development; and
4. the extent of the negative impact due to the destructive force of water against the economic development.

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

**Article 14**

Point a

Sufficiently clear

Point b

Sufficiently clear

Point c

Sufficiently clear

Point d

Reference to the water source conservation area shall mean the area that serves to conserve the water source function, for example water source demarcation area, water absorption area, and the areas surrounding spring water.

Point e

Sufficiently clear

Point f

Reference to the grant of permit in this paragraph is solely intended for surface water resources.

Point g

Sufficiently clear

Point h

Sufficiently clear

Point i

Sufficiently clear

Point j

Sufficiently clear

Point k

Sufficiently clear

Point l

Sufficiently clear

**Article 15**

Point a

Sufficiently clear

Point b

Sufficiently clear

Point c

Sufficiently clear

Point d

Sufficiently clear

Point e

Sufficiently clear

Point f

Reference to the grant of permit in this paragraph is solely intended for surface water resources.

Point g

Sufficiently clear

Point h

Sufficiently clear

Point i

Sufficiently clear

Point j

Sufficiently clear

Point k

Sufficiently clear

Point l

Sufficiently clear

**Article 16**

Sufficiently clear

**Article 17**

The term village as referred to in this article shall be adjusted with the social and cultural condition of the local community such as *nagari*, *kampung*, *huta*, *bori*, and *marga* whereas reference to community



shall include the traditional law community.

**Article 18**

Sufficiently clear

**Article 19**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Point a

Reference to endangerment of the public interest shall mean, for example: neglecting the water source conservation area especially the upstream water source area; a continually increasing pollution level in the water source; uncontrolled class c excavation in the river so as to pose threat of damage to a bridge foundation, river dam or other public infrastructure building in the water source; or an avalanche that is estimated to pose a large scale threat to the economic activities of the community.

Point b

Settlement of disputes may be carried out by means of: mediation, warning, facilities, and/or acquisition of authorities.

**Article 20**

Paragraph (1)

Reference to the sustainable presence of water resources shall mean the preservation of the sustainability of water and water source, including the potential that it holds.

Reference to the water resources' ability to provide support shall mean the water resources' ability to support the livelihood of human and other living beings.

Reference to the water and water source's ability to provide support shall mean the water and water source's ability to absorb substances, energy, and/or other components that enters or are introduced to them.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

**Article 21**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Point a

Sufficiently clear

Point b

Reference to the controlled exploitation of water source may take the form of:

- regulating the exploitation of part or all of a particular water source by means of permits; and/or
- prohibition to exploit part or all of a particular water source.

Point c

Reference to water filling in the water source shall mean among others: the repositioning of the water current from one river current area to another river current area, for example by means of waterway diversion, interconnection, suplesion, and/or ground water supplements.

Point d

Reference to sanitation comprises waste water and garbage infrastructures and facilities.

Point e

Sufficiently clear

Point f

Sufficiently clear

Point g

Sufficiently clear

Point h

Sufficiently clear

Point i

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Vegetative implementation shall mean the protection and conservation effort that is carried out by means or through planting trees or plants that are suitable to be planted in the water catchments area or the water source demarcation area.

Reference to civil engineering method shall mean the protection and conservation effort that is carried out by means or through technical engineering, such as the construction of sediment holding construction, the construction of terraces (*sengkedan*), and/or reinforced water source precipice.

Reference to social, cultural, and economical approach shall mean the effort of protecting and conserving water source through such various means must be carried out by observing the social, cultural, and economical condition of the local community.

Paragraph (5)

Sufficiently clear

**Article 22**

Sufficiently clear

**Article 23**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to repairing the water quality in the water source shall among others be carried out by means of aerating the water source.

Paragraph (3)

To prevent the introduction of water pollution in the water source, for example, actions may be taken by preventing any disposal of waste in the water source, and processing the waste water before it is flown into the water source.

Paragraph (4)

Sufficiently clear

**Article 24**

Reference to water source damage shall mean the decrease of the water source's ability to provide accommodation or the water source's function.

**Article 25**

Sufficiently clear

**Article 26**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear  
Paragraph (5) Reference to the conjunction between rain water, surface water, and ground water shall mean the condition that conforms to the hydrological cycle that constitutes an integrated system (conjunctive use).  
Paragraph (6) Reference to everyone shall mean individuals and enterprises.  
Paragraph (7) Reference to the principle of beneficial user shall pay the management fee shall mean that the beneficial user shall also bear the water resources management cost either directly or indirectly. This provision shall not apply to the parties who uses the water for their daily basic needs and the smallholder estate crops as referred to in Article 80.

#### Article 27

Paragraph (1) Reference to the water source utilization zone shall mean the space in the water source (reservoir, lake, swamp, or river) that are allocated, either to provide a protective function or cultivation function. For example, to divide the surface of a reservoir, lake, swamp, or river into various utilization zones, among others, the space allocated for the cultivation of fisheries, the mining of class c excavated material, water transportation, water sport and tourism, conservation of unique or protected environment, and/or the preservation of cultural conservation areas. The stipulation of water source utilization zone is aimed to utilize the function/potential in the relevant water source in a sustainable manner, either for the interest of the present or future generation.  
In stipulating the water source utilization zone, in addition to determining and clarifying the limits of each utilization zone, including the provisions, requirements, or criteria of utilization and control.  
Paragraph (2) Sufficiently clear  
Paragraph (3) Sufficiently clear  
Paragraph (4) Sufficiently clear

#### Article 28

Paragraph (1) Reference to the stipulation on water designation in the water source shall mean the classification of water utilization in a water source into several groups of water utilization including the quality standard, for example by classifying the river utilization into several segments according to several types of classification with respect to the utilization of raw water for household, agriculture, and industrial business purposes.  
Paragraph (2) Sufficiently clear  
Paragraph (3) Sufficiently clear

#### Article 29

Paragraph (1) Sufficiently clear  
Paragraph (2) Reference to the types of provision of water resources in this paragraph is beyond the basic needs and is not included in the priority sequence.  
Reference to water requirements for agricultural purpose shall mean, for example, the water requirements for food crops, horticulture, plantation, livestock farm, and fisheries.  
Paragraph (3)

In the event of any conflict of interest between the fulfillment of daily basic needs and the fulfillment of the need for water irrigation for smallholder estate crops, for example in the event of extreme drought, the fulfillment of daily basic needs shall be prioritized.  
Paragraph (4) Sufficiently clear  
Paragraph (5) Compensation may take the form of indemnity for example in the form of dispensation of water resources management service fee that is made pursuant to the mutual agreement between the users.  
Paragraph (6) Sufficiently clear

#### Article 30

Paragraph (1) Sufficiently clear  
Paragraph (2) Reference to urgent needs shall mean a circumstance that requires a quick decision making process in order to change the water provision plan, because any delay in the decision making process shall incur a greater loss of property, goods, lives, and environmental loss. For example, changing the water provision plan to overcome drought and to extinguish forest fires.

#### Article 31

Sufficiently clear

#### Article 32

Paragraph (1) Reference to the utilization of a media, for example the utilization of a river for transportation and white water rafting purposes.  
Reference to utilization as a material, for example the utilization of water for drinking, household, and industrial purpose.  
Paragraph (2) Sufficiently clear  
Paragraph (3) Sufficiently clear  
Paragraph (4) Sufficiently clear  
Paragraph (5) Damage to water source may take the form of, among others, avalanche at the water source, precipice, damaged or ruptured river dams, and/or the narrowing of the water source segments.  
Reference to compensation may take the form of, among others, voluntary labor service to construct an avalanche support construction, to repair the dam, or to disassemble the construction that has been used as such water procurement or utilization site.  
Paragraph (6) Sufficiently clear  
Paragraph (7) Sufficiently clear

#### Article 33

Reference to a force majeure in this paragraph shall mean an emergency situation.  
The utilization of water resources for conservation purposes, for example, to rinse the water source in the city area of which pollution level is already quite high (poisoning has occurred).  
The utilization of water resources for the preparation of construction work for example to overcome a sudden damage that took place in the water resources infrastructure (ruptured dam).  
The utilization of water resources for the fulfillment of prioritized water resources utilization, for example to fulfill the daily basic needs in the event of a drought.

Sufficiently clear

**Article 34**

Paragraph (1)

Reference to development shall include construction activity.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Point a

Sufficiently clear

Point b

Regional attribute shall mean the special characteristic that can only be found in an area, is positive and productive by nature and is not contradictory to the laws and regulations.

Example:

- uniqueness in regard to the community institutions that utilizes water for irrigation purposes: *Subak* in Bali, *Tuo Banda* in West Sumatera, *Dharma Tirta* in Central Java, and *Mitra Cai* in West Java.
- uniqueness in regard to the governance system such as special autonomy, villages, or traditional law community.

Point c

Sufficiently clear

Point d

Sufficiently clear

Paragraph (4)

Reference to public consultation shall mean the effort to absorb the community's aspiration through dialogues and deliberation with all of the concerned parties. Public consultation is aimed to prevent and minimize the social impact that may occur and to encourage transparency and participation in order to adopt a fair decision.

Paragraph (5)

Sufficiently clear

**Article 35**

Point a

Reference to other surface water sources, among others, *situ* (lakes), *embung*, *ranu*, reservoir, ponds, and spring water.

Point b

Sufficiently clear

Point c

Sufficiently clear

Point d

Sufficiently clear

**Article 36**

Sufficiently clear

**Article 37**

Sufficiently clear

**Article 38**

Paragraph (1)

Reference to weather modification shall mean the efforts taken by benefiting from the weather parameter and climate condition in a certain location to minimize the impact of a natural disaster due to the climate and weather, such as droughts, floods, and forest fires.

Paragraph (2)

Sufficiently clear

Paragraph (3)

**Article 39**

Paragraph (1)

The development of the function and benefits of sea water that is located on land, for example for fishpond business and machine cooling system purposes.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

**Article 40**

Paragraph (1)

Reference to household drinking water shall mean water having a standard that may be drunk directly without having to be cooked first and is declared healthy according to the result of a microbiology test (ecoli test).

Reference to the development of a drinking water provision system shall mean to expand and improve the physics (technical) system and the non physics (institution, management, financial, community role, and legal) system as a whole unity for the provision of drinking water that fulfills a certain quality standard for the community in order to achieve a better condition. The development of the installation and network as well as system for the provision of drinking water for household purposes including the hydrant scheme and the distribution scheme with water tank car.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Reference to state owned enterprises and/or regionally owned enterprises shall mean the state owned enterprises and/or regionally owned enterprises whose duty is to develop the drinking water provision system.

Paragraph (4)

In the event that there is no provision of drinking water in an area that is carried out by a state owned enterprise and/or regionally owned enterprise, the provision of drinking water in that area shall be carried out by the cooperatives, private enterprises and the community.

Paragraph (5)

Sufficiently clear

Paragraph (6)

Sufficiently clear

Paragraph (7)

Sufficiently clear

Paragraph (8)

Sufficiently clear

**Article 41**

Paragraph (1)

Reference to irrigation shall mean the effort to provide, regulate, and dispose water to support the agriculture sector, of which types comprised surface irrigation, irrigation swamp, underground water irrigation, pump irrigation, and fishpond irrigation.

Paragraph (2)

The development of irrigation system by the Government and regional government shall include the 50 meters long model channel from the tapping construction/tertiary procurement.

The criteria of the distribution of responsibilities in regard to the management of irrigation, other than based on the presence of the said network in the said administrative area, it also needs to be based on its strata width, as follows:

- irrigation area (DI) having an area of less than 1.000 ha (small DI) and is located within one regency/municipality shall become the authority and responsibility of the regencies/municipal

government.

- irrigation area (DI) having an area of 1.000 up to 3.000 ha (medium DI), or a small irrigation area that is trans regency/municipality in nature shall become the authority and responsibility of the provincial government.
- irrigation area (DI) having an area of more than 3.000 ha (large DI), or medium DI that is trans provincial, nationally strategic and trans nation in nature shall become the authority and responsibility of the Government.
- The implementation of the irrigation system development that becomes the authority of the Government may be carried out by the regional government pursuant to the laws and regulations.

Paragraph (3)

This provision means that the rights and obligations to develop the tertiary irrigation system are held by the farmers, but the government may facilitate them within a certain boundary.

Paragraph (4)

Reference to community shall comprise the group of water using farmers.

Reference to involving the community's participation shall mean to encourage the water using community and farmers in particular to actively participate in the development of the primary and secondary irrigation system.

Paragraph (5)

Reference to other parties shall mean the group of community outside of the water using farmer group/union, individuals or enterprises that due to the requirement and based on the tiered levels of consideration/advice/recommendation of the government in accordance to the scale of authorities are deemed capable of developing the irrigation system. The development of irrigation system must be carried out in harmony with the regional spatial planning.

Development in terms of construction implementation may be carried out by other parties with a construction design that has already been approved by the government.

The development of irrigation system may also be carried out by the third parties under supervision of the government. Regulation in regard to the procedure of governmental approval and supervision shall be stipulated under the laws and regulations.

Reference to the farmer's capability shall mean the institutional, technical, and financing ability.

Paragraph (6)

Sufficiently clear

**Article 42**

Sufficiently clear

**Article 43**

Paragraph (1)

Reference to energy requirement shall mean, for example, the utilization of water as the power generator turbine activator or as the force to move the windmill.

Reference to fulfilling personal need shall mean the utilization of the energy generated to serve an individual/group's need, whereas further efforts are made to utilize the energy generated not only for their personal effort but also to be marketed to other parties.

Paragraph (2)

Sufficiently clear

**Article 44**

Paragraph (1)

Reference to the development of water resources for transportation purposes among others for media transportation, for example, for water transportation and to transport wood via the river.

Paragraph (2)

Sufficiently clear

**Article 45**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to the exploitation of surface water resources shall comprise one river area shall mean the exploitation of the entire water resources system in the relevant river area starting from the upstream down to the downstream area of the relevant river or water source.

Reference to state owned enterprises or regionally owned enterprises in the water resources management area shall mean the enterprises that are especially established by the Government or regional government within the framework of water resources management for the river area.

Paragraph (3)

Reference to enterprises in this paragraph may take the form of state owned enterprises/regionally owned enterprises (other than the water resources management enterprises for the river area), private enterprises, and cooperatives.

Cooperation may be established, either in financing the investment to construct water resources infrastructure as well as in the provision of water resources infrastructure services and/or operation. Cooperation may be carried out by various means, for example by means of the build, operate, and transfer scheme, joint venture company, service contract, management contract, concession contract, leasing contract and others. The said implementation of various forms of cooperation must remain within the boundaries that enable the government to execute their authorities in regulating, supervising and controlling the water resources management in entirety. The exploitation permit shall among others accommodate the substance in regard to water allocation and/or segment (portion) of the water source that can be exploited.

Paragraph (4)

Point a

Sufficiently clear

Point b

The utilization of water container in certain locations shall mean, among others, the exploitation or utilization of the water source for water tourism, white water rafting sport, or water transportation purposes.

Point c

Water force, among others, is utilized as the activator of the power generator turbine or as the force that moves the windmill.

**Article 46**

Paragraph (1)

The stipulation of water allocation shall not be absolute in nature as stated in the permit, but it is able to be subjected to a review in the event the requirement or circumstances used as the basis to grant such permit and the availability of water in the relevant water source undergoes a significant change in comparison to the availability of water during the stipulation of the allocation.

Paragraph (2)

The water allocation granted for such exploitation purposes shall continue to observe the water allocation to fulfill the daily basic need and the needs of the smallholder estate crops in the relevant river area.

Paragraph (3)

Sufficiently clear

Paragraph (4)

Reference to temporary water allocation shall mean the allocation that is calculated based on the availability of water that can be relied on (reliable debit) by calculating the needs of the existing water users.

**Article 47**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to facilitating shall mean to absorb, study and focus on an object of complaint, and provide a proportional/reasonable response.

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
Public consultation may take the form of direct meeting with the stakeholders and/or by other means that are more efficient and effective in collecting inputs/feedback from the stakeholders and the community.

Paragraph (5)  
Sufficiently clear

#### **Article 48**

Paragraph (1)  
Reference to distribution channel shall mean the channel that carries raw water, be it in the form of an open or closed channel such as pipes.

Paragraph (2)  
This provision is aimed to prevent exploitations that exceed the boundaries of the water resources ability to support the environment, thus threatening its preservation thereof.

#### **Article 49**

Sufficiently clear

#### **Article 50**

Sufficiently clear

#### **Article 51**

Paragraph (1)  
Reference to the destructive force of water may take the form of among others:

- a. flood;
- b. erosion and sedimentation;
- c. avalanche;
- d. cold lava flood;
- e. sunken soil;
- f. change of character from the chemical, biological, and physics content of the water;
- g. the threat of extinction of the types of plants and/or animals;
- h. plague;
- i. intrusion; and/or
- j. seepage.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
Sufficiently clear

#### **Article 52**

Sufficiently clear

#### **Article 53**

Paragraph (1)  
Reference to physical activities shall mean the construction of facilities and infrastructures as well as other efforts within the framework of preventing damage/disaster that may be caused by the destructive force of water, whereas non physical activity shall mean the activity of composing and/or implementing the software that comprises among others the regulation, cultivation, supervision, and control.

Reference to the balance between upstream and the downstream river area shall mean the synchronization between the conservation efforts in the upstream area with the exploitation in the

downstream area.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
Sufficiently clear

#### **Article 54**

Paragraph (1)  
The mitigation of disaster shall mean the activities that are aimed to lessen sufferings caused by disasters, for example the provision of refugee facilities and emergency patching of a ruptured dam.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Sufficiently clear

#### **Article 55**

Sufficiently clear

**Article 56**

Hazardous situation shall mean an extraordinary water situation that exceeds the boundaries of the plan thus if no emergency action is taken it is estimated that it will create a larger disaster towards the safety of the public.

**Article 57**

Sufficiently clear

**Article 58**

Sufficiently clear

**Article 59**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

The water resources management river area plan in one regency/municipality shall serve as an input for the spatial planning for the regency/municipality area; the trans regency/municipality water resources management river area plan shall serve as an input for the relevant spatial planning for the regency/municipality area and the provinces; the trans provincial water resources management river area shall serve as an input for the for the spatial planning for the relevant regency/municipality area and province.

In addition to its function as inputs in the preparation of the spatial planning, the water resources management river area plan shall also serve as inputs in reviewing the spatial planning area in the event of changes, either in regard to the water resources management plan or in a certain period of spatial planning. The said changes are made due to the development of condition and situation.

Therefore, there is a dynamic and open relationship between the water resources management plan and spatial planning plan that can be adjusted.

**Article 60**

Sufficiently clear

**Article 61**

Paragraph (1)

Reference to the water resources inventorying activity is intended, among others, to find out the hydrological, hydrometeorological, hydrogeological, available water resources potential conditions, and the availability of water, be it pertaining to the quantity or quality as well as the pre facilities and facilities as well as the environment thereof including the social, economical and cultural condition of its community.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

**Article 62**

Paragraph (1)

The water resources management plan is composed for a short term, medium term and long term

period. The stipulation of the planning period shall be based on the mutual agreement of the parties who played a role in the planning for each river area. In general, the short term period shall be five years, the medium term period shall be 10 years, and the long term period shall be 25 years.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Announcement is intended to provide the opportunity to the community to declare their objection against the draft of planning to be stipulated.

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Paragraph (6)

Development programs relating to the water resources management, for example the ground water development program by the institution responsible for the ground water areas, the land rehabilitation and land conservation program shall be carried out by the institution responsible for the land conservation area.

Paragraph (7)

Sufficiently clear

**Article 63**

Paragraph (1)

Reference to the construction of the water resources infrastructure shall mean the effort to develop or carry out the construction activities based on the technical planning that has been prepared, which may take the form of building or the facilities and/or water resources infrastructure construction.

