

In view of:

- 1. Article 4 paragraph (1) of Constitution of 1945;
- 2. Presidential Decree No. 80/2003 on Guidelines for Performance of Procurement of Government Goods and Services (Statute Book of 2003 No. 120, Supplement to Statute Book No. 4430) as already amended several times and latest by Presidential Regulation No. 32/2005 (Statute Book of 2005 No. 36);

DECIDES:

To stipulate:

PRESIDENTIAL REGULATION ON COOPERATION BETWEEN THE GOVERNMENT AND ENTERPRISES IN INFRASTRUCTURE PROCUREMENT.

CHAPTER I
GENERAL PROVISIONS

Article 1

Hereinafter referred to as:

- 1. Minister/Head of Institution is the chairperson of the ministry/institution whose scope of duty and responsibility covers infrastructure field as provided in this Regulation.
- 2. Regional Head is the governor of a province or a regent of a regency or a mayor of a municipality.
- 3. Infrastructure Procurement is an activity consisting of constructions work to build or improve infrastructure capacity and/or infrastructure management and/or infrastructure maintenance in the framework of improvement of infrastructure utility.
- 4. Enterprise is a private enterprise in the form of limited liability company, state enterprise (BUMN), regional enterprise (BUMD), and cooperatives.
- 5. Cooperation Project is Infrastructure Procurement arranged through a Cooperation Agreement or issuance of Operational License between the Minister/Head of Institution/Regional Head with an Enterprise.
- 6. Cooperation Agreement is a written agreement for the Procurement of Infrastructure between the Min-

ister/Head of Institution/Regional Head with an Enterprise through a tender.

- 7. Operational License is a license for Procurement of Infrastructure given by the Minister/Head of Institution/Regional Head to Enterprise determined through an auction.
- 8. Government Support is the support given by the Minister/Head of Institution/Regional Head to Enterprise in the framework of performance of Cooperation Project based on Cooperation Agreement.

CHAPTER II
PURPOSES, TYPES, FORMS, AND
PRINCIPLES OF COOPERATION

Article 2

- (1) The Minister/Head of Institution/Regional Head may cooperate with Enterprises in Infrastructure Procurement.
- (2) In the performance of the cooperation, as meant in paragraph (1), the Minister/Head of Institution/Regional Head shall act as the party responsible for the Cooperation Project.

Article 3

Cooperation Project of Infrastructure Procurement between the Minister/Head of Institution/Regional Head with Enterprises shall be implemented with the purposes to:

- a. Suffice the need for funding continuously in Infrastructure Procurement through allocation of private funds;
- b. Improve quantity, quality, and efficiency of services through healthy competition;
- c. Improve quality of management and maintenance in Infrastructure Procurement;
- d. Develop the use of the principles of "the user shall pay for the services received", or in certain cases, it shall consider the financial condition of the user.

Article 4

- (1) Types of infrastructure that can be cooperated with Enterprises shall include:

a. Transportation

- a. Transportation infrastructure, consisting of sea-ports, river ports, or lake ports, airports, railway network and railway stations;
- b. Road infrastructure, consisting of toll roads and toll road bridges;
- c. Water infrastructure consisting of raw water carrying channels;
- d. Drinking water Infrastructure consisting of raw water extraction structure, transmissions network, distributions network, drinking water processing installations;
- e. Waste water infrastructure consisting of waste water treatment infrastructure, collecting and main networks, and waste means consisting of transporters and places of disposal;
- f. Telecommunications Infrastructure consisting of telecommunications network;
- g. Electricity Infrastructure consisting of electricity generator, transmissions or distributions; and
- h. Petroleum and natural gas infrastructure consisting of processing, storage, transportation, transmission, or distribution of petroleum and natural gas;

(2) The infrastructure, as meant in paragraph (1), shall be cooperated pursuant to the applicable laws on the respective fields.

Article 5

- (1) Cooperation between the Minister/Head of Institution/Regional Head with Enterprises in Infrastructure Procurement, as meant in Article 2 paragraph (1), may be realized by:
- a. Cooperation Agreement; or
 - b. Operational License.

(2) The form of the cooperation between the Minister/Head of Institution/Regional Head with Enterprises in Infrastructure Procurement shall be determined based on agreement between the Minister/Head of Institution/Regional Head and Enterprises as far as it is not in violation with the applicable laws.