Reference to guidance shall mean a general guidance that must be specified further and may be adjusted with the characteristic and the ability of the local region.

Reference to manual shall mean a guidance that contains instructions to operate the equipment and/or component of the water resources buildings for example water gates, flood plump, and water debit measuring tool.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

**Article 64**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to the regulation under this paragraph, for example, the regulation in regard to the distribution of water, the water provision schedule, the water utilization technique, and the regulation in regard to the utilization of the water source demarcation area.

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Paragraph (6)

Point a

The implementation of the operational and maintenance of the primary and secondary irrigation system carried out by the Government and the regional government shall not close the opportunity to gather the participation of water using farmers in accordance to their need and ability.

Point b

Sufficiently clear

Paragraph (7)

Sufficiently clear

Paragraph (8)

Sufficiently clear

**Article 65**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Hydrological condition information shall mean, for example information on rainfall, river debit, and water surface level in the water source.

Hydrometeorological condition information, shall mean, for example information on air temperature, wind velocity, and air humidity.

Hydrogeological condition information comprises the ground water curvature, for example information on ground water potential and the condition of the aquiver or water carrier level.

**Article 66**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Access to water resources information that is available at the data process center in the government institution, body or agency within the community may be carried out by various means, among others via the internet, printed media issued on a periodical basis, correspondences, telephone, facsimile, or direct visitation according to the principle of transparency for all parties who holds interest in the water resources area.

Paragraph (3)

Sufficiently clear

**Article 67**

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to activities relating to water resources shall mean the study, examination, seminar, workshop, empowerment of the community, as well as the development of the facilities and/or pre facilities relating to water resources management.

Paragraph (3)

Sufficiently clear

**Article 68**

Sufficiently clear

**Article 69**

Sufficiently clear

**Article 70**

Paragraph (1)

Reference to stakeholders shall mean the stakeholders in the water resources area.

Paragraph (2)

Sufficiently clear

Paragraph (3)

The definition of community group shall mean the community organization that engages in activities in the water resources sector, for example the *subak* community and water using farmer community group.

Paragraph (4)

Sufficiently clear

**Article 71**

Paragraph (1)

Reference to special education shall mean the form of non formal education that has been implemented in the water resources area, such as courses, training, and other forms of non formal education.

Paragraph (2)

Sufficiently clear

**Article 72**

Sufficiently clear

**Article 73**

Sufficiently clear

**Article 74**

Paragraph (1)

Reference to assistance shall mean the effort carried out by various parties to improve the awareness, behavior and capability by means of promoting, provision of information, and technical aid by placing and appointing an officer to assist the community.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

**Article 75**

Paragraph (1)

Reference to supervisory activities under this paragraph comprises a careful observation on the water resources management implementation practices, either in the context of its conformity with the management plan that has already been stipulated or within the context of compliance including the follow up actions thereof in accordance to the laws and regulations.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

Sufficiently clear

**Article 76**

Sufficiently clear

**Article 77**

Paragraph (1)

Reference to actual needs shall mean the fund that is solely required to finance the management of water resources so as its implementation may be carried out reasonably to guarantee the sustainability of the water resources' function.

Paragraph (2)

Each of the said type of financing comprises three aspects of water resources management,

namely the conservation of water resources, the exploitation of water resources, and the control of the destructive force of water.

Point a

Sufficiently clear

Point b

Sufficiently clear

Point c

Reference to the cost of construction, including the cost to conserve water resources.

Point d

Sufficiently clear

Point e

Sufficiently clear

Paragraph (3)

Point a

Sufficiently clear

Point b

Sufficiently clear

Point c

Water resources management service fees shall be obtained from the beneficial users of the water resources management, either for the purpose of exploitation of water resources or for the purpose of utilizing the water resources that are subjected to a payment obligation.

#### Article 78

Paragraph (1)

Other enterprises shall mean, for example, limited liability company and trade enterprises.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Sufficiently clear

Paragraph (4)

This provision is aimed to fulfill needs that are deemed to be highly urgent by the region but has not become a priority at the national level for the trans provincial river area and the nationally strategic river area, or has not become a priority in the regional level with respect to the trans regency/municipality river area.

#### Article 79

Paragraph (1)

Sufficiently clear

Paragraph (2)

Reference to certain boundaries shall mean the boundaries pertaining to the scope of work for social, welfare, and public safety services that may be financed by the Government and the regional government, for example, the rehabilitation of dikes and a flood early warning system. Whereas its routine maintenance cost shall continue to become the responsibility of the state owned enterprises/regionally owned enterprises who manages the relevant water resources.

#### Article 80

Paragraph (1)

The parties who utilized the water resources to fulfill their daily basic needs and who are not subjected to any water resources management service fee shall mean the user of water resources who utilized water at or who procured water for their personal purpose from the water source that is not used as a distribution channel.

The water resources management service fee shall mean the cost required to manage the water resources so as the water resources may be utilized in a sustainable manner.

Paragraph (2)

Sufficiently clear

Paragraph (3)

A rational economic calculation that can be accounted for shall mean the calculations that observe the following elements:

- investment depreciation cost;
- amortization and investment interest;
- operation and maintenance; and
- the development of water resources.

Paragraph (4)

Reference to the unit value of the management service fee shall mean the amount of management service fee for each utilization unit, for example Rp per kWh and Rp per m3. User group shall mean, for example: household industry entrepreneur group, factory industry entrepreneur group, and packaged drinking water entrepreneur group.

Reference to volume in the volume of water resources usage shall mean the amount of utilization of the water resources calculated based on the m3 unit, or the unit of vastness of the water source being utilized, or the unit of energy that is generated (kWh).

The economic ability of the user group needs to be considered in determining the unit of management service fee bearing in mind the varying amount of income.

Paragraph (5)

Reference to the types of non business utilization shall mean the types of water utilization for non profit activities, for example smallholder estate crops, household, and religious worships.

Paragraph (6)

Reference to funds under this paragraph shall mean the collection of water resources management service fees.

Paragraph (7)

Sufficiently clear

#### Article 81

Sufficiently clear

#### Article 82

Point a

Sufficiently clear

Point b

The form of losses suffered due to the implementation of water resources management, for example the loss or decrease of function or rights over land, building, plants, and other items on it due to the construction of dams, barriers, dikes, channels, and other water resources management infrastructure buildings.

The provision of compensation shall be carried out in accordance to the prevailing provisions comprising of physical and/or non physical compensation to the owner or the cultivator of the land right and/or other items as well as vegetation on it.

Physical compensation may take the form of money, relocation of housing, shares, or in other forms.

Non physical compensation may take the form of jobs, or other livelihood that shall not reduce the social economic value thereof.

Point c

Sufficiently clear

Point d

Sufficiently clear

Point e

Losses relating to the implementation of water resources management, for example in the event any provision of water failed to comply to the time schedule, failed to comply with the allocation, and/or the water quality failed to comply with the quality standard.



Reference to the competent authority shall mean the water resources manager and other parties who hold the duties and authorities to receive complaints relating to water resources management.

Point f  
Sufficiently clear

**Article 83**  
Sufficiently clear

**Article 84**  
Paragraph (1)  
The community's role in the planning process shall, for example, take the form of conveyance of thoughts, ideas, and the decision making process to a certain extent.  
The community's role in the implementation process shall take the forms that comprised of construction as well as operation and maintenance, for example the contribution of time, effort, material, and fund.  
The community's role in the supervision process shall, for example, take the form of submission of reports and/or complaints to the competent authorities.

Paragraph (2)  
Sufficiently clear

**Article 85**  
Sufficiently clear

**Article 86**  
Paragraph (1)  
Reference to other names shall mean for example the provincial water regulation committee and the regencies/municipal water regulation committee.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Reference to the principle of representation shall mean the representation of interests of the relevant elements, for example the sectors, areas, as well as the user group and the water resources entrepreneurs. The expert, association, professional, community organization groups may be involved as a source of reference.  
Reference to balanced shall mean the proportional number of members between the governmental and non governmental elements.

Paragraph (4)  
Sufficiently clear

**Article 87**  
Sufficiently clear

**Article 88**  
Paragraph (1)  
Water resources disputes may take the form of water resources management disputes and/or water utilization right or water exploitation right disputes. For example, disputes among the users, among the entrepreneurs, between the users and the entrepreneurs, between the regions, and between the upstream and downstream business.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Sufficiently clear

**Article 89**

Sufficiently clear

**Article 90**  
Sufficiently clear

**Article 91**  
Sufficiently clear

**Article 92**  
Paragraph (1)  
Reference to organizations engaging in the field of water resources shall mean, among others, water user organization, organizations that observe water issues, educational institution, non governmental organization in the field of water resources, professional association, and/or other forms of community organizations engaging in the field of water resources.  
The right to file a law suit under this paragraph shall mean a class action suit.

Paragraph (2)  
The provision under this paragraph is intended so that the law suits filed by an organization shall be confined to the actions in regard to water resources that involves the public interest and shall be done by submitting a request to the court of justice to issue an order to a person or legal entity to take management and restorative actions pertaining to the sustainability of the water resources' function.  
Reference to costs for actual expenditures shall mean costs that can be proven to have been actually expended by the organization filing the relevant law suit.

Paragraph (3)  
Sufficiently clear

**Article 93**  
Paragraph (1)  
Sufficiently clear

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Civil investigators shall notify the investigator with the Police Force of the Republic of Indonesia (POLRI) regarding the commencement of the investigation and the result thereof shall be submitted to the public attorney via the investigator with the POLRI. The aforementioned is intended to ascertain that the result of such investigation is in compliance with the prevailing terms and requirements. The mechanism of coordinative relationship between the civil investigator and the investigator with the POLRI shall be carried out in accordance to the prevailing laws and regulations.

Paragraph (4)  
Sufficiently clear

**Article 94**  
Sufficiently clear

**Article 95**  
Sufficiently clear

**Article 96**  
Sufficiently clear

**Article 97**  
Sufficiently clear

**Article 98**

The referred permits comprised permits pertaining to the utilization of water resources prepared by the Government or the regional government.

**Article 99**

Sufficiently clear

**Article 100**

Sufficiently clear

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 4377

**Appendix 3.2    President Regulation    Number 42, Year 2005    Concerning    National  
Committee for the Acceleration of Infrastructure Provision Policy**

Source:

[http://www.kkppi.go.id/List\\_uu/Perpres%2042%20tahun%202005e.htm](http://www.kkppi.go.id/List_uu/Perpres%2042%20tahun%202005e.htm)

PRESIDENT REGULATION  
NUMBER 42, YEAR 2005  
CONCERNING  
**NATIONAL COMMITTEE FOR THE ACCELERATION OF  
INFRASTRUCTURE PROVISION POLICY**  
BY THE GRACE OF GOD ALMIGHTY  
THE PRESIDENT OF REPUBLIC OF INDONESIA

To establish the National Committee for the Acceleration of Infrastructure Provision, which in this Presidential Regulation shall be the Committee, organized as follows:

a. Chairperson : Coordinating Minister for Economic Affairs

- Considering:
- a. to coordinate the acceleration of infrastructure development for national economic recovery, with the Presidential Decree Number 81 Year 2001 on the Committee on Policy for the Acceleration of Infrastructure Development, the Committee on Policy for the Acceleration of Infrastructure Development has been created;
  - b. to make coordination in the acceleration of infrastructure provision more effective, it has been deemed necessary to complete the above-mentioned committee's tasks, functions and membership;
  - c. based on considerations as referred to in points a and b above, it has been deemed necessary to promulgate the Presidential Regulation on the National Committee for the Acceleration of Infrastructure Provision.

Bearing in mind: Article 4 Paragraph (1) The Republic of Indonesia's 1945 Constitution;

DECIDES:

To promulgate: THE PRESIDENTIAL REGULATION ON THE NATIONAL COMMITTEE FOR THE ACCELERATION OF INFRASTRUCTURE PROVISION.

**Article 1**

- b. Executive Chairperson : State Minister for National Development Planning/Chairperson of the National Development Planning Agency
- c. First Secretary : Deputy of the Coordinating Minister of Economic Affairs in Coordinating Fiscal Decentralization and Economy and Infrastructure Development
- d. Second Secretary : Deputy of the Chairperson of the National Development Planning Agency in Facilities and Infrastructure
- e. Members :
  1. Minister of Home Affairs
  2. Minister of Finance
  3. Minister of Energy and Mineral Resources
  4. Minister of Public Works
  5. Minister of Transportation
  6. Minister Communication and Information Technology
  7. State Minister for State-Owned Enterprises, and
  8. State/Cabinet Secretary

**Article 2**

- (1) The Committee shall have the tasks of:
  - a. developing strategies to coordinate the implementation of infrastructure provision acceleration;
  - b. coordinating and monitoring the implementation of policies on the acceleration of infrastructure provision by related Ministers and local Governments;
  - c. developing policies on the implementation of Public Service Obligation in accelerating infrastructure provision;
  - d. deciding on efforts to solve problems related to the acceleration of infrastructure provision.
- (2) In performing its tasks, the Committee will be accountable to and will report to the President.

**Article 3**

In performing its tasks, the Committee shall be able to do as follows:

- a. invite institutions, local governments or other officials whose duties and responsibilities are related to efforts to accelerate infrastructure provision;
- b. request suggestions from businesses related to infrastructure provision;
- c. consult public or public organizations, international organizations and institutions;
- d. provide recommendations to the President on the implementation of infrastructure provision acceleration, including the implementation of Presidential Decree Number 15 Year 2002 concerning the Annulment of Presidential Decree Number 39 Year 1997 concerning the postponement/review of projects of government, state-owned enterprises and private businesses associated with the government/state-owned enterprises, which relate to infrastructure.

#### **Article 4**

The stipulation on efforts to solve problems related to the infrastructure provision and the formulation of strategies to coordinate the implementation of infrastructure provision acceleration as referred to in the above Article 2, shall be made in the Committee Decision, which the Committee Chairperson will sign.

#### **Article 5**

The types of infrastructure contained in this Presidential Regulation shall be as follows:

- a. transportation infrastructure
- b. road infrastructure
- c. irrigation infrastructure
- d. water supply and sanitation infrastructure
- e. information technology infrastructure;
- f. electricity infrastructure, and
- g. oil and natural gas transmission infrastructure

#### **Article 6**

- (1) In order to support the implementation of the Committee's tasks, the Committee Chairperson shall:
  - a. form a Secretariat that will be chaired by the Committee's Secretary with members consisting of officials from institutions that are members of the Committee;
  - b. be able to establish working groups for particular tasks.
- (2) The organization, installment, position, tasks and responsibility of the Secretariat and working groups shall be determined by the Committee Chairperson.

#### **Article 7**

All expenses incurred in the implementation of the Committee's tasks shall be paid from the State Budget of the State Ministry for National Development Planning/the National Development Planning Agency.

#### **Article 8**

On enactment of this Presidential Regulation, the task implementation of the Committee, which was established by the Presidential Decree Number 81 Year 2001, shall be continued by the Committee established by this Presidential Regulation.

**Article 9**

Upon the enactment of this Presidential Regulation, Presidential Decree Number 81 Year 2001 on the Infrastructure Development Acceleration Policy Committee is annulled and becomes void.

**Article 10**

This Presidential Regulation shall enact as of the date of ratification.

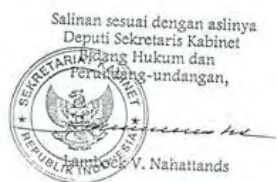
Ratified in Jakarta,

On 23<sup>rd</sup> May 2005

**PRESIDENT OF THE REPUBLIC OF  
INDONESIA,**

[signed]

**DR. H. SUSILO BAMBANG  
YUDHOYONO**



**Appendix 3.3 Presidential Regulation of the Republic of Indonesia Number 67 of 2005  
Concerning the Cooperation between the Government and the Business  
Entities in the Provision of Infrastructure**

Source:

[http://www.kkppi.go.id/lintassektor.php?pgstate=Y&enid=0382&langsel=E&su  
bid=C&secid=O](http://www.kkppi.go.id/lintassektor.php?pgstate=Y&enid=0382&langsel=E&su<br/>bid=C&secid=O)



**PRESIDENTIAL REGULATION OF THE REPUBLIC OF INDONESIA**  
**NUMBER 67 OF 2005**  
**CONCERNING**

**The Cooperation between the Government and the Business Entities in the Provision  
of Infrastructure**

**WITH THE GRACE OF THE SUPREME GOD**  
**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering :
- a. Whereas there is an urgent need to make sufficient and sustainable infrastructure available in order to support the national development within the framework of improving the community's economy and welfare, as well as to increase Indonesia's competitive edge among the global society;
  - b. Whereas in order to accelerate the infrastructure development, it is deemed necessary to take comprehensive measures to create an investment climate that will promote business entities' participation in the provision of infrastructure on the basis of fair business principles;
  - c. Whereas in order to encourage and improve cooperation between the government and business entities in the provision of infrastructure and the relevant services, it is necessary to protect and secure the interest of the consumers, community, and the business entities in a fair manner;
  - d. Whereas based on the considerations as referred to in points a, b, and c, it is necessary to stipulate a Presidential Regulation concerning the Cooperation Between the Government and the Business Entities in the Provision of Infrastructure;

- Bearing in mind :
1. Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia;
  2. Presidential Decree Number 80 of 2003 concerning the Implementation Guidance for the Provision of Government Goods/Services (State Gazette of the Republic of Indonesia Year 2003 Number 120, Supplement to the State Gazette of the Republic of Indonesia 4430) as amended several times most

recently by the Presidential Regulation Number 32 of 2005 (State Gazette of the Republic of Indonesia Year 2005 Number 36);

**DEICDED**

To promulgate : **PRESIDENTIAL REGULATION CONCERNING THE COOPERATION BETWEEN THE GOVERNMENT AND THE BUSINESS ENTITIES IN PROVIDING INFRASTRUCTURE.**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**

Reference to the following under this Presidential Regulation shall have the following meaning:

1. Minister/Chairman of the Institution shall mean the chairman of the ministry/institution whose scope of work, duties and responsibilities comprised of the infrastructure sector as regulated under this Presidential Regulation.
2. Head of the Region shall mean the governor for a provincial region, or regent for a regency, or mayor for a municipality area.
3. Provision of Infrastructure shall mean the activity comprising the construction work to develop or improve the infrastructure capability and/or infrastructure management and/or infrastructure maintenance activity within the framework of improving the benefits gained from such infrastructure.
4. Business Entity shall mean the private business entity in the form of a limited liability company, State Owned Enterprises (BUMN), Regionally Owned Enterprises (BUMD), and cooperatives.
5. Cooperation Project shall mean the Provision of Infrastructure that is carried out by virtue of a Cooperation Agreement or issuance of an Operation Permit between the Minister/Chairman of the Institution/Head of the Region and the Business Entity.
6. Cooperation Agreement shall mean the written agreement to Provide Infrastructure between the Minister/Chairman of the Institution/Head of the Region and the Business Entity as stipulated through a public tender.

7. Operation Permit shall mean the permit to Provide Infrastructure granted by the Minister/Chairman of the Institution/Head of the Region to the Business Entity as stipulated during a tender.
8. Government Support shall mean the support given by the Minister/Chairman of the Institution/Head of the Region to the Business Entity within the framework of executing the Cooperation Project by virtue of the Cooperation Agreement.

## **CHAPTER II**

### **OBJECTIVE, TYPE, FORM AND PRINCIPLE OF COOPERATION**

#### **Article 2**

- (1). Minister/Chairman of the Institution/Head of the Region may cooperate with the Business Entity in Providing the Infrastructure.
- (2). In executing the cooperation as referred to in paragraph (1), the Minister/Chairman of the Institution/Head of the Region shall act as the principal of the Cooperation Project.

#### **Article 3**

The Cooperation Project on the Provision of Infrastructure between the Minister/Chairman of the Institution/Head of the Region with the Business Entity shall be carried out for the purpose of:

- a. Meeting the financial requirement in a sustainable manner in Providing the Infrastructure through the mobilization of private funds;
- b. Improving the quantity, quality and efficiency of service through fair competition;
- c. Improving the quality of management and maintenance in the Provision of Infrastructure;
- d. Encouraging the utilization of the principle of user paying for the services that they receive, or in certain cases take into consideration the users' ability to pay.

#### **Article 4**

- (1). A cooperation can be entered with the Business Entity in regard to the following types of infrastructure:
  - a. transportation infrastructure, comprising sea, river or lake port, airport, railway and railway station;

- b. road infrastructure, comprising the toll road and toll bridge;
- c. infrastructure for the distribution of water, comprising waterways to transport raw water;
- d. infrastructure for drinking water, comprising the structure used to extract raw water, transmission network, distribution network, drinking water processing installation;
- e. waste water infrastructure comprising the waste water processing installation, gathering network and main network, and the waste facility comprising the shipping and disposal site;
- f. telecommunication infrastructure, comprising the telecommunication network;
- g. electrical power infrastructure, comprising the generation, transmission or distribution of electricity; and
- h. oil and natural gas infrastructure comprising the processing, deposit, shipping, transmission, or distribution of oil and natural gas.

- (2). In regard to the infrastructure as referred to in paragraph (1), cooperation shall be established in accordance to the prevailing legislations in the relevant sector.

#### **Article 5**

- (1). Cooperation between the Minister/Chairman of the Institution/Head of the Region with the Business Entity in the Provision of Infrastructure as referred to in Article 2 paragraph (1), may be executed by means of:
  - a. Cooperation Agreement; or
  - b. Operational Permit.
- (2). Form of Cooperation between the Minister/Chairman of the Institution/Head of the Region with the Business Entity in the Provision of Infrastructure, stipulated by virtue of the agreement between the Minister/Chairman of the Institution/Head of the Region with the Business Entity to the extent that it is not contradictory to the prevailing legislations.

#### **Article 6**

The Cooperation on the Provision of Infrastructure between the Minister/Chairman of the Institution/Head of the Region with the Business Entity shall be carried out based on the following principles:

- a. fair, which means that all of the Business Entities participating in the procurement process must receive equal treatment;
- b. open, which means that all of the procurement process shall be open for Business Entities who have met the required qualification;
- c. transparent, which means that all of the provisions and information relating to the Provision of Infrastructure including the technical administration requirement for the selection process, evaluation procedure, and the stipulation that the Business Entity shall be open for all Business Entities and the public in general;
- d. competition, shall mean the election of the Business Entity through the tender process;
- e. accountable, which means that the result of the Business Entity selection process must be held accountable;
- f. mutually beneficial, which means that the partnership with the Business Entity in the Provision of Infrastructure shall be carried out based on an equitable terms and conditions thus offering benefits for both parties and the community by taking into consideration the basic needs of the people;
- g. reciprocal need, which means that the partnership with the Business Entity in the Provision of Infrastructure shall be carried out by virtue of the terms and conditions that takes into consideration the need of both parties;
- h. mutually supportive, which means that the partnership with the Business Entity in the Provision of Infrastructure shall be carried out with the spirit of mutual support from both parties.

### **CHAPTER III**

#### **IDENTIFICATION AND STIPULATION OF THE PROJECT EXECUTED BY VIRTUE OF THE COOPERATION AGREEMENT**

##### **Article 7**

- (1) The Minister/Chairman of the Institution/Head of the Region shall identify the Infrastructure Provision projects for which a cooperation shall be

established with the Business Entity, by at least taking the following matters into consideration:

- a. conformity with the national/regional mid term development plan and the infrastructure sector's strategic plan;
  - b. conformity of the project's location with the Regional Spatial Planning;
  - c. interconnection among the infrastructure sectors and the regional areas;
  - d. cost analysis and social benefit.
- (2) Every proposed project for which a cooperation will be established must be accompanied by:
    - a. a pre-feasibility study;
    - b. cooperation scheme plan;
    - c. project financing plan and the source of fund thereof; and
    - d. cooperation proposal plan comprising the schedule, process and method of evaluation.

##### **Article 8**

In identifying the project for which a cooperation shall be established as referred to in Article 7, Minister/Chairman of the Institution/Head of the Region shall engage in a public consultation.

##### **Article 9**

- (1) Based on the outcome of the project identification as referred to in Article 7 and outcome of the public consultation as referred to in Article 8, Minister/Chairman of the Institution/Head of the Region shall determine the priorities of the project for which a cooperation shall be established in the list of priority projects.
- (2) The list of priority projects as referred to in paragraph (1), will be declared open for the public and dispersed to the community.

### **CHAPTER IV**

#### **COOPERATION PROJECT BASED ON THE INITIATIVES OF THE BUSINESS ENTITIES**

##### **Article 10**

Business Entities may submit a Cooperation on Infrastructure Procurement Project Initiative that is not included in the list of project priority as referred to in Article 9, to the Minister/Chairman of the Institution/Head of the Region.

#### **Article 11**

- (1) Project with respect to the Business Entity initiatives must be accompanied by:
  - a. feasibility study;
  - b. cooperation plan;
  - c. project financing plan and the source of fund thereof; and
  - d. cooperation proposal plan comprising the schedule, process and method of evaluation.
- (2) Project with respect to the Business Entity initiatives as referred to in paragraph (1), shall also take into consideration the provisions as referred to in Article 7 paragraph (1).

#### **Article 12**

- (1) The Minister/Chairman of the Institution/Head of the Region shall evaluate the project based on the initiative of the Business Entity as referred to in Article 11.
- (2) In the event that based on the evaluation as referred to in paragraph (1) the project that is established based on the initiative of the Business Entity meets the feasibility requirement, the said project that is established based on the initiative of the Business Entity shall be processed by means of a public tender in accordance to the provisions under this Presidential Regulation.

#### **Article 13**

- (1) The Business Entity whose Cooperation Project initiative was received by the Minister/Chairman of the Institution/Head of the Region, shall be compensated.
- (2) The compensation as referred to in paragraph (1), may take the form of:
  - a. added value; or

- b. purchase of the Cooperation Project initiative including the Intellectual Property Rights that accompany it by the Minister/Chairman of the Institution/Head of the Region or by the tender winner.

#### **Article 14**

- (1) The added value as referred to in Article 13 paragraph (2) point a, shall be no more than 10 % (ten percent) of the tender value of the initiator and shall be announced publicly before the procurement process.
- (2) The purchase of the Cooperation Project initiative as referred to in Article 13 paragraph (2) point b, shall constitute as a reimbursement from the Minister/Chairman of the Institution/Head of the Region or from the tender winner of the costs expended by the Business Entity from who the initiative originated.
- (3) The amount of the added value as referred to in paragraph (1) and the reimbursement as referred to in paragraph (2), shall be stipulated by the Minister/Chairman of the Institution/Head of the Region based on the considerations of the independent appraiser, prior to the procurement process.

### **BAB V**

#### **INITIAL TARIFF AND TARIFF ADJUSTMENT**

#### **Article 15**

- (1) The initial tariff and adjustments thereof shall periodically be determined in order to ascertain the rate of investment return that covers the cost of capital, operational cost and reasonable profit within a certain time period.
- (2) In the event the determination of the initial tariff and adjustments thereof cannot be made in accordance to the provisions as referred to in paragraph (1), the tariff shall be determined based on the users' capability level.
- (3) In the event the tariff is determined based on the users' capability level as referred to in paragraph (2), the Minister/Chairman of the Institution/Head of the Region shall provide compensation so as to obtain a reasonable rate of investment return and profit.
- (4) The amount of compensation as referred to in paragraph (3), shall be based on the revenues resulted from the competition among the tender participants and shall be chosen based on the minimum offered range of compensation.

- (5) Compensation will only be given to the Cooperation on the Infrastructure Provision Project that holds social interest and benefit, after the Minister/Chairman of the Institution/Head of the Region carries out a complete and comprehensive review of the social benefits.

## **CHAPTER VI**

### **RISK MANAGEMENT AND GOVERNMENT SUPPORT**

#### **Article 16**

- (1) The risk shall be managed based on the principle of risk allocation between the Minister/Chairman of the Institution/Head of the Region and Business Entity in a sufficient manner by allocating the risk to the party who is most able to control the risk within the framework of guaranteeing efficiency and effectiveness in the Provision of Infrastructure.
- (2) The risk management as referred to in paragraph (1), shall be set forth in the Cooperation Agreement.

#### **Article 17**

- (1) The Government Support to the Business Entity shall be carried out with due regard to the principle of management and financial risk control in the State Revenue and Expenditure Budget (APBN) or Regional Revenue and Expenditure Budget (APBD).
- (2) Risk control and management as referred to in paragraph (1), shall be carried out by the Minister of Finance or Chairman of the Regional Finance Management Task Unit in the event the Government Support is given by the Regional Government.
- (3) In carrying out the duties and functions as referred to in paragraph (2), the Minister of Finance or the Regional Finance Management Task Unit shall be authorized to:
- a. obtain the data and information required from the parties relating to the Cooperation Project on the Provision of Infrastructure that requires the Government Support;
  - b. to approve or deny the proposed offering of Government Support to the Business Entity within the framework of the Provision of Infrastructure, based on the criteria determined by the Minister of Finance in the event

the Government Support is given by the Central Government, or the Regional Finance Management Task Unit in the event the Government Support is given by the Regional Government;

- c. to determine the payment procedure for the obligations of the Minister/Chairman of the Institution/Head of the Region arising from the Infrastructure Provision project in case of the reimbursement for the intellectual property rights, subsidy payment, and inability to fulfill the Cooperation Agreement.

## **CHAPTER VII**

### **BUSINESS ENTITY PROCUREMENT PROCEDURE WITHIN THE FRAMEWORK OF THE COOPERATION AGREEMENT**

#### **Article 18**

Business Entity Procurement within the framework of the Cooperation Agreement shall be carried out by means of a public tender.

#### **Article 19**

The Minister/Chairman of the Institution/Head of the Region shall form a procurement committee.

#### **Article 20**

The procurement procedure as referred to in Article 18, shall comprise of:

- a. procurement preparation;
- b. procurement implementation;
- c. announcement of the winner; and
- d. drafting the Cooperation Agreement.

#### **Article 21**

The Minister/Chairman of the Institution/Head of the Region shall determine the tender winner based on the proposal from the procurement committee.

#### **Article 22**

The provisions as referred to in Article 18, Article 19, Article 20, and Article 21 shall be further regulated under the Attachment to this Presidential Regulation, which constitutes an inseparable part of this Presidential Regulation.

## **CHAPTER VIII COOPERATION AGREEMENT**

### **Article 23**

(1) A Cooperation Agreement shall at least comprise of the provisions concerning:

- a. scope of work;
- b. duration;
- c. performance bond;
- d. adjustment tariff and mechanism;
- e. rights and obligations, including risk allocation;
- f. standard of service performance;
- g. prohibition to transfer the Cooperation Agreement or transfer of shares to the Business Entity holding the Cooperation Agreement before the Provision of Infrastructure commences commercial operation;
- h. sanction in case the parties failed to meet the provisions of the agreement;
- i. severance or termination of the agreement;
- j. financial report of the Business Entity within the framework of the implementation of the agreement, which is examined on an annual basis by an independent auditor, and of which announcement is published in a printed media having national coverage;
- k. the settlement of dispute mechanism that is regulated in stages, namely deliberation to reach a consensus, mediation, and arbitration/court of justice;
- l. the supervision mechanism on the Business Entity's performance in implementing the agreement;
- m. infrastructure return and/or the management thereof to the Minister/Chairman of the Institution/Head of the Region;
- n. force majeure;

- o. governing law, namely the Indonesian law.
- (2) In the event the Provision of Infrastructure is carried out by means of land relinquishment by the Business Entity, the amount of Performance Bond as referred to in paragraph (1) point c, may be determined by calculating the cost expended by the Business Entity to relinquish the relevant land.
- (3) The Cooperation Agreement shall clearly state the status of ownership of the asset procured during the duration of the agreement.

### **Article 24**

- (1) No more than 12 (twelve) months after the Business Entity signs the Cooperation Agreement, the Business Entity must have already obtained the financing for the Cooperation Project.
- (2) In the event the provisions as referred to in paragraph (1) may not be fulfilled by the Business Entity, the Cooperation Agreement shall end and the tender bond may be liquidated.

### **Article 25**

- (1) In the event of any delegation of asset management owned or controlled by the Minister/Chairman of the Institution/Head of the Region to the Business Entity with respect to the implementation of the Cooperation Project, the Cooperation Agreement shall regulate:
- a. the purposes of the asset utilization and prohibition to use the asset for purposes other than the agreed purposes;
  - b. operational and maintenance responsibilities including payment of tax and other obligations arising due to the asset utilization;
  - c. the rights and obligations of the parties controlling the asset to supervise and maintain the asset's performance during the period of use;
  - d. prohibition for the Business Entity to provide the assets as collateral to the third parties;
  - e. procedure to transfer and/or return the assets.
- (2) In the event the Cooperation Agreement regulates the transfer of control over the asset by the Business Entity during the duration of the agreement, the Cooperation Agreement shall regulate:

- a. the condition of the assets to be transferred;
- b. procedure to transfer the assets;
- c. the status of the asset that is free from any form of security rights or encumbrance whatsoever at the time when the asset is handed over to the Minister/Chairman of the Institution/Head of the Region;
- d. the status of the assets that are free from any third party claim;
- e. indemnification of the Minister/Chairman of the Institution/Head of the Region from any claim that may arise after the transfer of assets;
- f. compensation to the Business Entity who has relinquished the asset.

#### **Article 26**

In relation to the use of the Intellectual Property Rights, the Cooperation Agreement must set forth the guarantee from the Business Entity that:

- a. The Intellectual Property Right being used is completely free from any form of legal violation;
- b. The Minister/Chairman of the Institution/Head of the Region will be indemnified from any claim or suit from any third party whomsoever in relation to the use of the Intellectual Property Rights in the Provision of the Infrastructure;
- c. Pending the settlement of an ongoing case due to the claim or suit as referred to in point b then:
  - 1). The Provision of Infrastructure may continue to proceed;
  - 2). Efforts shall be made so as the license to use the Intellectual Property Rights will still be enforceable.

### **CHAPTER IX**

#### **PROVISION OF INFRASTRUCTURE BY VIRTUE OF AN OPERATION PERMIT**

#### **Article 27**

Business Entity procurement in the Provision of Infrastructure by virtue of an Operation Permit shall be carried out by means of a tender for the permit.

#### **Article 28**

The procedure to tender the permit as referred to Article 27 shall be further regulated by the Minister/Chairman of the Institution/Head of the Region, by implementing the principle as referred to in Article 6.

### **CHAPTER X**

#### **TRANSITORY PROVISIONS**

#### **Article 29**

With the enactment of this Presidential Regulation:

1. The Cooperation Agreement that has been signed prior to the enactment of this Presidential Regulation shall continue to be in force;
2. The procurement process that has been carried out and for which a winner has been determined by virtue of the Presidential Decree Number 7 of 1998 concerning Cooperation Between the Government and Private Business Entity In Development and/or Infrastructure Management, yet no Cooperation Agreement has been signed, then the Cooperation Agreement shall be prepared in accordance to this Presidential Regulation;
3. The Cooperation Agreement that has been signed by virtue of the Presidential Decree Number 7 of 1998 concerning Cooperation Between the Government and Private Business Entity In Development and/or Infrastructure Management, yet has not fulfilled the financing thereof, then such financing obligation shall be carried out in accordance to the provisions of Article 24 of this Presidential Regulation.

### **CHAPTER XI**

#### **CLOSING**

#### **Article 30**

At the time when this Presidential Regulation enters into force, then the Presidential Decree Number 7 of 1998 concerning Government Cooperation and Private Business Entity In Development and/or Infrastructure Management, shall be revoked and declared to be no longer effective.

#### **Article 31**

This Presidential Regulation shall enter into force on the date of its promulgation.

Promulgated in Jakarta

on 9 November 2005

**PRESIDENT OF THE REPUBLIC OF**

**INDONESIA,**

signed

**DR. H. SUSILO BAMBANG YUDHOYONO**

Copy conforms to the original,

Deputy Cabinet Secretary

Legal and Legislation Division

[Signed]

Lambock V. Nahattands

ATTACHMENT:

PRESIDENTIAL REGULATION OF THE REPUBLIC OF  
INDONESIA

NUMBER : 67 OF 2005

DATED : 9 NOVEMBER 2005

**BUSINESS ENTITY PROCUREMENT PROCEDURE WITHIN THE FRAMEWORK OF A  
COOPERATION AGREEMENT**

**A. Procurement Planning**

1. Minister/Chairman of the Institution/Head of the Region shall form a Procurement Committee;
2. Members of the Procurement Committee shall consist of elements who understand:
  - a. procurement procedure;
  - b. substance of the relevant work/activity;
  - c. contract law;
  - d. technical aspect;
  - e. financial aspect;
3. Schedule of procurement implementation: preparation of the procurement schedule must allocate enough time for all phase of the procurement process.
4. Self Calculation Price (HPS) must be carried out in a diligent manner.



5. The public tender document shall at least contain:

- a. invitation to the tender participants;
- b. instruction to the tender participant that shall at least set forth:
  - 1) public: scope of work, source of fund, requirement and qualification of the tender participant, number of tender document submitted, and evaluation of the work location;
  - 2) content of the public tender document, elucidation of the content of the public tender document, and changes to the content of the public tender document;
  - 3) language required to be used in the tender, offered price stated in writing, proposed currency and method of payment, validity period of the offer, letter of proposal guarantee, proposal of the alternative offer by the tender participants, form of offer and signing of the letter of proposal;
  - 4) method of covering and marking the envelope of the proposal, deadline of submission, treatment for late proposals, as well as prohibitions on changes and withdrawal of the offers that have been submitted;
  - 5) the procedure to open a tender, confidentiality and prohibition, clarification of the tender document, examination of the comprehensiveness of the tender document, arithmetic correction, conversion into a single currency, proposal evaluation system comprising of the criteria, formulation, and evaluation procedure, as well as the evaluation on the price preference;
- c. draft of the cooperation agreement;
- d. list of quantity and price;
- e. technical specification and drawing;
- f. form of proposal letter;

- g. form of cooperation;
- h. form of proposal guarantee letter;
- i. form of the letter of performance guarantee;
- j. a public tender document must explain the method of submitting a tender document.

B. Procurement:

1. Announcement and Registration of the Participants

- a. The Procurement Committee must make a general announcement about the public tender;
- b. The content of the announcement shall at least set forth the name and address of the Minister/Chairman of the Institution/Head of the Region who shall conduct a public tender, prepare a summarized detail on the job to be carried out, the estimated job value, requirements for the tender participants, venue, date, day and time to pick up the public tender documents;
- c. In order so that the announcement referred to in point a may reach a wider target in an efficient and accurate manner within reach of the targeted community and entrepreneurs, then the announcement will be regulated as follows: the tender/prequalification announcement shall be made in a regional government/private owned newspaper and radio broadcast having national/international coverage of readers and listeners.

2. Prequalification, comprises an evaluation of:

- a. Business permit for the business that it engages in;

- b. Authority to legally sign a contract;
- c. The legal status of the company, in the sense that the company is not under the court's supervision, not bankrupt, its business activity is not being suspended, and/or not serving any criminal sentence;
- d. Has experience in similar types of Cooperation on the Provision of Infrastructure Project;
- e. Ability to provide facilities and equipments as well as personnel;
- f. Letter of financial statement from the bank; and
- g. Availability of special equipments, the necessary special expert staff, or particular experiences, for special/specific/high tech jobs.

### 3. Prequalification Procedure:

- a. Announcement of the prequalification for a public tender;
- b. Registration and acquiring the prequalification document;
- c. Submission of the prequalification document by the tender participant;
- d. Evaluation of the prequalification document;
- e. Determination of the list of tender participant who passed the prequalification by the Procurement Committee;
- f. Legalization of the result of the prequalification by the Procurement Committee;
- g. Announcement of the result of the prequalification;
- h. Submission of the objection by the tender participant who did not pass the prequalification to the Minister/Chairman of the Institution/Head of the Region, if any;

- i. Research and follow up of the refutation pertaining to the result of the prequalification;
- j. Re-evaluation by the Procurement Committee in the event the refutation/objection of the provider of goods/services is proven to be true and announcement of the result of the re-evaluation.

### 4. Preparation of the List of Participants, Delivery of the Invitation and Acquiring the Public Tender Document

- a. List of the tender participants who will be invited must be legalized by the Minister/Chairman of the Institution/Head of the Region;
- b. In the event there is less than 3 (three) tender participants who have passed the prequalification then an announcement and another prequalification process will be carried out by inviting a new tender participant;
- c. In the event that after another announcement of the tender/prequalification is made, there is no new additional prospective tender participant or the total tender participants stand to be less than 3 (three) participants, then the Procurement Committee will proceed with the public tender process;
- d. All prospective tender participants who are listed in the list of tender participants must be invited to retrieve the public tender document;
- e. The invited tender participant shall be entitled to acquire the public tender document from the Procurement Committee.

### 5. Tender Briefing (*Aanwijzing*)

- a. A tender briefing shall be carried out at the designated venue and time, in the presence of the tender participants who are listed in the list of tender participants;

- b. Any absence of the tender participants during the tender briefing may not serve as the basis to refuse/annul the offer;
- c. During the public tender briefing, an explanation must be provided to the participants pertaining to:
  - 1) The tender method;
  - 2) Method of submitting a tender proposal;
  - 3) The documents that must be enclosed along with the tender document;
  - 4) Opening event of the tender document;
  - 5) Method of evaluation;
  - 6) Matters that renders the offer annulled;
  - 7) Form of cooperation agreement;
  - 8) Terms and procedure of evaluation pertaining to the price preference for the use of domestic products;
  - 9) range, period of validity and parties who may issue a proposal guarantee.
- d. If deemed necessary, the Procurement Committee may provide further explanation by means of conducting a field survey;
- e. Providing an explanation on the articles of a public tender document in the form of queries from the participant and answers from Procurement Committee as well as other information including the amendments and the field survey thereof, must be set forth in a Minutes of Elucidation (BAP) signed by the Procurement Committee and at least 1 (one) representative of the attending participant, and constitutes an inseparable part of the public tender document;

- f. In the event that the BAP as referred to in point e contains new information/provisions or a significant amendment that needs to be accommodated, then the Procurement Committee must set forth the said matters in an addendum to the public tender document.

#### 6. Delivery and Opening of the Tender document

- a. Method of delivery and method of opening the tender document must follow the provisions required in the public tender document;
- b. The method of submitting the tender document to be used must be explained during the briefing session;
- c. The Procurement Committee shall record the time, date and venue of receipt of the tender document received via mail on the envelop of the proposal and inserts it in the tender box/site;
- d. upon the deadline to submit the tender document, the Procurement Committee shall open the meeting to reveal the tender document, declare before the tender participant that upon the conclusion of the submission of the tender document in a timely manner, refuse the tender document that was late and/or the additional tender document, and subsequently open the incoming tender document;
- e. with respect to the offers submitted through the mail and was not received on time, the Procurement Committee shall open the envelope of the tender document to determine the address of the tender participant and notify the relevant tender participant to retrieve all of the tender documents. The return of the tender document shall be accompanied by an evidence of delivery and acceptance;
- f. it is not permitted to change the time of conclusion for the submission of the offer for insignificant matters. In the event of any change of time for the conclusion of the submission of the offer, then such changes must be set forth in the addendum of the public tender document and shall be delivered to all of the tender participants;
- g. opening of the tender document:

- 1) The Procurement Committee shall ask the willingness of at least 2 (two) representatives of the tender participants who are present as witnesses. In the event there are no witnesses from the tender participants who are present, the Procurement Committee shall postpone the opening of the tender document box/container up to a certain time period designated by the Procurement Committee. In the event that up to the designated deadline, no representative of the tender participant is present, the opening of the tender document box/container shall be carried out before 2 (two) witnesses other than the Procurement Committee who have been appointed in writing by the Procurement Committee;
  - 2) The Procurement Committee shall examine the content of the tender document box/container and shall calculate the amount of the envelopes of the incoming proposal (without taking into account the letter of resignation) and in the event the proposals submitted come from less than 3 (three) participants, the public tender shall not be resumed and must be repeated, and subsequently announced again by inviting the new prospective tender participant;
  - 3) The opening of the tender document for every system shall be carried out as follows:
    - a) The Procurement Committee shall open the box and envelope I before the tender participant.
    - b) Envelope I containing the administration and technical data shall be opened, and shall constitute the attachment to the minutes of opening for the tender document envelope I.
    - c) Envelope II containing the price data shall be submitted subsequently by the tender participant in the event that it is declared to have qualified the technical and administration requirements.
  - 4) The Procurement Committee shall examine, disclose and read out before the tender participants the comprehensiveness of the tender document, consisting of:
    - a) the letter of proposals containing the period of validity of the proposal containing the period of validity of the proposal but does not state the proposed price;
    - b) security for the original proposal;
    - c) the technical tender document and other supporting document that is required in the public tender document.
  - 5) The Procurement Committee may not disqualify the proposal at the time of the opening of the tender except for the proposals that were submitted/delivered late;
  - 6) The Procurement Committee shall immediately prepare a minutes of opening of the tender document with respect to all of the incoming proposals;
  - 7) After everything has been read out clearly, the minutes shall be signed by the members of the Procurement Committee who are present and 2 (two) representatives of the tender participant who have been validly appointed by the tender participants who are present;
  - 8) In the event of a postponement of the opening of the proposals, then the cause for such postponement must be stated clearly in the minutes of opening for the proposals (BAPP);
  - 9) The BAPP shall be distributed to the representatives of the tender participant who are present without attaching any tender document.
- 
7. The evaluation of the Proposal shall be carried out in accordance to the terms regulated in the tender document.

participants who are qualified, then the said tender participants may be nominated as the prospective tender winner.

8. Preparation of the Minutes of the Outcome of the Tender

- a. The Procurement Committee shall draw a conclusion from the outcome of the evaluation set forth in the minutes of the outcome of the tender (BAHP). The BAHP shall accommodate the outcome of the tender implementation, including the method of evaluation, the formula used, up to the determination of the sequence of winners in the form of the list of the tender participant. The BAHP shall be signed by the chairman and all of the members of the Procurement Committee or at least two thirds of the total number of members of the Committee;
- b. The BAHP shall be kept confidential up to the signing of the contract;
- c. The BAHP must set forth the following matters:
  - 1) The name of all of the tender participants and the proposed price and/or the corrected proposed price, from each of the tender participant;
  - 2) The method of evaluation used;
  - 3) The formula used;
  - 4) Other statements deemed necessary pertaining to the implementation of the tender;
  - 5) The date of preparation of the minutes as well as the number of tender participants who have qualified and not qualified at every phase of the evaluation;
  - 6) The determination of the sequence of 1 (one) prospective winner and 2 (two) reserved candidates. In the event there is no qualified proposal, the BAHP must include the statement declaring that the public tender has failed, and a second tender must immediately be carried out. In the event there are less than 3 (three) tender

9. The determination of the Tender Winner

- a. The Procurement Committee shall determine the prospective tender winner based on the outcome of the evaluation;
- b. The Procurement Committee shall prepare and submit the report to the Minister/Chairman of the Institution/Head of the Region to determine the Tender Winner. The said report shall be accompanied by the nominated prospective winner and other explanation or statement that is deemed necessary as a material for consideration to adopt a decision.
- c. The Minister/Chairman of the Institution/Head of the Region shall determine the Tender Winner based on the recommendation from the Tender Committee.
- d. The supporting data that is required to determine the Tender Winner are:
  - 1) The public tender document, along with the addendum (if any);
  - 2) Minutes of Opening of the Proposal (BAPP);
  - 3) Minutes of Outcome of the Tender (BAHP);
  - 4) Summary of the tender process and tender results;
  - 5) The tender document of the prospective tender winner and reserved prospective winner that has been initialized by the Procurement Committee and 2 (two) representatives of the tender participant;
  - 6) In the event of any delay in determining the Tender Winner and causing the offer/security for the proposal expires, then a

confirmation shall be provided to all of the tender participants to extend the letter of proposal and security for the proposals. The prospective tender winner may resign without subjected to any sanction.

10. The announcement of the Tender Winner shall be announced and notified by the Procurement Committee to the participants no later than 2 (two) business days after the receipt of the letter determining the tender winner of the Minister/Head of the Institution/Head of the Region.

11. Any refutation from the tender participant

- a. The tender participant who objected to the determination of the tender winner shall be given an opportunity to submit a written refutation, no later than within a reasonable period.
- b. The refutation shall be submitted to the Minister/Head of the Institution/Head of the Region, along with the proof of any deviation.
- c. The refutation shall be submitted by the tender participant either separately or jointly with another tender participant.

12. Issuance of the Letter of Determination of the Tender Winner

- a. The Minister/Chairman of the Institution/Head of the Region shall issue a Letter of Determination of the Tender Winner as the implementer of the Cooperation Project, providing that:
  - 1) There is no refutation from the tender participant; or
  - 2) A determination shall be made on the refutation received by the authorized official on whether it is incorrect, or whether the refutation was received after the period of refutation has been exceeded.
- b. The tender participant who has been determined to be the winner must accept the said determination. In the event the respective person resigns and the period of offer remains to be valid then the said

resignation may only be carried out on the basis of a reason that can be accepted objectively by the Minister/Chairman of the Institution/Head of the Region, providing that the security for the proposal submitted by the tender participant shall become the property of the state.

c. With respect to the winner who resigns on the basis of an unacceptable reason and for which period of validity still remains valid, in addition to the fact that the security for the relevant proposal shall become the property of the state, the said winner shall also be subjected to a sanction in the form of a prohibition to participate in a public tender for a Cooperation Project for a period of 2 (two) years.

d. In the event the first prospective tender winner that has been determined to be the winner resigns, the determination may be carried out on the second prospective tender winner (if any), providing:

- 1) The determination of the said second tender winner must first obtain the determination of the Minister/Head of the Institution/Head of the Region;
- 2) The period of offer for the second prospective tender winner shall remain valid or the period of validity for which has been extended.

e. In the event the second prospective tender winner has also resigned, then the third prospective tender winner may be designated as the winner, (if any) providing:

- 1) The determination of the said tender winner must first obtain the determination of the Minister/Head of the Institution/Head of the Region;
- 2) The period of validity of the proposal for the third prospective tender winner shall remain valid or has been extended;
- 3) The tender security from the second prospective tender winner shall become the property of the state;

- 4) In the event the second tender winner resigns, on the basis of an unacceptable reason, then a sanction as referred to in the above point 12 c may be imposed.
- f. In the event the third prospective winner resigns, on the basis of an unacceptable reason, then a sanction as referred to in the above point 12 c may be imposed. Subsequently, the Procurement Committee shall carry out a repeated tender, under the condition that the security given for the proposal from the third prospective tender winner shall become the property of the State.
- g. The Letter of Determination for the Winner must be prepared no later than 5 (five) business days after the announcement determining the tender winner and shall immediately be submitted to the tender winner.
- h. One of the copies of the Letter of Determination for the Winner shall be submitted (without enclosing any agreement/contract) at least to the internal supervision unit.

### 13. Repeated Tender

Repeated Tender shall be carried out based on the following considerations:

- a. The proposals that has been submitted have not met the qualifications set forth in the tender documents;
- b. there are only less than 3 (three) proposals that have met the qualifications set forth in the tender documents.

**PRESIDENT OF THE REPUBLIC OF INDONESIA,**

signed

**DR. H. SUSILO BAMBANG YUDHOYONO**

Copy conforms to the original,  
Deputy Cabinet Secretary  
Legal and Legislation Division  
[Signed]  
Lambock V. Nahattands

**Appendix 3.4      Regulation of the President of the Republic of Indonesia Number 36 Year 2005  
Concerning Land Procurement for Implementation of Development for Public  
Interest**

Source:

[http://www.bpjt.net/download/Regulation\\_Num\\_36\\_and\\_65\\_Year\\_2006.pdf](http://www.bpjt.net/download/Regulation_Num_36_and_65_Year_2006.pdf)





**REGULATION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
NUMBER 36 YEAR 2005**

**CONCERNING  
LAND PROCUREMENT FOR IMPLEMENTATION OF DEVELOPMENT FOR  
PUBLIC INTEREST**

**WITH THE GRACE OF THE SUPREME GOD  
PRESIDENT OF THE REPUBLIC OF INDONESIA,**

- Considering :
- a. Whereas with the increase in development for public interest which requires land, therefore the procurement thereof needs to be carried out speedily and transparently by still maintaining the principles of respect towards the legal rights on land;
  - b. Whereas Land Procurement for the implementation of development for public interest as determined in Presidential Decree Number 55 Year 1993 is no longer suitable as a legal basis in the context of implementation of development for public interest;
  - c) Whereas based on considerations in letter a and letter b, it is deemed necessary to determine a Presidential Regulation concerning Land Procurement for Implementation of Development For Public Interest.

- With reference to :
1. Article 4 paragraph (1) Constitutional Law of the State of the Republic of Indonesia Year 1945;
  2. Law Number 5 Year 1960 concerning Basic Principle Regulations on Land Matters (State Gazette of the Republic of Indonesia Year 1960 Number 104, Addendum to State Gazette of the Republic of Indonesia Number 2043);

3. Law Number 51 PRP Year 1960 concerning Prohibition for Use of Land Without Permission from the Rightful Owner or Attorney (State Gazette of the Republic of Indonesia Year 1960 Number 158, Addendum to State Gazette of the Republic of Indonesia Number 2106);
4. Law Number 20 Year 1961 concerning Revoking of Rights on Land and Assets Thereon (State Gazette of the Republic of Indonesia Year 1961 Number 283, Addendum to State Gazette of the Republic of Indonesia Number 2324);
5. Law Number 24 Year 1992 concerning Spatial Structuring (State Gazette of the Republic of Indonesia Year 1992 Number 115, Addendum to State Gazette of the Republic of Indonesia Number 3501);

**DECIDED :**

To promulgate : **PRESIDENTIAL REGULATION CONCERNING LAND  
PROCUREMENT FOR THE IMPLEMENTATION OF  
DEVELOPMENT FOR PUBLIC INTEREST.**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1**

In this Presidential Regulation the following definitions apply:

1. The central government hereinafter referred to as the Government is the President of the Republic of Indonesia who holds power over the government of the State of the Republic of Indonesia as outlined in the Constitutional Laws of the State of the Republic of Indonesia Year 1945;
2. The regional government is the Governor, District Head or Mayor and regional apparatus as elements of regional government administration;
3. Land procurement covers each activity to procure land by method of providing indemnification to those releasing or assigning land, building, plantation and matters related to land or by revoking rights on land;
4. Regional Spatial Layout Plan is the result of regional spatial layout planning;

5. Public interest constitutes the interests of the majority of the people;
6. Releasing or assigning rights on land constitutes activities of divestment of legal relationship between the holders of rights on land and the land under their control by provision of indemnification based on deliberation towards a mutual consensus;
7. Parties divesting or assigning land, building and other matters related to land constitute individuals, legal entities, institutions, business units with rights over land and/or buildings as well as plantation on such land;
8. A right on land is a right on a plot of land as regulated in Law Number 5 Year 1960 concerning Basic Principle Regulations on Agrarian Matters;
9. The Land Procurement Committee is a committee formed to assist in the Land Procurement for the implementation of development for public interest;
10. Deliberation towards a consensus constitutes activities that contain the process of listening to each other, providing and accepting opinions, as well as the intention to achieve mutual agreement concerning the form and amount of indemnification and other issues related to the activities of land procurement through voluntary and equal basis between the parties who own land, building, plantation and other matters related to land and the parties needing the land;
11. Indemnification is indemnification for losses of both physical or non-physical nature caused by land procurement to those owning land, building, plantation and/or other matters related to land that could provide a better standard of living compared to the level of social economy prior to land procurement;
12. Appraisal Institutions/Teams are professional and independent institutions/teams to determine the value/price of land to be used as a basis to reach mutual consensus on the amount/range of indemnification;

**CHAPTER II**  
**LAND PROCUREMENT**

**Article 2**

1. Land procurement for the implementation of development for public interest by the Government or Regional Government is conducted in the following manner:
  - a. release or assigning of right on land; or
  - b. revoking of right on land.

2. Land procurement other than for the implementation of development for public interest by the Government or Regional Government shall be conducted by method of sale purchase, exchange, or other method voluntary and mutually agreed upon by the relevant parties.

**Article 3**

1. The release or rendition of right on land as outlined in Article 2 paragraph (1) shall be conducted based on the principle of respect towards right on land;
2. The revoking of right on land as outlined in Article 2 letter b shall be conducted based on provisions of Law Number 20 Year 1961 concerning Revoking of Rights on Land And Matters Thereon.

**Article 4**

1. Land Procurement the plan to fulfill land needs, necessary for the implementation of development for public interest can only be carried out if based on the Regional Spatial Layout Plan already determined beforehand;
2. For regions that have not yet determined their Regional Spatial Layout Plan as outlined in paragraph (1), Land Procurement shall be based on the city or regional spatial layout plan already in existence;
3. If the land determined as location for implementation of development for public interest is based on letter of decision on determination of location decided by the District Head/Mayor or Governor, then for those who wish to conduct purchase of such land, must first have written approval from the District Head/Mayor or Governor in accordance with their authorities.

**Article 5**

Development for public interest carried out by the Government or Regional Government covers:

- a. public roads, toll roads, train tracks (on land, above land or underground), potable water/clean water pipelining, waste disposal and sanitation;
- b. reservoirs, dams, irrigation and other water construction development;
- c. general hospitals and community health centers;
- d. sea ports, airports, railway stations and terminals;
- e. religious facilities;
- f. education or schools;

- g. general markets;
- h. public cemetery facilities;
- i. public safety facilities;
- j. postal and telecommunications;
- k. sports facilities;
- l. radio broadcasting, television stations and their supporting facilities;
- m. offices of the Government, Regional Government, foreign country representatives, the United Nations, and or international institutions under the United Nations;
- n. facilities for the Indonesian National Armed Forces of and the Indonesian Police in accordance with their principal duties and functions;
- o. community institutions and prisons;
- p. simple flats/apartments;
- q. landfills;
- r. natural reserves and cultural reserves
- s. park architecture;
- t. social bodies;
- u. generators, transmitters, electric power distribution.

**CHAPTER III**  
**COMMITTEE, DELIBERATIONS TOWARDS A CONSENSUS**  
**AND INDEMNIFICATION**

**First Part**  
**Land Procurement Committee**

**Article 6**

1. Land procurement for public interest in district/city regions is conducted with the assistance of the district/ city land procurement established by the District Head/Mayor;
2. The Land Procurement Committee for the Province of Special Territory of Capital Jakarta is established by the Governor;
3. Land procurement located in two regions of district/city or more, will be conducted with the assistance of the land procurement committees of the province established by the Governor
4. Land procurement located in two regions of provinces or more, will be conducted with the assistance of the land procurement committee established by the Minister of Home Affairs

- consisting of Government elements as well as elements of the related Regional Governments;
5. The composition of membership of the land procurement committee as outlined in paragraph (1), paragraph (2) and paragraph (3) consists of elements of apparatus from the relevant regions.

**Article 7**

The duties of the land procurement committee are the following:

- a. to conduct research and inventory on land, buildings, plantations and other matters related to land, rights of which are to be released or assigned;
- b. to conduct research concerning the legal status of land rights of which are to be released or assigned and the supporting documents thereof;
- c. to appraise and propose the amount of indemnification of the land rights of which are to be released or assigned;
- d. to provide explanation or guidance to the communities affected by the development plan and/or the holders of rights on land concerning the plan and purpose of such land procurement in the form of public consultation whether through direct dialogues, print media as well as electronic media for the information of all communities to be affected by the development plan and/or holder of rights on land.
- e. to conduct deliberations towards a consensus with the holders of rights on land and the Government instances and/or regional governments needing the land in the context of determining the form and/or amount of indemnification;
- f. to witness the implementation of handing over of indemnification to the holders of rights on land, building, plantation and other matters pertaining to land;
- g. to administrate and document all files on land procurement and hand over to the competent parties.

**Second Part**

**Deliberation**

**Article 8**

1. Land procurement for the implementation of development for public interest is conducted through deliberation towards a consensus in the context of achieving mutual agreement concerning:
  - a. implementation of development for public interest in such location;

- b. form and amount of indemnification.
- 2. Deliberation is conducted at the venue as determined in the letter of invitation.

**Article 9**

1. Deliberation that is conducted directly between the holders of rights on land, building, plantation and other matters pertaining to land together with the land procurement committee and the Government or regional government instances that need land;
2. In the event the number of holders of rights of land makes it impossible for an effective deliberation towards a consensus, then the deliberation as outlined in paragraph (1) shall be conducted by the land procurement committee and the Government or regional government instances that need land with representatives appointed by and between the holders of rights of land, who shall simultaneously act as their proxies;
3. The appointment of representatives or proxies of holders of rights as outlined in paragraph (2) should be conducted in writing, with sufficient revenue stamp with the knowledge of the Village Head/*Lurah* or a letter of appointment/proxy drawn up before an authorized official;
4. The deliberation as outlined in paragraph (1) and paragraph (2) shall be led by the head of the land procurement committee.

**Article 10**

1. In the event development activities for public interest cannot be technically assigned or moved spatially to another place or location, then the deliberation towards a consensus will be conducted within a period of a maximum of 90 calendar days effective from the date of the first invitation;
2. If after the deliberation towards a consensus as outlined in paragraph (1) does not achieve any mutual consensus, the land procurement committee will determine the form and amount of indemnification as outlined in article 13 and deposit in trust the indemnification money with the district court whose jurisdiction covers the relevant land location;
3. If there occurs a dispute on ownership after determination of indemnification as outlined in paragraph (2), then the committee will deposit in trust the indemnification money with the district court whose jurisdiction covers the relevant land location.

**Article 11**

If in the deliberation towards a consensus, mutual agreement is reached between the holders of rights on land the Government and/or regional government instances that need land, the land procurement committee will issue a decision concerning the form and amount of indemnification in accordance with such mutual agreement.

**Third Part  
Indemnification**

**Article 12**

Indemnification in the context of land procurement is provided for:

- a. rights on land;
- b. buildings;
- c. plantation;
- d. other matter pertaining to land.

**Article 13**

1. The form of indemnification can be in the form of:
  - a. money; and/or
  - b. substitute land; and/or
  - c. resettlement
2. In the event the holders of rights on land do not want forms of indemnification as outlined in paragraph (1), then compensation can be given in the form of capital equity (shares) in accordance with the provisions of statutory regulations.

**Article 14**

Indemnification for plots of land with *ulayat* rights is provided in the form of public facilities construction or other forms which benefit the local communities.

**Article 15**

1. The basis of calculation for the amount of indemnification refers to:
  - a. Tax Object Sale Value or actual/real value with due observation to the Tax Object Sale Value of the current year based on the determination of the Land Price Appraisal Institution/Team appointed by the committee;

- b. the appraised sales value of the building by the regional apparatus responsible for the building sector;
  - c. the appraised plantation sales value by the regional apparatus responsible for the agriculture sector.
2. In the context of determining the basic calculation of indemnification, the Land Price Appraisal Institution/Team is determined by the District Head/Mayor of Governor for the Province of Special Territory of Capital Jakarta.

**Article 16**

1. Indemnification is handed over directly to:
- a. holders of rights on land or those with rights in accordance with the statutory regulations; or
  - b. *nadzir* for *wakaf* land.
2. Pertaining to land, building, plantation or matters related to land jointly owned by several individuals, while one or several individuals as holders of rights on land cannot be determined, then indemnification shall become the right of such undetermined individuals to be deposited in trust with the district court whose jurisdiction covers the related land location.

**Article 17**

1. Holders of rights on land who do not receive the decision of the land procurement committee can submit objections to the District Head/Mayor or Governor of Minister of Home Affairs in accordance with authority accompanied by explanation on the reasons and grounds for such objects;
2. The District Head/Mayor or Governor of Minister of Home Affairs in accordance with their authority shall endeavor towards the settlement pertaining to form and amount of such indemnification with due consideration to the opinions and desires of the holders or rights on land or their proxies;
3. After hearing and studying the opinions and desires of holders of rights on land and the considerations of the land procurement committee, the District Head/Mayor or Governor or Minister of Home Affairs in accordance with their authority can issue a decision to strengthen or amend the decision of the land procurement team concerning the form and/or amount of indemnification to be awarded.

**Article 18**

1. If efforts towards settlement carried out by the District Head/Mayor or Governor of Minister of Home Affairs are still not accepted by the holders of rights on land and the said location of development cannot be moved, then the District Head/Mayor or Governor of Minister of Home Affairs in accordance with their authority will submit a proposal for the settlement by way of revoking the rights on land based on Law Number 20 Year 1961 concerning Revoking of Rights on Land And Matters Thereon;
2. The proposal for settlement as outlined in paragraph (1) is submitted by the District Head/Mayor/Governor/ Minister of Home Affairs in accordance with their authority to the Head of the National Land Agency (BPN) with copies to the minister of the instance needing the land and the Minister of Laws and Human Rights;
3. After receiving the proposal for settlement as outline din paragraph (1) and paragraph (2), the Head of the National Land Agency will consult with the ministers of the instance needing the land and the Minister of Laws and Human Rights;
4. The request to conduct revoking of rights on land mentioned will be submitted to the President by Head of the National Land Agency signed by the minister of the instance needing the land and the Minister of Laws and Human Rights.

**Article 19**

Towards land being worked on without the permit from those with rights or their proxies, settlement will be carried out based on Law Number 51 Prp. Year 1960 concerning Prohibition of Use of Land Without Permit From Those With Rights or Their Proxies.

**CHAPTER IV  
SMALL SCALE LAND PROCUREMENT**

**Article 20**

The implementation of development for public interest requiring land with surface area of no less than 1 (one) hectare can be carried out directly by the government instance needing the land with the holders of rights of land by method of sale purchase or exchange or other methods mutually agreed upon by both parties.

**CHAPTER V  
TRANSITORY PROVISIONS**

**Article 21**

With the enforcement of this Presidential Regulation, the implementing regulations of Presidential Decree Number 55 Year 1993 concerning Land Procurement For Implementation of Development For Public Interest remain in force as long as not contrary to this Presidential Regulation.

**CHAPTER VI  
CLOSING PROVISIONS**

**Article 22**

Further provisions concerning procedures and operating system for land procurement for implementation of development for public interest are regulated by Regulations of the Head of the National Land Agency.

**Article 23**

At the time of enforcement of the Presidential Regulation, Presidential Decree Number 55 Year 1993 concerning Land Procurement for Implementation of Development For Public Interest is hereby revoked and declared as no longer valid.

**Article 24**

This Presidential Regulation is effective from the date of promulgation.

Promulgated in Jakarta

On 3 May 2005

**PRESIDENT OF THE REPUBLIC OF INDONESIA**

signed

**DR. H. SUSILO BAMBANG YUDHOYONO**



PRESIDEN  
REPUBLIK INDONESIA

**REGULATION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
NUMBER 65 YEAR 2006**

**CONCERNING  
AMENDMENT TOWARDS**

**PRESIDENTIAL REGULATION NUMBER 36 YEAR 2005  
CONCERNING PROCUREMENT OF LAND FOR IMPLEMENTATION OF  
DEVELOPMENT FOR PUBLIC INTEREST**

**WITH THE GRACE OF THE SUPREME GOD  
PRESIDENT OF THE REPUBLIC OF INDONESIA,**

Considering : whereas to increasingly enhance the principle of respect towards legal rights on land and legal certainty in the procurement of land for implementation of development for public interest, it is deemed necessary to amend Presidential Regulation Number 36 Year 2005 concerning Procurement of Land for Implementation of Development for Public Interest.

With reference to : 1. Article 4 paragraph (1) Constitutional Law of the State of the Republic of Indonesia Year 1945;  
2. Law Number 5 Year 1960 concerning Basic Principle Regulations on Land Matters (State Gazette of the Republic of Indonesia Year 1960 Number 104, Addendum to State Gazette of the Republic of Indonesia Number 2043);  
3. Law Number 51 Prp Year 1960 concerning Prohibition for Use of Land Without Permission from the Rightful Owner or Attorney (State Gazette of the Republic of Indonesia Year 1960 Number 158,

- Addendum to State Gazette of the Republic of Indonesia Number 2106);
4. Law Number 20 Year 1961 concerning Revoking of Rights on Land and Assets Thereon (State Gazette of the Republic of Indonesia Year 1961 Number 283, Addendum to State Gazette of the Republic of Indonesia Number 2324);
  5. Law Number 24 Year 1992 concerning Spatial Structuring (State Gazette of the Republic of Indonesia Year 1992 Number 115, Addendum to State Gazette of the Republic of Indonesia Number 3501);
  6. Presidential Regulation Number 36 Year 2005 concerning Procurement of Land for Implementation of Development for Public Interest;

**DECIDED :**

To promulgate : PRESIDENTIAL REGULATION CONCERNING AMENDMENT ON PRESIDENTIAL REGULATION NUMBER 36 YEAR 2005 CONCERNING PROCUREMENT OF LAND FOR IMPLEMENTATION OF DEVELOPMENT FOR PUBLIC INTEREST.

**Article 1**

Several provisions in Presidential Regulation Number 36 Year 2005 concerning Procurement of Land for Implementation of Development for Public Interest have been amended as follows:

1. Provision in Article 1 number 3 is amended, thus reading as follows:

“Article 1

3. Procurement of land means each activity to acquire land by way of providing indemnification to those releasing or handing over land, building, plantation and matters relating to land.”

2. Provisions in Article 2 paragraph (1) are amended, thus reading as follows:

“Article 2

- 1) Procurement of land for implementation of development for public interest by the Government or Regional Government shall be carried out by method of release or assignment of right on land;
- 2) Procurement of land other than for the implementation of development for public interest by the Government or Regional Government shall be carried out by method of sale purchase, exchange or other methods mutually and voluntarily agreed upon by the respective parties.”
3. Provisions in Article 3 are amended, thus reading as follows:

“Article 3

Release or assignment of right of land as outlined in Article 2 shall be carried out based on the principle of respect towards rights on land.”

4. Provisions in Article 5 are amended, thus reading as follows:

“Article 5

Development for public interest carried out by the Government or Regional Government as outlined in Article 2, which further will be owned or shall be owned by the Government or Regional Government, covers:

- a. public roads and toll roads, railway tracks (on land, above land, or underground), potable/clean water pipelines, water waste channels and sanitation);
- b. reservoirs, dams, irrigation dams and other water constructions;
- c. seaports, airports, railway system and terminals;
- d. public safety facilities such as embankments for overcoming flood, lava hazards and other disasters;
- e. landfill;
- f. natural reserves and cultural reserves;
- g. power generators, transmitters, distribution of electric power.”
5. Provisions in Article 6 paragraph (5) are amended, thus Article 6 shall read as follows:

“Article 6

- 1) Procurement of land for public interest in district/city areas shall be carried out with the assistance of a committee for procurement of district/city land established by the District Head/Mayor;
- 2) The Committee for Procurement of Land in the Province of Special Territory of Capital Jakarta is established by the Governor;

- 3) Procurement of land located in two district/ city areas or more, is carried out with the assistance of a committee for procurement of provincial land established by the Governor;
- 4) Procurement of land located in two provincial areas or more, is carried out with the assistance of a committee for procurement of land established by the Minister of Home Affairs consisting of the related Government and Regional Government elements;
- 5) The composition of membership of the committee for procurement of land as outlined in paragraph (1), paragraph (2) and paragraph (3) consists of elements from the related regional apparatus and elements from the National Land Agency.”

6. Provisions in Article 7 are amended, thus Article 7 shall read as follows:

“Article 7

The duties of the committee for procurement of land:

- a. to conduct research and inventory on land, building, plantation and other matter related to land, rights of which are to be released or assigned;
- b. to conduct research considering legal status of the land of which rights are to be released or assigned and the supporting documents;
- c. to determine the range of indemnification on land of which rights are to be released or assigned;
- d. to provide explanation and guidance to the communities affected by the plan for development and/or holders of rights on land concerning the plan and purpose of such procurement of land in the form of public consultations whether through face to face dialogues, print media or electronic media in order that all communities affected by the plan for development and/or holder of rights on land are informed accordingly;
- e. to hold deliberations with the holders of rights on land and the government and/or regional government instances needing the land in the context of establishing form and/or range of indemnification;
- f. to witness the implementation of handing over of indemnification to the holders of rights on land, building, plantation and other matters on the land;
- g. to prepare minutes of the release or assignment of rights on land;
- h. to administer and document all files on procurement of land and hand over to the competent parties.”

7. To add Article 7A which reads as follows:

“Article 7A

Costs of the Committee for Procurement of Land shall be further regulated by the Minister of Finance after consultation with the Head of the National Land Agency.”

8. Provisions in Article 10 paragraph (1) and paragraph (2) are amended, thus Article 10 shall read as follows:

“Article 10

- 1) In the event the activity of development for public interest cannot be assigned or moved technically spatial-wise to another site or location, then deliberations shall be conducted within a period of a maximum of 120 (one hundred twenty) calendar days effective from the date of the first invitation;
  - 2) If after such deliberations as outlined in paragraph (1) do not reach a consensus, the committee for procurement of land shall determine the amount of indemnification as outlined in Article 13 letters a and deposit the indemnification money with the district court with jurisdiction over the location of the respective land;
  - 3) If any disputes should arise on ownership after determination of indemnification as outlined in paragraph (2), then the committee shall deposit the indemnification money with the district court with jurisdiction over the respective land.”
9. Provisions in Article 13 are amended, thus reading as follows:

“Article 13

The form of indemnification can be in the form of:

- a. Money; and/or
- b. Substitute land; and/or
- c. Re-settlement; and/or
- d. A combination of two or more forms of indemnification as outlined in letter a, letter b and letter c;
- e. Other forms approved of by the respective parties.”

10. Provisions in Article 15 paragraph (1) letter a is amended, thus Article 15 shall read as follows:

“Article 15

- 1) The basis of calculation for amount of indemnification shall be:
  - a. Tax Object Sale Value (NJOP) or real/ actual value with due consideration to the Tax Object Sale Value of the current year based on assessment by the Land Price Appraisal Institution/Team appointed by the committee;



- b. sale value of building estimated by the regional apparatus responsible in the building sector;
  - c. sale value of plant estimated by the regional apparatus responsible in the agriculture sector.
- 2) In the context of determining the basic calculation of indemnification, the Land Price Appraisal Institution/Team is determined by the District Head/Mayor or the Governor for the Special Territory Capital Jakarta Province.”
11. To add a new Article between Article 18 and Article 19 to become Article 18A, which reads as follows:

“Article 18A

If the party who has right on land or matters on the land and such right is being revoked, is unwilling to accept the indemnification as determined in the Presidential Decision because the amount is considered as unreasonable, then the respective party can request for appeal to the High Court for the determination of indemnification in accordance with Law Number 20 Year 1981 concerning Revoking of Rights on Land and Matters Thereon and Government Regulation Number 39 Year 1973 concerning Judicial Procedure on Determination of Indemnification by the High Court in relation to Revoking of Rights on Land and Matters Thereon.”

**Article 2**

This Presidential Regulation comes in force on the date of promulgation.

Promulgated in Jakarta

On 5 June 2006

**PRESIDENT OF THE REPUBLIC OF INDONESIA**

signed

**DR. H. SUSILO BAMBANG YUDHOYONO**

**Appendix 3.5     Minister of Finance of the Republic of Indonesia Extract Regulation of the  
Minister of Finance Number 38/Pmk.01/2006 Concerning Procedural  
Instructions for Risk Control and Management in Provision of Infrastructure**

Source:

[http://www.bi.go.id/NR/rdonlyres/9C7D31FC-31AD-4F16-AF85-1C2EB1410115/  
3966/MicrosoftWordPMK\\_38\\_2006\\_Engldoc\\_InfrastructurMay2.pdf](http://www.bi.go.id/NR/rdonlyres/9C7D31FC-31AD-4F16-AF85-1C2EB1410115/3966/MicrosoftWordPMK_38_2006_Engldoc_InfrastructurMay2.pdf)

**MINISTER OF FINANCE  
OF THE REPUBLIC OF INDONESIA**  
**EXTRACT**  
REGULATION OF THE MINISTER OF FINANCE  
NUMBER 38/PMK.01/2006

CONCERNING

PROCEDURAL INSTRUCTIONS  
FOR RISK CONTROL AND MANAGEMENT  
IN PROVISION OF INFRASTRUCTURE

BY THE GRACE OF GOD ALMIGHTY

THE MINISTER OF FINANCE,

- Considering :
- a. whereas to accelerate the development of infrastructure, it is deemed necessary to provide government support in order to encourage private sector participation and promote investment in provision of infrastructure in Indonesia;
  - b. whereas for the government support extended to investment in infrastructure to comply with the principles of financial risk management and control in the State Budget, procedural instructions are needed for risk management in provision of infrastructure;
  - c. now therefore as referred to in letter a and letter b, it is necessary to enact a Regulation of the Minister of Finance concerning Procedural Instructions for Risk Control and Management in Provision of Infrastructure
- In view of :
1. Act Number 17 of 2003 concerning State Finances (State Gazette of the Republic of Indonesia Number 47 of 2003, Supplement to the State Gazette Number 4286);
  2. Act Number 1 of 2004 concerning the State Treasury (State Gazette of the Republic of Indonesia Number 5 of 2004, Supplement to the State Gazette Number 4355);
  3. Act Number 25 of 2004 concerning the National Development Planning System (State Gazette of the Republic of Indonesia Number 104 of 2004, Supplement to the State Gazette Number 4421);
  4. Government Regulation Number 20 of 2004 concerning the Government Work Plan (State Gazette of the Republic of Indonesia Number 74 of 2004, Supplement to the State Gazette Number 4405);
  5. Government Regulation Number 21 of 2004 concerning Preparation of Work Plans and Budgets for Line Ministries and

Statutory Agencies (State Gazette of the Republic of Indonesia Number 75 of 2004, Supplement to the State Gazette Number 4406);

6. Presidential Decree Number 20/P of 2005;
7. Presidential Regulation Number 42 of 2005 concerning the Policy Committee for Accelerating the Provision of Infrastructure;
8. Presidential Regulation Number 67 of 2005 concerning Government Cooperation with Private Sector Entities in Provision of Infrastructure;
9. Decree of the Minister of Finance Number 518/KMK.01/2005 concerning the Risk Management Committee for Provision of Infrastructure.

HAS DECREED:

To enact : THE REGULATION OF THE MINISTER OF FINANCE CONCERNING PROCEDURAL INSTRUCTIONS FOR RISK CONTROL AND MANAGEMENT IN PROVISION OF INFRASTRUCTURE

CHAPTER I  
GENERAL PROVISIONS

The terminology used in this Regulation of the Minister of Finance has the following meanings:

1. "Minister/Head of Statutory Agency" is the head of any line ministry/statutory agency with scope, tasks, and responsibilities in the infrastructure sector as referred to in Presidential Decree Number 67 of 2005;
2. "Private Sector Entity" is a private sector entity incorporated as a limited liability company, State Owned Enterprise (SOE), Regional Government Owned Enterprise, and Cooperative;
3. "Government Support" is financial compensation and/or compensation in other form, provided by the Government to a Private Sector Entity under a risk-sharing scheme for implementation of a joint project for provision of infrastructure.
4. "Policy Committee for Accelerating the Provision of Infrastructure," hereinafter referred to as KKPPI, is a committee established pursuant to Presidential Decree Number 42 of 2005.
5. "Risk Management Unit" is a unit under the Minister of Finance with the principal task and function of implementing risk management for implementation of infrastructure projects.
6. "Political Risk" is risk arising from any unilateral policy/action/decision of the Government or State that has direct and significant impact in financial losses for a Private Sector Entity, encompassing risk of expropriation of assets, risk

of amendment to laws and regulations, and risk of foreign exchange controls and ban on repatriation of funds.

7. "Project Performance Risk" is the risk pertaining to project implementation, including but not limited to location risks and operational risks.
8. "Demand Risk" is the risk arising from demand for the goods/services produced by the joint project that is lower than the contracted level.

## CHAPTER II PURPOSE AND OBJECTIVES

### Article 2

- (1) The Procedural Instructions for Risk Control and Management in Provision of Infrastructure are intended to serve as:
  - a. guidelines for risk control and management in provision of infrastructure; and
  - b. public information for stakeholders concerning risk control and management in provision of infrastructure, including matters pertaining to contingent liabilities that may become a potential future burden to state finances.
- (2) The guidelines as referred to in paragraph (1) letter a shall set forth:
  - a. The scope of risk management;
  - b. Types of risks and nature of Government Support;
  - c. Criteria for provision of Government Support in risk management;
  - d. Procedure for provision of Government Support;
  - e. Procedure for allocation of funds for risk management in provision of infrastructure; and
  - f. Reporting and oversight.

### Article 3

The Procedural Instructions for Risk Control and Management in Provision of Infrastructure are intended to:

- a. promote the availability of infrastructure in order to stimulate and improve national economic growth; and
- b. bring about fiscal sustainability.

## CHAPTER III SCOPE AND ASPECTS OF RISK CONTROL AND MANAGEMENT

### Article 4

The scope of risk control and management in provision of infrastructure encompasses responsibilities for:

- a. planning and assessment of project feasibility from technical and financial perspectives, conducted by a technical line ministry/statutory agency;
- b. evaluation of project feasibility and priorities according to the priorities of national development, conducted by KKPPI;
- c. evaluation of financial and fiscal risks, monitoring and reporting of fulfillment of Government obligations for provision of Government Support by the Ministry of Finance c.q. Risk Management Unit.

### Article 5

The aspects of risk control and management in provision of infrastructure encompass:

- a. legal affairs;
- b. institutional concerns; and
- c. policy.

## CHAPTER IV RISKS AND NATURE OF GOVERNMENT SUPPORT

### Article 6

- (1) The risks that need to be covered under risk sharing schemes between the government and private sector entities for provision of infrastructure are:
  - a. Political Risk;
  - b. Project Performance Risk; and
  - c. Demand Risk.
- (2) A risk sharing scheme for Political Risk as referred to in paragraph (1) letter a may be contracted for payment of compensation to the owners of the assets/Private Sector Entity.
- (3) In a risk sharing scheme for Project Performance Risk as referred to in paragraph (1) letter b, risk sharing may be contracted for:
  - a. location risk in the event of:
    - 1) delay in acquisition of land, in which an extension of the concession period and/or compensation in other form may be provided as approved by the Minister of Finance insofar as such delay resulted from actions by a Government party;

- 2) escalation of land prices, in which an extension of the concession period may be awarded to the Private Sector Entity, the excess price of the land may be borne at a percentage agreed with the Private Sector Entity, and/or compensation provided in other form as approved by the Minister of Finance.
- b. operational risk in the event of:
  - 1) delay in decision to launch operations, delayed tariff increases, cancellation of tariff increase, or initial tariff set below the contracted level, in which case the concession period for the Private Sector Entity may be extended and/or compensation provided in other form as approved by the Minister of Finance;
  - 2) change in output specifications by the Minister/Head of Statutory Agency in departure from agreed terms that result in financial losses for the Private Sector Entity may be financially compensated by recalculation of production costs.
- (4) In a risk sharing scheme for Demand Risk as referred to in paragraph (1) letter c, risk sharing may be contracted for:
  - a. actual revenues that are less than minimum revenues guaranteed by the Government by reason of lower demand for the goods/services produced by the project in comparison to the contracted level of demand, in which case financial compensation and/or compensation in other form may be provided as approved by the Minister of Finance;
  - b. actual revenues that are higher than minimum revenues guaranteed by the Government by reason of higher demand for the goods/services produced by the project in comparison to the contracted level of demand, in which case the Government shall receive the financial benefit of the excess demand.

CHAPTER V  
CRITERIA FOR PROVISION OF GOVERNMENT SUPPORT IN RISK MANAGEMENT

Article 7

Government Support as referred to in Article 6 shall be provided insofar as it meets the following criteria:

- a. provision of Government Support must comply with the laws and regulations in force in the Republic of Indonesia (legality principle);
- b. Government Support shall be provided to joint infrastructure projects that meet standards of technical and financial feasibility (project quality);
- c. costs and fiscal risks arising from the provision of Government Support shall not exceed the limits of the fiscal capacity of the State; and
- d. provision of Government support must comply with the transparency principle.

CHAPTER VI  
PROCEDURE FOR PROVISION OF GOVERNMENT SUPPORT

Article 8

The procedure for provision of Government Support for a joint project for provision of infrastructure shall be implemented through the following steps:

- a. The relevant Minister/Head of Statutory Agency shall submit a proposal requesting Government Support, addressed to the Minister of Finance through KKPPI.
- b. Regarding the submission of proposal as referred to in letter a, the Minister/Head of Statutory Agency is required to perform assessments and calculations of project feasibility with or without Government Support in risk management, enclosing copies of the following documents:
  - 1) pre-feasibility study report;
  - 2) planned nature of cooperation;
  - 3) planned project financing and sources of funds;
  - 4) planned offer of cooperation, including schedule, process, and method of assessment; and
  - 5) documents on outcome of public consultations, taking into account the application of the legality, project quality, and transparency criteria as referred to in Article 7 letter a, letter b, and letter c.
- c. The proposal shall be evaluated by KKPPI on the basis of the project quality criteria referred to in Article 7 letter b.
- d. After KKPPI has evaluated the proposal and found it to be feasible, KKPPI shall convey the proposal to the Minister of Finance, c.q. Risk Management Unit, for evaluation on the basis of the criteria referred to in Article 7 letter c and letter d.
- e. The Risk Management Unit shall submit a recommendation to the Minister of Finance for issuance of approval in principle, specifying the nature of Government Support that may be provided, or for the Government Support to be rejected.
- f. The Government Support as referred to in letter e shall specify terms and conditions consisting of at least the following:
  - 1) the maximum effective period for provision of the Government Support;
  - 2) risk sharing scheme involving the Private Sector Entity, insurance companies, and/or other financial institutions; and
  - 3) other possible risk control alternatives based on the applicable laws and regulations
- g. If the Minister of Finance issues approval in principle for provision of Government Support, funds allocation for Government Support shall be proposed in the Draft State Budget for approval by the Indonesian Parliament.
- h. Based on approval by the Indonesian Parliament in the State Budget Law, the technical line ministry/statutory agency shall launch a tender process in accordance with the applicable laws and regulations.

- i. The technical line ministry/statutory agency shall submit the Official Tender Record to the Minister of Finance c.q. Risk Management Unit to obtain confirmation of the propriety of the tendering process prior to signing of the agreement for cooperation.
- j. The Minister of Finance, after considering the recommendation from the Risk Management Unit, shall issue final approval or rejection of Government Support for the project.
- k. The Minister/Head of Statutory Agency or authorized Official shall sign the cooperation agreement after the Minister of Finance has issued final approval for the Government Support.

CHAPTER VII  
PROCEDURE FOR ALLOCATION OF FUNDS FOR RISK CONTROL AND MANAGEMENT  
IN PROVISION OF INFRASTRUCTURE

Article 9

- (1) Application may be submitted for funds allocation for provision of Government Support after the Minister of Finance has issued approval in principle as referred to in Article 8 letter d.
- (2) Allocation of funds in the form of financing of risk reserves for provision of Government Support shall be arranged by means of the applicable mechanisms for drafting and implementation of the State Budget.
- (3) Risk reserves shall be managed by the Directorate General of the State Treasury in the form of a guarantee fund.
- (4) In the event that the available funds for provision of support as referred to in paragraph (2) are not used within a fiscal year, at the end of the fiscal year the funds shall remain in the guarantee fund.

CHAPTER VIII  
REPORTING AND OVERSIGHT

Article 10

- (1) The Risk Management Unit shall record and monitor Government liabilities, assess fiscal costs and risks, update data, and prepare regular reports.
- (2) The Risk Management Unit shall take measures for improvement of the risk control and management in keeping with developments.
- (3) The Directorate General of the Treasury shall record, monitor, update data, and prepare regular reports on the management of the guarantee fund.

Article 11

The Minister/Head of Statutory Agency shall oversee the operation of the agreement of cooperation pursuant to the applicable laws and regulations and submit progress

reports for projects receiving Government Support to the Minister of Finance, c.q. official performing the function of the Risk Management Unit, on a regular basis.

CHAPTER IX  
TRANSITIONAL PROVISIONS

Article 12

- (1) Prior to the establishment and effective operation of the Risk Management Unit, the key tasks and functions of the Risk Management Unit shall be performed by the Risk Management Committee for Provision of Infrastructure established pursuant to Decree of the Minister of Finance No. 518/KMK.01/2005.
- (2) For projects in which the procurement process is completed with winning bids awarded according to Presidential Decree Number 7 of 1998 concerning Government Cooperation with Private Sector Entities in Development and/or Management of Infrastructure, but in which the Cooperation Agreement has not been signed, the Procedure for Provision of Government Support shall operate as follows:
  - a. The Minister/Head of Statutory Agency concerned shall submit a proposal requesting the Government Support to the Minister of Finance through the KKPPPI, attaching the relevant project documents.
  - b. The project proposal and documents shall be evaluated by KKPPPI on the basis of the project quality criteria as referred to in Article 7 letter b.
  - c. After KKPPPI has evaluated the proposal and found it to be feasible, the proposal and the relevant documents shall be submitted by KKPPPI to the Minister of Finance, c.q. Risk Management Unit, for evaluation under the criteria referred to in Article 7 letter c and letter d.
  - d. If the Minister of Finance issues approval for provision of Government Support, a proposal for funds allocation for the Government Support shall be submitted in the Draft State Budget for approval by the Indonesian Parliament.
  - e. Government Support as referred to in letter b shall specify the terms and conditions as referred to in Article 8 letter f.
  - f. In the event that the Indonesian Parliament approves the funds allocation as referred to in letter b, the Minister/Head of Statutory Agency or authorized Official shall sign the agreement of cooperation with the Private Sector Entity.

CHAPTER X  
CONCLUDING PROVISIONS

Article 13

This Regulation of the Minister of Finance shall come into force on the date of its enactment.

For the public to be informed, it is ordered that this Regulation of the Minister of Finance be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta,  
Dated: May 19, 2006.

THE MINISTER OF FINANCE

(signed)

SRI MULYATI INDRAMATI

Authenticated by  
Head of the Bureau of General Affairs  
on behalf of  
Head of the Department of Administration  
(signed and sealed)  
Sumiran  
NIP 060042937

**Appendix 3.6      Decision of the Coordinating Minister for Economic Affairs as Head of the National Committee for the Acceleration of Infrastructure Provision Number: Kep-01/M.Ekon/05/2006 Concerning Organization and Working Procedures of National Committee for the Acceleration of Infrastructure Provision**

Source:

<http://www.kkppi.go.id/laws/CROSS%20SECTOR%20Permenko%2001-2006%20ENG.doc>



**COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
OF THE REPUBLIC OF INDONESIA**

**Copy**

**DECISION OF THE COORDINATING MINISTER FOR ECONOMIC  
AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE ACCELERATION  
OF INFRASTRUCTURE PROVISION  
NUMBER: KEP-01/M.EKON/05/2006**

**CONCERNING  
ORGANIZATION AND WORKING PROCEDURES OF NATIONAL  
COMMITTEE FOR THE ACCELERATION OF INFRASTRUCTURE  
PROVISION**

**THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE ACCELERATION  
OF INFRASTRUCTURE PROVISION**

**Considering:**

whereas in the context of supporting implementation of the duties of the National Committee for the Acceleration of Infrastructure Provision as determined in Presidential Regulation Number 42 Year 2006, it is deemed necessary to determine the Organization and Working Procedures of the National Committee for the Acceleration of Infrastructure Provision through Regulation of Coordinating Minister for Economic Affairs;

**With reference to:**

1. Regulation of the President of the Republic of Indonesia Number 9 Year 2006 Concerning Position, Duty, Function, Organization Structure and Work Procedures of Ministries of the Republic of Indonesia, as amended by Regulation of the President of the Republic of Indonesia Number 62 Year 2005;
2. Regulation of the President of the Republic of Indonesia Number 10 Year 2005 Concerning Organization Units and Duties of Echelon I of State Ministries of the Republic of Indonesia as amended by Regulation of the President of the Republic of Indonesia Number 63 Year 2005;
3. Regulation of the President of the Republic of Indonesia Number 42 Year 2005 Concerning Committee for Policy of Acceleration of Provision of Infrastructure;
4. Regulation of the President of the Republic of Indonesia Number 67 Year 2005 concerning Public Private Partnership/PPP in the Provision of Infrastructure;

5. Presidential Decree of the Republic of Indonesia Number 187/M Year 2004, as amended by Presidential Decree of the Republic of Indonesia Number 8/M Year 2005;
6. Decision of the Republic of Indonesia Number 20/P Year 2005;
7. Decision of the Minister of Finance Number: 518/KMK.01/2005 concerning Establishment of Committee for Risk Management on Provision of Infrastructure.

**HAS DECIDED:**

**To determine:**

**DECISION OF THE COORDINATING MINISTER FOR ECONOMIC  
AFFAIRS AS HEAD OF THE COMMITTEE FOR POLICY OF  
ACCELERATION OF PROVISION OF INFRASTRUCTURE CONCERNING  
ORGANIZATION AND WORK PROCEDURES OF THE COMMITTEE FOR  
POLICY OF ACCELERATION OF PROVISION OF INFRASTRUCTURE.**

**CHAPTER I  
POSITION, DUTIES AND FUNCTIONS**

**Article 1**

- (1) The Committee for Policy on Acceleration of Provision of Infrastructure, hereinafter referred to as Committee is a Committee established by virtue of Regulation of the President of the Republic of Indonesia Number 42 Year 2005.
- (2) The Committee is headed by the Coordinating Minister for Economic Affairs as Head of the Committee whom in carrying out his/her duties is responsible to the President.
- (3) The composition of the Committee consists of the Committee Head, Chief Daily Executive, Secretary I, Secretary II and Members as determined in Regulation of the President of the Republic of Indonesia Number 42 Year 2005.

**Article 2**

The Committee has the duty to formulate strategies in the context of coordinating the implementation of acceleration of provision of infrastructure; to coordinate and monitor implementation of policy on acceleration of provision of infrastructure by the related Ministers and Regional Governments; to formulate policies on implementation of Public Service Obligation/PSO in acceleration of provision of infrastructure and to determine endeavors for solutions of various issues related to acceleration of provision of infrastructure.

**Article 3**

In carrying out the duties as outlined in Article 2, the Committee holds the functions of:

- a. coordinating formulation of strategies on implementation of acceleration of provision of infrastructure;
- b. synchronizing implementation of policy on acceleration of provision of infrastructure;
- c. controlling the carrying out of policy on acceleration of provision of infrastructure;
- d. coordinating formulation of policy on implementation of PSO in acceleration of provision of infrastructure;
- e. managing state property/assets that are under its responsibility;
- f. supervises the implementation of duties covering acceleration of provision of infrastructure;
- g. implements certain duties assigned by the President;
- h. submits reports on results of evaluation, recommendations and considerations in the field of its duties and functions to the President.

#### **Article 4**

In carrying out the duties and functions as outlined in Article 2 and Article 3, the Coordinating Ministry for the Economy coordinates:

- a. The related Departments;
- b. Regional Governments;
- c. The related Business Enterprises.

## **CHAPTER II THE COMPREHENSIVENESS OF ORGANIZATION**

#### **Article 5**

The Committee is completed with:

- a. A Daily Executive;
- b. Committee Secretariat;
- c. Work Group;
- d. Unit for Development of Policy on Public Service Obligation/PSO
- e. Central Unit for Development of Public Private Partnership/PPP;
- f. Unit for Communications Development;
- g. Unit for Development of Capacity of Institutes and Human Resources;
- h. National Infrastructure Forum;
- i. Accompanying Team.

## **CHAPTER III DAILY EXECUTIVE**

#### **Article 6**

- (1) The Daily Executive is coordinated by the Daily Executive Head as determined by Presidential Regulation Number 42 Year 2005.
- (2) The Daily Executive Head has the duty to assist the Committee Head in determining the agenda of meetings of the Committee compiled by the Committee Secretariat; proposing establishment of Work Groups based on need as determined by the Committee Head, and coordinating implementation of duties of the Committee Secretariat and the Work Groups.

## **CHAPTER IV COMMITTEE SECRETARIAT**

#### **Article 7**

- (1) The Committee Secretariat is an element of assistance to the leader and is subordinate and responsible to the Committee Head.
- (2) The Committee Secretariat is headed by Secretary I and Secretary II of the Committee as determined by Regulation of the President of the Republic of Indonesia Number 42 Year 2005.
- (3) In the implementation of the day-to-day work the Committee Secretariat can be coordinated by a Secretariat Head whose appointment/designation will be decided by the Committee Head.

#### **Article 8**

The Committee Secretariat has the duties:

- a. To settle issues of cross sector nature, if such issues cannot be settled at Work Group level;
- b. To assist in the implementation of coordinating meetings in preparation of session material prior to the Committee Session being conducted;
- c. To compile long and medium term investment planning in the infrastructure sector while simultaneously conducting up-dating each year;
- d. To conduct preliminary study on feasibility of request for Government support for Public Private Partnership/PPP projects;
- e. To propose scale of priorities of Public Private Partnership/PPP projects which require Government support, by considering cross sector needs;
- f. To compile recommendations for projects that are feasible for consideration to acquire Government support to be submitted by the Committee Head to the Committee of Risk Management On the Provision of Infrastructure at the Finance Ministry.

#### **Article 9**

In addition to carrying out duties as outlined in Article 8, Secretary I of the Committee also has the following duties:

- a. Together with Secretary I to prepare the agenda for Committee meetings;
- b. To coordinate the stakeholders;
- c. To monitor implementation of policies and strategies determined by the Committee;
- d. To conduct legal studies on policies and or decisions of the Committee;
- e. To prepare regular reports of the Committee.

#### **Article 10**

Besides carrying out the duties as outlined in Article 8, Secretary II of the Committee also has the following duties:

- a. Together with Secretary I to prepare the agenda of Committee meetings;
- b. To prepare the establishment of Work Groups;
- c. To supervise the implementation of duties of Work Groups.

**CHAPTER V  
WORK GROUPS**

**Article 11**

- (1) A Work Group is a work unit established for a certain period of time in a certain line of duty in accordance with needs based on the proposal of the Daily Executive Head, whose position is under the coordination and supervision of Secretary II.
- (2) The compilation of membership, certain duties and responsibilities of the Work Groups as outlined in paragraph (1) will be determined by Decision of the Committee Head.
- (3) Members of Work Groups consist of representatives from the related instances recommended by Secretary I and Secretary II of the Committee to be forwarded to the Daily Executive Head and the Committee Head.

**Article 12**

A Work Group compiles work plans in accordance with its line of duty and reports the progress of implementation of such to Secretary II of the Committee to be forwarded to the Daily Executive Head and Committee Head.

**Article 13**

In the implementation of its duties a Work Group can be assisted by a non-Government representative with the necessary experience and expertise.

**CHAPTER VI  
UNIT FOR DEVELOPMENT OF POLICY FOR PUBLIC SERVICE  
OBLIGATION**

**Article 14**

The Unit for Development of Public Service Obligation/PSO is a work unit which in the implementation of its duties is under the coordination of Secretary I and Secretary II of the Committee.

**Article 15**

The Unit for Development of PSO as outlined in Article 15 has the following duties:

- a. To develop PSO policies and strategies as well as subsidy schemes;
- b. To carry out cross sector coordination to facilitate the implementation of PSO projects and subsidized projects;
- c. To conduct monitoring over the implementation of PSO policies and strategies.

**CHAPTER VII  
CENTRAL UNIT FOR DEVELOPMENT OF PUBLIC PRIVATE  
PARTNERSHIP/PPP**

**Article 16**

The Central Unit for Development of Cooperation between the Government and Business Enterprises (Public Private Partnership/PPP is a work unit which in the implementation of its duties is under the coordination of Secretary I and Secretary II of the Committee.

**Article 17**

The Central Unit for Development of PPP as outlined in Article 16, has the following duties:

- a. To conduct evaluation on implementation on cooperation of Public Private Partnership, development of policies and capacities of the related institutions through cooperation between the Government and Business Enterprises.
- b. To conduct evaluation on and coordination of implementation of Public Private Partnership projects which cover:
  - 1) Coordination with the Unit of Development of existing Public Private Partnership in the technical Departments and Regional Government (PPP tie-up) and/or the responsible Government Instances for projects, in the matter of preparation, implementation and monitoring of transactions of Public Private Partnership projects.
  - 2) Evaluation on preparedness of projects for cooperation to ensure feasibility of bankability of projects and conduct identification of cross sector issues with proposed solutions thereof;
  - 3) Based on the results of evaluation, compiling of scale of priorities for projects providing infrastructure for cooperation in Public Private Partnership;
  - 4) Review on results of evaluation on existing projects conducted by the Unit of Development of Public Private Partnership existing in the technical departments and Regional Governments (PPP tie-up) for verification of their accordance with the prevailing strategies and procedures;
  - 5) Evaluation on request for Government Support for projects applying for Government Support from the view point of cross sector studies;
  - 6) Preparation of briefing notes for the Committee Secretary concerning feasibility of requests for Government Support for projects applying for Government Support;
  - 7) Coordination with Risk Management Unit Ministry of Finance in the matter of request for Government Support for projects applying for Government Support.
- c. To develop policies on Public Private Partnership by way of:
  - 1) Conducting studies and evaluations on policies and statutory regulations related to cooperation on Public Private Partnership in the provision of infrastructure;
  - 2) Cooperation with Development Unit of Public Private Partnership existing in technical Departments and Regional Governments (PPP tie-up) and/or Risk Management Unit Ministry of Finance, preparation of working paper concerning issues in the cooperation of Public Private Partnership together with proposed solutions thereof;
  - 3) Development of method, procedures and implementation manual on Public Private Partnership projects;
  - 4) Development of contract and procurement documents standards.

- d) Development of capacity and institutionalization of Public Private Partnership through:
  - 1) Providing proposals in the matter of education, training and technical support to the Development Unit of Public Private Partnership existing in technical Departments and Regional Governments (PPP tie-up) and Government Instances responsible for projects;
  - 2) Preparation of data base and information concerning Public Private Partnership projects;
  - 3) Gathering, processing and dissemination of information related to cooperation in Public Private Partnerships.
- e. Operation of mechanism/facilities to finance technical assistance to the Development Unit of Public Private Partnership existing in technical Departments (PPP tie-up) and Government Instances whether Central, Province or District/City, in carrying out Public Private Partnership cooperation projects.

**CHAPTER VIII  
DEVELOPMENT UNIT FOR COMMUNICATIONS**

**Article 18**

The Development Unit for Communications is a work unit that assists the implementation of duties of Secretary I of the Committee.

**Article 19**

The Development Unit for Communications as outlined in Article 19 has the following duties:

- a. To communicate, disseminate information, build understanding and socializing Government strategies and policies in relation to acceleration of infrastructure development and participation of business enterprises in the provision of infrastructure, to the related Government instances and stakeholders;
- b. To strive for and facilitate public consultation and other activities to support the duties mentioned in letter a.

**CHAPTER IX  
DEVELOPMENT UNIT FOR CAPACITY OF INSTITUTIONS  
AND HUMAN RESOURCES**

**Article 20**

The Development Unit for Capacity of Institutions and Human Resources is a work unit that assists the implementation of the duties of Secretary I of the Committee.

**Article 21**

The Development Unit for Capacity of Institutions and Human Resources as outlined in Article 20 has the following duties:

- a. To develop capacity and expertise of institutions in cooperation of Public Private Partnership projects;

- b. To improve knowledge and expertise of stakeholders, mainly Regulatory Bodies and Government Instances responsible for the provision of infrastructure;
- c. To prepare development programs for institutions providing infrastructure in an overall manner in accordance with needs;
- d. To prepare programs for improvement of knowledge and skills for human resources involved in the implementation of infrastructure development programs;
- e. To carry out education and training programs supporting the development of institutions and human resources for the infrastructure sector;
- f. To conduct identification, gathering, maintenance and processing of information and know-how as learning material from experiences in implementation of projects providing infrastructure.

**CHAPTER X  
NATIONAL INFRASTRUCTURE FORUM**

**Article 22**

The National Infrastructure Forum is a work unit assisting the implementation of Secretary I of the Committee.

**Article 23**

The National Infrastructure Forum as outlined in Article 22 has the following duties:

- a. To conduct research on strategic issues concerning infrastructure development;
- b. To hold discussion forums to obtain an effective mechanism for the development of infrastructure;
- c. To prepare studies and analysis required for effective decision making concerning policies and development of infrastructure.

**CHAPTER XI  
ACCOMPANYING TEAM**

**Article 24**

The Accompanying Team is a team consisting of Echelon I Officials in the related ministries forming the Members of the Committee as outlined in Regulation of the President of the Republic of Indonesia Number 42 Year 2005, which stands alongside Secretary I and Secretary II in carrying out their duties.

**Article 25**

The Accompanying Team as outlined in Article 22, has the duty to provide input and considerations as required by Secretary I and Secretary II of the Committee.

**CHAPTER XII  
WORK PROCEDURES**

**Article 26**

The Daily Executive Head, the Work Group Heads, the Unit Heads and Forum Heads, in carrying out their duties are obligated to cooperate under the leadership of the Committee Head.

**Article 27**

The Daily Executive Head, the Secretaries, the Work Group Heads, the Unit Heads and Forum Heads, in carrying out their duties are obligated to apply an apparatus performance accountability system.

**Article 28**

Each leader of an organization unit within the environment of the Committee is obligated to apply an internal control system in each respective environment which allows for implementation of a retrial mechanism.

**Article 29**

In carrying out his/her duties, each leader of an organization unit within the environment of the Committee is obligated to apply principles of coordination, integrity and synchronization, both within their respective environments as well as among organization units within the environment of the Committee, as well as with other Instances outside the Committee in accordance with their respective main duties.

**Article 30**

Each leader of an organization unit within the environment of the Committee is obligated to supervise the implementation of duties of his/her subordinates and should any deviations occur then he/she is obligated to take the necessary steps in accordance with the prevailing statutory regulations.

**Article 31**

Each leader of an organization unit within the environment of the Committee is responsible for leading and coordinating his/her subordinates and provide direction as well as guidelines for implementation of the duties of subordinates.

**Article 32**

Each leader of an organization unit within the environment of the Committee is obligate to adhere to and comply with the directives and is responsible to his/her respective superior and submits regular reports in a timely manner.

**Article 33**

In submitting reports to superiors, copies of reports are to be submitted to leaders of other organization units within the environment of the Committee that functionally have a working relationship.

**Article 34**

Each report received by leaders of organization units within the environment of the Committee from subordinates should be processed and used as material for compilation of further reports and to provide directives to subordinates.

**Article 35**

Each head of an organization unit within the environment of the Committee is obligated to hold regular meetings in the context of providing guidance to and for the development of subordinates.

**Article 36**

- (1) The Daily Executive Head submits regular reports to the Committee Head.
- (2) The Secretaries of the Committee submit regular reports to the Daily Executive Head.
- (3) The Secretariat Head submits regular reports to the Secretaries of the Committee.
- (4) The Work Group Heads submit regular reports to Secretary II of the Committee.
- (5) The Unit Heads and Forum Heads submit regular reports to Secretary I of the Committee.

**CHAPTER XIII  
OTHER PROVISIONS**

**Article 37**

The organization structure of the Committee is attached and forms an inseparable part of this Regulation.

**Article 38**

Changes on composition of organization and work procedures as outlined in this Regulation are determined by the Coordinating Minister for Economic Affairs as Committee Head.

**CHAPTER XIV  
CLOSING PROVISIONS**

**Article 39**

This Regulation of the Coordinating Minister for Economic Affairs shall be effective from the date of enforcement.

Enforced in Jakarta

On 05 May 2006

COORDINATING MINISTER FOR ECONOMIC

AFFAIRS

AS HEAD OF COMMITTEE FOR POLICY  
ON ACCELERATION OF PROVISION  
OF INFRASTRUCTURE

Signed

BOEDIONO

Copy in accordance with its original

Bureau Chief of General Affairs

(signed and stamped)

FX DASUKI

NIP 060034251

**Appendix 3.7     Coordinating Minister for Economic Affairs Regulation as Head of the  
National Committee for the Acceleration of Infrastructure Provision Number  
PER-03/M.EKON/06/2006**

Source:

Regulations on Cooperation between Government and Entities In  
Infrastructure Provision, National Committee for the Acceleration of  
Infrastructure Provision (KKPPI), ISBN 979-1204-04-7



COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
OF THE REPUBLIC OF INDONESIA

Copy

COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
REGULATION  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE  
ACCELERATION OF INFRASTRUCTURE PROVISION  
NUMBER: PER-03/M.EKON/06/2006

CONCERNING  
PROCEDURES AND CRITERIA FOR COMPILATION  
OF LIST OF PRIORITIES FOR  
PUBLIC PRIVATE PARTNERSHIP INFRASTRUCTURE  
PROJECTS

THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE  
ACCELERATION OF INFRASTRUCTURE PROVISION

- Considering:
- whereas the provision of public private partnership infrastructure needs to be carried out based on the sequence of scale of priorities in order to be carried out in directed, planned and harmonized manner, right on utilization and right on target;
  - whereas the determination projects for provision of infrastructure in the list of priorities of infrastructure projects needs to be conducted based on certain procedures and criteria;
  - whereas based on the considerations as outlined in letter a and letter b, it is necessary to determine a Regulation of the Coordinating Minister for Economic Affairs as Head of the National Committee for the Acceleration of Infrastructure Provision concerning Procedures and Criteria for Compilation of List of Public Private Partnership Infrastructure Projects;

With reference to: 1. Regulation of the President of the Republic of Indonesia Number 9 Year 2006 Concerning Position, Duty, Function, Organization Structure

and Work Procedures of Ministries of the Republic of Indonesia, as amended by Regulation of the President of the Republic of Indonesia Number 62 Year 2005;

- Regulation of the President of the Republic of Indonesia Number 10 Year 2005 Concerning Organization Units and Duties of Echelon I of State Ministries of the Republic of Indonesia as amended by Regulation of the President of the Republic of Indonesia Number 63 Year 2005;
- Regulation of the President of the Republic of Indonesia Number 42 Year 2005 Concerning Committee for Policy of Acceleration of Provision of Infrastructure;
- Regulation of the President of the Republic of Indonesia Number 67 Year 2005 concerning Public Private Partnership/PPP in the Provision of Infrastructure;
- Presidential Decree of the Republic of Indonesia Number 187/M Year 2004, as amended by Presidential Decree of the Republic of Indonesia Number 8/M Year 2005;
- Presidential Decree of the Republic of Indonesia Number 20/P Year 2005;
- Decision of the Coordinating Minister for Economic Affairs as Head of National Committee for the Acceleration of Infrastructure Provision Number: PER-01/M.EKON/05/2006 concerning Organization and Work Procedures of the Committee for Policy of Accelerated Provision of Infrastructure;
- Regulation of the Minister of Finance Number 38/PMK.01/2006 concerning Guidelines for Implementation of Risk Control and Management on the Provision of Infrastructure;
- Decision of the Coordinating Minister of Finance Number: 518/KMK.01/2005 concerning Establishment of Committee for Risk Management on Provision of Infrastructure.

HAS DECIDED:

To determine: DECISION OF THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS AS HEAD OF THE COMMITTEE FOR POLICY OF ACCELERATION OF PROVISION OF INFRASTRUCTURE CONCERNING PROCEDURES AND CRITERIA FOR COMPILATION OF LIST OF PRIORITIES FOR PUBLIC PRIVATE PARTNERSHIP INFRASTRUCTURE PROJECTS.

CHAPTER I  
GENERAL PROVISIONS

Article 1

In this Regulation of the Coordinating Minister for Economic Affairs the definitions are the following:

1. Minister/Institution Head/Regional Head is the head of ministry/institution/region with scope of duties and responsibilities covering the infrastructure sector as regulated in Presidential Regulation Number 67 Year 2005 concerning Public Private Partnership In the Provision of Infrastructure.
2. The Committee for Policy on Acceleration of Provision of Infrastructure, hereinafter referred to as Committee is a committee established and having composition of membership as regulated in Presidential Regulation Number 42 Year 2005 concerning Committee for Policy on Acceleration of Provision of Infrastructure.
3. The Committee Secretariat is an element of assistance to the Head of the Committee under and responsible to the Committee Head as outlined in Regulation of the Coordinating Minister for Economic Affairs as Head of the Committee for Policy on Acceleration of Provision of Infrastructure Number PER-01/M.EKNO/05/2006 concerning Organization and Work Procedures of the National Committee for the Acceleration of Infrastructure Provision.
4. The Central Unit for Development of Public Private Partnership hereinafter referred to as Central Unit for the Development of PPP is an organ of the Committee as outlined in Regulation of the Coordinating Minister for Economic Affairs as Head of the

Committee for Policy on Acceleration of Provision of Infrastructure Number PER-01/M.EKON/05/2006 concerning Organization and Work Procedures of the Committee for Policy on Acceleration of Provision of Infrastructure.

5. A Business Entity is a private business in form of a limited liability company, State Enterprise (BUMN), Regional Enterprise (BUMD) and Cooperative.
6. A Partnership Project is the Provision of Infrastructure conducted through a Partnership Agreement or the granting of Business Permit between the Minister/Institution Head/Regional Head in the form of Business Enterprise.
7. Provision of Infrastructure constitutes activities covering construction work to build or improve infrastructure capacity and/or activities on infrastructure management and/or maintenance of infrastructure in the context of improving the utilization of infrastructure.
8. List of Partnership Projects Priorities, is a list that contains Partnership Projects with cross sector prioritized provision.
9. A Partnership Agreement is a written covenant for the Provision of Infrastructure between a Minister/ Institution Head/ Regional Head with a Business Enterprise determined in accordance with the provisions of Presidential Regulation Number 67 Year 2005 concerning Public Private Partnership In the Provision of Infrastructure.
10. Business Permit is a permit for the Provision of Infrastructure issued by the Minister/Institution Head/Regional Head to the Business Enterprise determined in accordance with the provisions of Presidential Regulation Number 67 Year 2005 concerning Public Private Partnership In the Provision of Infrastructure.

CHAPTER II  
PURPOSES, OBJECTIVES AND SCOPE

Article 2

This regulation of the Coordinating Minister for Economic Affairs has the purpose of being:

- a. guidelines for the Minister/Institution Head/ Regional Head in



submitting Partnership Projects to the Committee to be included in the List of Partnership Project Priorities;

- b. guidelines for the Committee organization in conducting evaluation towards Partnership Projects to be included in the List of Partnership Project Priorities.

#### Article 3

This Regulation of the Coordinating Minister for Economic Affairs has the objective to create coordination in the Provision of Infrastructure with due observance to macro economy interest.

#### Article 4

This Regulation of the Coordinating Minister for Economic Affairs regulates the following:

- a. procedures for submitting Partnership Projects by the Minister/Institute Head/Regional Head to the Committee to be included in the List of Partnership Project Priorities; and
- b. criteria on evaluation of Partnership Projects to be included in the List of Partnership Project Priorities.

### CHAPTER III

#### PROCEDURES FOR SUBMITTING PARTNERSHIP PROJECTS AND CRITERIA ON EVALUATION

##### First Part

##### Submitting Proposed Partnership Projects

#### Article 5

The Minister/Institution Head/Regional Head submits the proposed Partnership Projects to the Committee to be included in the List of Partnership Project Priorities.

#### Article 6

Proposals as outlined in Article 5 are obligated to be completed with the following documents:

- a. pre-feasibility study;

- b. bid documents that at least contain:
  - 1) plan for form of partnership;
  - 2) plan for financing of Partnership Project and its source of funds;
  - 3) plan for partnership offer, which includes schedule, process and method of assessment;
  - 4) risk analysis which contains allocation of risks and mitigation efforts;
- c. documents that contain detailed descriptions concerning the proposal for Government Support, accompanied by analysis concerning the necessary preventive actions to be taken in the context of reducing the emergence of financial obligations on the part of the Government (contingent liabilities) as a result of implementation of a Partnership Agreement, in the case the proposed Partnership Project requires Government Support; and
- d. documents as results of public consultancy.

#### Second Part

##### Evaluation on Feasibility of Partnership Projects

#### Article 7

- (1) The Committee through the Committee Secretariat examines the completeness of documents as outlined in Article 6 within a period of 7 (seven) days from the date of receipt of the proposal.
- (2) In the case where the documents as outlined in paragraph (1) are still incomplete, the Committee may request for additional documents from the Minister/Institution Head/Regional Head.
- (3) In the case where the documents as outlined in paragraph (1) are complete, the Committee Secretariat shall forward such to the Central Unit of PPP Development for proper evaluation.
- (4) In conducting evaluation as outlined in paragraph (3), the Central Unit of PPP Development through the Committee Secretariat may request for other necessary documents and/or information to the Minister/Institution Head/Regional Head.

**Third Part**  
**Criteria on Evaluation on**  
**Feasibility of Partnership Projects**

**Article 8**

Evaluation on feasibility of Partnership Projects as outlined in Article 7 paragraph (3) shall be conducted based on the following criteria:

- a. preparedness in legal aspects, whereby the proposed Partnership is in accordance with the laws of the Republic of Indonesia;
- b. in accordance with the national medium term development plan;
- c. accordance with the sector strategic plan;
- d. competitive, whereby the proposed Partnership Project is attractive for Business Enterprises and competition will thus occur in the process of bidding;
- e. availability of land, where the land for the implementation of the Partnership Project is already available, or in the case where the required land is not yet available in the name of the Government, there are official documents issued by the Government that contain detailed plans on land procurement together with the anticipated steps or actions to be taken in the process of land procurement;
- f. preparedness of project concept, where the structure of the proposed Partnership Project is feasible for partnership with Business Enterprises.
- g. accordance with the regional spatial plan, where the Partnership Project is compatible to the regional spatial plan whether compiled at regional or national levels;
- h. preparedness of environmental impact control, where the proposed Partnership Project is complete with analysis on environmental impact;
- i. clarification of form of partnership, where the proposed Partnership Project is completed with recommendations on the form of partnership with a clear pattern of financing;
- j. completion of bid documents, where the proposed Partnership Project is complete with bid documents containing the information required by the Business Enterprise, including the concept

for the Partnership Agreement;

- k. the benefits and feasibility of economic and social costs, where the proposed Partnership Project can provide benefit and is feasible from the economic and social cost point of view as evidenced by a detailed analysis concerning overcoming issues on employment opportunities, the role in alleviation of poverty, the influence towards level of productivity, the role in reducing the gaps among regions and economic growth in macro;
- l. clarification on overcoming risks, where the risks that arise from the implementation of the Partnership Project have been analyzed in detail with regards allocation of risks, the estimated quantitative volume of risks and the necessary steps to be taken to minimize the level of risks; and
- m. level of project feasibility, where the level of feasibility of the Partnership Project has been analyzed through a pre-feasibility study from both financial and technical points of view.

**Fourth Part**

**Evaluation on Priorities of Partnership Projects**

**Article 9**

- (1) The Central Unit for Development of PPP conducts evaluations to determine priorities of Partnership Projects in the List of Partnership Projects Priorities.
- (2) In determining the sequence of priorities, the Central Unit for Development of PPP considers the following:
  - a. analysis on benefits, economic and social costs; and
  - b. harmonization and/or integration among sectors.

**CHAPTER IV**

**DETERMINATION OF LIST OF  
PRIORITIES OF PARTNERSHIP PROJECTS**

**Article 10**

- (1) Based on the results of evaluation as outlined in Article 7 and Article 9, the Central Unit for Development of PPP conveys its recommendations to the Committee.

- (2) The recommendations as outlined in paragraph (1) contain the list of feasible priorities for Partnership Projects.

#### Article 11

- (1) Based on recommendations from the Central Unit for Development of PPP, the Committee determines Partnership Projects that are feasible to be included in the List of Priorities of Partnership Projects.
- (2) The List of Priorities of Partnership Projects as outlined in paragraph (1) contains the following:
- Partnership Projects with priority in provision thereof; and
  - estimated schedule of implementation of tender for each respective Partnership Project.
- (3) The List of Priorities of Partnership Projects is available for public knowledge.
- (4) The proposed Partnership Projects that are considered as unfeasible to be included in the List of Priorities of Partnership Projects are informed by the Committee Secretariat to the Minister/ Institution Head/Regional Head together with the reasons thereof.

### CHAPTER V

#### CLOSING

#### Article 12

This Regulation of the Coordinating Minister for Economic Affairs is effective from the date of promulgation.

Enforced in Jakarta

On 22 June 2006

COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF COMMITTEE FOR POLICY  
ON ACCELERATION OF PROVISION  
OF INFRASTRUCTURE

Signed

BOEDIONO



### COORDINATING MINISTER FOR ECONOMIC AFFAIRS OF THE REPUBLIC OF INDONESIA

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### COORDINATING MINISTER FOR ECONOMIC AFFAIRS REGULATION

AS HEAD OF THE NATIONAL COMMITTEE FOR THE  
ACCELERATION OF INFRASTRUCTURE PROVISION  
NUMBER: PER-04/M.EKON/06/2006

### CONCERNING PROCEDURES FOR EVALUATION OF PUBLIC PRIVATE PROJECTS IN THE PROVISION OF INFRASTRUCTURE WHICH REQUIRE GOVERNMENT SUPPORT

THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE  
ACCELERATION OF INFRASTRUCTURE PROVISION,

- Considering:
- whereas in the context of acceleration of infrastructure provision, if necessary the Government can provide support to public private infrastructure provision projects;
  - whereas in order that Government support is provided effectively and right on target, as well as to carry out the principles of prudent and good governance, it is necessary to determine the procedures of evaluation Public Private Projects which require Government support;
  - whereas based on considerations as outlined in letter a and letter b, it is necessary to determine a Regulation of the Coordinating Minister for Economic Affairs as Head of the Committee for Policy on Provision of Infrastructure concerning Procedures for Evaluation of Public Private Partnership Projects In Infrastructure Provision Which Requires Government Support;

With reference to: 1. Regulation of the President of the Republic of

**Appendix 3.8      Regulation of the Coordinating Minister for Economic Affairs as Head of the National Committee for the Acceleration of Infrastructure Provision Number: Per-04/M.Ekon/06/2006 Concerning Procedures for Evaluation of Public Private Projects in the Provision of Infrastructure Which Require Government Support**

Source:

<http://www.kkppi.go.id/laws/CROSS%20SECTOR%20Permenko%2004-2006%20ENG.doc>

**COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
OF THE REPUBLIC OF INDONESIA**

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**REGULATION OF THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE ACCELERATION OF  
INFRASTRUCTURE PROVISION  
NUMBER: PER-04/MEKON/06/2006**

CONCERNING

**PROCEDURES FOR EVALUATION OF PUBLIC PRIVATE PROJECTS  
IN THE PROVISION OF INFRASTRUCTURE  
WHICH REQUIRE GOVERNMENT SUPPORT**

**THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE NATIONAL COMMITTEE FOR THE ACCELERATION OF  
INFRASTRUCTURE PROVISION,**

Considering:

- a. whereas in the context of acceleration of infrastructure provision, if necessary the Government can provide support to public private infrastructure provision projects;
- b. whereas in order that Government support is provided effectively and right on target, as well as to carry out the principles of prudent and good governance, it is necessary to determine the procedures of evaluation Public Private Projects which require Government support;
- c. whereas based on considerations as outlined in letter a and letter b, it is necessary to determine a Regulation of the Coordinating Minister for Economic Affairs as Head of the Committee for Policy on Provision of Infrastructure concerning Procedures for Evaluation of Public Private Partnership Projects In Infrastructure Provision Which Requires Government Support;

With reference to:

1. Regulation of the President of the Republic of Indonesia Number 9 Year 2006 Concerning Position, Duty, Function, Organization Structure and Work Procedures of Ministries of the Republic of Indonesia, as amended by Regulation of the President of the Republic of Indonesia Number 62 Year 2005;
2. Regulation of the President of the Republic of Indonesia Number 10 Year 2005 Concerning Organization Units and Duties of Echelon I of State Ministries of the Republic of Indonesia as amended by Regulation of the President of the Republic of Indonesia Number 63 Year 2005;
3. Regulation of the President of the Republic of Indonesia Number 42 Year 2005 Concerning Committee for Policy of Acceleration of Provision of Infrastructure;
4. Regulation of the President of the Republic of Indonesia Number 67 Year 2005 concerning Public Private Partnership/PPP in the Provision of Infrastructure;
5. Decision of the President of the Republic of Indonesia Number 187/M Year 2004, as amended by Decision of the President of the Republic of Indonesia Number 8/M Year 2005;

6. Decision of the President of the Republic of Indonesia Number 20/P Year 2005;
7. Regulation of the Coordinating Minister for Economic Affairs as Head of National Committee for the Acceleration of Infrastructure Provision Number: PER-01/MEKON/05/2006 concerning Organization and Work Procedures of the Committee for Policy of Accelerated Provision of Infrastructure;
8. Regulation of the Coordinating Minister for Economic Affairs as Head of National Committee for the Acceleration of Infrastructure Provision Number: PER-03/MEKON/06/ 2006 concerning Procedures and Criteria for Compilation of List of Priorities for Public Private Partnership Infrastructure Projects.
9. Regulation of the Minister of Finance Number 38/PMK01/ 2006 concerning Implementing Guidelines for Risk Control and Management On Infrastructure Provision;
10. Decision of the Minister of Finance Number 518/KMK01/2005 concerning Establishment of Committee for Risk Management on Infrastructure Provision;

**H A S D E C I D E D**

To determine:

REGULATION OF THE COORDINATING MINISTER FOR ECONOMIC AFFAIRS AS HEAD OF THE COMMITTEE FOR POLICY ON ACCELERATION OF INFRASTRUCTURE PROVISION CONCERNING PROCEDURES OF EVALUATION OF PUBLIC PRIVATE PARTNERSHIP PROJECTS IN INFRASTRUCTURE PROVISION THAT REQUIRES GOVERNMENT SUPPORT.

**CHAPTER I  
GENERAL PROVISIONS**

Article 1

In this Regulation of the Coordinating Minister for Economic Affairs the following definitions apply:

1. Government is the Government of the State of the Republic of Indonesia.
2. Minister/Institution Head/Regional Head is the head of ministry/institution/region with scope of duties and responsibilities covering the infrastructure sector as regulated in Presidential Regulation Number 67 Year 2005 concerning Public Private Partnership In the Provision of Infrastructure.
3. The Committee for Policy on Acceleration of Provision of Infrastructure, hereinafter referred to as Committee is a committee established and having composition of membership as regulated in Presidential Regulation Number 42 Year 2005 concerning Committee for Policy on Acceleration of Provision of Infrastructure.
4. The Committee Secretariat is an element of assistance to the Head of the Committee under and responsible to the Committee Head as outlined in Regulation of the Coordinating Minister for Economic Affairs as Head of the Committee for Policy on Acceleration of Provision of Infrastructure Number PER-01/MEKNO/05/2006 concerning Organization and Work Procedures of the National Committee for the Acceleration of Infrastructure Provision.
5. The Central Unit for Development of Public Private Partnership hereinafter referred to as Central Unit for the PPP Development is an organ of the Committee as outlined in Regulation of the Coordinating Minister for Economic Affairs as Head of the Committee for Policy on Acceleration of Provision of Infrastructure Number PER-01/MEKON/05/2006 concerning Organization and Work Procedures of the Committee for Policy on Acceleration of Provision of Infrastructure.

6. A Business Entity is a private business in form of a limited liability company, State Enterprise (BUMN), Regional Enterprise (BUMD) and Cooperative.
7. A Partnership Project is the Provision of Infrastructure conducted through a Partnership Agreement or the granting of Business Permit between the Minister/Institution Head/Regional Head in the form of Business Enterprise.
8. Provision of Infrastructure constitutes activities covering construction work to build or improve infrastructure capacity and/or activities on infrastructure management and/or maintenance of infrastructure in the context of improving the utilization of infrastructure.
9. A Partnership Agreement is a written covenant for the Provision of Infrastructure between a Minister/ Institution Head/Regional Head with a Business Enterprise determined in accordance with the provisions of Presidential Regulation Number 67 Year 2005 concerning Public Private Partnership In the Provision of Infrastructure.
10. Government Support is support provided by the Minister/Institution Head/Regional Head to the Business Enterprise in the context of implementation of Partnership Projects based on Partnership Agreements.

**CHAPTER II  
PURPOSES, OBJECTIVES AND SCOPE**

Article 2

This Regulation of the Coordinating Minister for Economic Affairs has the purpose as:

- a. guidelines for the Minister/Institution Head in submitting proposals for Partnership Projects that require Government Support to the Committee;
- b. guidelines for the Committee organization in conducting evaluation towards proposed Partnership Projects that require Government Support to be forwarded to the Minister of Finance.

Article 3

This Regulation of the Coordinating Minister for Economic Affairs is intended to support the acceleration of Infrastructure Provision thereby being able to enhance the growth of national economy.

Article 4

- (1) Government Support as outlined in Article 1 Number 10 constitutes support in the form of financial compensation and/or compensation in other forms provided by the Government to Business Enterprises through a risk sharing scheme in the context of implementation of Partnership Projects.
- (2) The types of risks and the form of Government Support as outlined in Regulation of the Minister of Finance Number 38/PMK.01/2006 concerning Implementing Guidelines for Risk Control and Management on Infrastructure Provision.

**CHAPTER III  
PRINCIPLES OF PROVISION OF GOVERNMENT SUPPORT  
AND CRITERIA ON EVALUATION**

**First Part  
Principles of Provision of Government Support**

Article 5

Government Support is provided based on the following principles:

- a. Government Support is supported to Partnership Projects considered as economically and financially feasible;
- b. Government Support needs to be limited to be as low as possible, by first conducting efforts towards risk control and management towards Partnership Projects proposed to acquire Government Support; and
- c. Provision of Government Support is conducted transparently.

**Second Part  
Criteria on Evaluation**

Article 6

Partnership Projects proposed to acquire Government Support are evaluated based on the following criteria:

- a. preparedness in legal aspects, whereby the Partnership Projects are in accordance with the laws of the Republic of Indonesia;
- b. in accordance with the national medium term development plan;
- c. in accordance with the sector strategic plans;
- d. competitive, whereby the Partnership Projects proposed are interesting for Business Enterprises thereby resulting in competition during the process of tendering;
- e. the supply of land, whereby such land is for the implementation of Partnership Projects, is available, or in the even the matter of land is integrated and not yet available in the name of the Government, there already are official documents issued by the Government which contain detailed plans of land procurement, together with the anticipation or acts to be carried out in the process of land procurement;
- f. the preparedness of project concept, whereby the structure of the Partnership Project submitted is in accordance for partnership with Business Enterprises;
- g. in accordance with the Regional Spatial Layout Plan, whereby the Partnership Project is in accordance with the Regional Spatial Layout Plan whether compiled at regional or national levels;
- h. preparedness in control over environmental impact, whereby the proposed Partnership Project is already complete with analysis concerning environmental impact;
- i. clarification on form of cooperation, whereby the proposed Partnership Project has been completed with proposals concerning form of partnership with a clear financing pattern;
- j. completeness of bid documents, whereby the proposed Partnership Program is completed with bid documents containing the information needed by the Business Enterprise, including therein the draft Partnership Agreement;
- k. the economic and social benefits and reasonable costs, whereby the proposed Partnership Project can provide benefits and is reasonable from the point of economic and social costs as proven by a detailed analysis concerning the benefits and economic and social costs, which contains an

- analysis on overcoming the issue of opportunity for employment, the role in reduction of poverty, influence over level of productivity, role in reduction of gaps among regions and economic growth in macro;
- l. clarification on risk overcoming, whereby the risks that emerge from the implementation of the Partnership Project have been analyzed in detail from the point of risk allocation, estimate of amount of risks in a quantitative manner and the necessary steps to be taken to minimize the level of risk;
- m. clarification concerning form and amount of requested Government Support; and
- n. project feasibility, whereby the Partnership Project has been declared as feasible from technical and financial viewpoints (project quality) based on the results of a feasibility study.

**CHAPTER IV  
PROCEDURES FOR EVALUATION OF PARTNERSHIP PROJECTS  
WHICH REQUIRE GOVERNMENT SUPPORT**

Article 7

Evaluation on Partnership Projects that require Government Support is carried out through the following stages:

- a. submission of proposed Partnership Projects by the Minister/Institution Head;
- b. evaluation on feasibility and determination of priorities of Partnership Projects by the Committee; and
- c. Submission of recommendations by the Committee to the Minister of Finance.

**First Party  
Submission of Proposals of Partnership Projects**

Article 8

- (1) The Minister/Institution Head submits proposals for Partnership Projects that require Government Support to the Minister of Finance through the Committee;
- (2) Proposals for Partnership Projects as outline din paragraph (1) are submitted before such projects are offered to Business Enterprises.

Article 9

The proposal as outlined in Article 8 should be completed with the following documents:

- a. feasibility study;
- b. bid documents that at least contain the following:
  - 1) form of partnership;
  - 2) financing plan for Partnership Project and source of funding thereof;
  - 3) plan for partnership offer containing schedule, process and method of evaluation;
  - 4) risk analysis containing risk allocation and mitigation efforts;
- c. documents that contain detailed descriptions concerning proposal for Government Support, accompanied by analysis concerning preventive acts that need to be conducted in the context of

reducing the emergence of Government financial obligations (contingent liabilities) as an impact of implementation of the Partnership Agreement; and

- d. documents derived from results of public consultancy.

**Second Part  
Evaluation of Partnership Project**

Article 10

- (1) The Committee through the Committee Secretariat will examine the completeness of documents as outlined in Article 9.
- (2) In the event the documents as outlined in paragraph (1) are incomplete, the Committee can request for additional documents to the Minister/Institution Head.
- (3) In the event documents as outlined in paragraph (1) are complete, the Committee Secretariat will forward such to the Central Unit of Development of Public Private Partnership for evaluation.

Article 11

- (1) The Central Unit for PPP Development conducts evaluation on the feasibility of proposals that have fulfilled completeness of documents as outlined in Article 10 paragraph (3).
- (2) Evaluation as outlined in paragraph (1) is conducted based on criteria as outlined in Article 6.
- (3) In conducting evaluation, the Central Unit for PPP Development through the Committee Secretariat will request for other necessary documents and/or information to the Minister/Institution Head.

Article 12

- (1) The Central Unit for PPP Development conducts evaluation to determine priorities of Partnership Projects feasible for receiving Government Support.
- (2) In determining the sequence of priorities, the Central Unit for PPP Development considers the following:
  - a. analysis on benefits, economic and social costs;
  - b. harmonization and/or integration between sectors; and
  - c. range of Government Support applied for.

Article 13

- (1) Based on the results of evaluation as outlined in Articles 11 and Article 12, the Central Unit for PPP Development will submit recommendations to the Committee.
- (2) Recommendations as outlined in paragraph (1) contain the list of Partnership Projects feasible for obtaining Government Support based on sequence of priorities.

**Third Part  
Proposed Partnership Projects That Can  
Obtain Government Support**

Article 14

- (1) Based on the recommendations from the Central Unit of PPP Development, the Committee determines the Partnership Projects that are feasible to obtain Government Support based on sequence of priorities.
- (2) Proposed Partnership Projects considered feasible to obtain Government Support as outlined in paragraph (1) are submitted to the Minister of Finance for further evaluation.
- (3) List of sequence of priorities of Partnership Projects considered feasible to obtain Government Support can become public knowledge.
- (4) Proposed Partnership Programs that are not considered feasible to obtain Government Support will be returned to the Minister/Institution Head accompanied by reasons thereof.

**CHAPTER V  
TRANSITORY PROVISIONS**

**Article 15**

Prior to the establishment of Organization Structure and Work Procedures of the Central Unit for PPP Development, the Committee Secretariat will carry out the functions of the Central Unit for PPP Development.

**CHAPTER VI  
CLOSING PROVISIONS**

**Article 16**

This regulation is effective on the date of promulgation.

Promulgated in Jakarta  
On 22 June 2006  
COORDINATING MINISTER FOR ECONOMIC AFFAIRS  
AS HEAD OF THE COMMITTEE FOR POLICY ON ACCELERATION OF  
INFRASTRUCTURE PROVISION  
(signed)  
BOEDIONO