Article 6

The Cooperation on Infrastructure Procurement

between the Minister/Head of Institution/Regional Head and Enterprises shall be done based on the principles of:

- a. Fairness, meaning all Enterprises participating in the process of procurement must be treated equally;
- b. Openness, meaning that the entire process of procurement is open for Enterprises that have meet the designated qualifications;
- c. Transparency, meaning that all regulations and information concerning Infrastructure Procurement including the administrative-technical requirements for selection, procedure of evaluation, and designation of Enterprises are open to all enterprises and the general public;
- d. Competition, meaning that the selection of Enterprises is through an auction;
- e. Accountability-Claimability, meaning that the selection of Enterprises must be held accountable.
- f. Mutual benefit, meaning that partnership with Enterprises in Infrastructure Procurement shall be established based on balanced rules and conditions so that it will benefit both parties and the public by taking into account the basic needs of the society;
- g. Mutual need, meaning that partnership with Enterprises in Infrastructure Procurement shall be established based on regulations and conditions that consider the needs of both parties;
- h. Mutual support, meaning that partnership with Enterprises in Infrastructure Procurement shall be established with mutual support.

CHAPTER III

IDENTIFICATION AND DESIGNATION OF PROJECTS BASED ON COOPERATION AGREEMENT

Article 7

- (1) The Minister/Head of Institution/Regional Head shall perform identification of Infrastructure Procurement projects that will be cooperated with Enterprises in consideration of, at least:
- a. Conformity with national/regional medium-term development plan and infrastructure strategic plan;
 - b. Conformity with project location and Regional Spatial Arrangement Plan;

c. Relationship

- c. Relationship among infrastructure sectors and among regions;
- d. Analysis of cost and social benefit.

(2) Every proposal of project that will be cooperated must be completed with:

- a. Pre-feasibility study;
- b. Plan on form of cooperation;
- c. Plan of project financing and the sources of fund; and
- d. Means of offer for cooperation consisting of schedule, process, and methods of evaluation.

Article 8

In performing identification of the project that will be cooperated, as meant in Article 7, the Minister/Head of Institution/Regional Head shall conduct a public consultation.

Article 9

(1) Based on the result of identification, as meant in Article 7, and the result of public consultation, as meant in Article 8, the Minister/Head of Institution/Regional Head shall determine the priorities of the projects that will be cooperated on the list of project priorities.

(2) The list of project priorities, as meant in paragraph (1), shall be declared open to public and shall be distributed to the public.

CHAPTER IV

COOPERATION PROJECT BASED ON ENTERPRISES PROPOSAL

Article 10

Enterprises may submit proposal for Cooperation Projects on Infrastructure Procurement, which are not included in the list of project priorities, as meant in Article 9, to the Minister/Head of Institution/Regional Head.

Article 11

(1) The projects at the Enterprises proposal must be completed with:

- a. Feasibility study;

- b. Plan on form of cooperation;
- c. Plan on financing and the sources of fund; and
- d. Plan on offer for cooperation consisting of schedule, process, and methods of evaluation.

(2) The projects at the proposal of Enterprises, as meant in paragraph (1), shall also in conformity with the provisions of Article 7 paragraph (1).

Article 12

(1) The Minister/Head of Institution/Regional Head shall evaluate the projects at the proposal of Enterprises, as meant in Article 11.

(2) In case that based on the result of the evaluation, as meant in paragraph (1), the projects have met the conditions of worthiness, the projects will be processed through a public auction pursuant to the provisions of this Regulation.

Article 13

(1) Enterprises, which proposal is accepted by the Minister/Head of Institution/Regional Head, shall be given compensation.

(2) The compensation, as meant in paragraph (1), may be in the form of:

- a. Additional value; or
- b. Purchase of the cooperation project proposal including the intellectual property rights by the Minister/Head of Institution/Regional Head or by winner of tender.

Article 14

(1) The additional value, as meant in Article 13 paragraph (2) clause a, shall be given maximum 10% (ten percent) of value of tender of the proposing party and shall be announced openly before the process of procurement.

(2) The purchase of the cooperation project proposal, as meant in Article 13 paragraph (2) clause b, is a compensation given by the Minister/Head of Institution/Regional Head or by winner of tender for the cost expended by the Proposing Enterprise.

(3) The

(3) The amount of the additional value, as meant in paragraph (1), and the compensation, as meant in paragraph (2), shall be determined by the Minister/Head of Institution/Regional Head based on the opinion of an independent appraiser, before the process of procurement.

efficiency and effectiveness in Infrastructure Procurement.

(2) The Risk Management, as meant in paragraph (1), shall be set forth in the Cooperation Agreement.

CHAPTER V

PRELIMINARY TARIFF AND TARIFF ADJUSTMENT

Article 15

- (1) Preliminary tariff and regular tariff adjustment shall be decided to ensure the rate of investment return consisting of recovery of capital cost, operational cost, and reasonable gain within a certain time.
- (2) In case that the deciding of the preliminary tariff and the adjustment could not be done in accordance with the provisions of paragraph (1), tariff shall be decided based on the financial condition of the user.
- (3) In case that the tariff were based on the financial condition of the user, as meant in paragraph (2), the Minister/Head of Institution/Regional Head shall give compensation to obtain rate of return of investment and reasonable gain.
- (4) The amount of the compensation, as meant in paragraph (3), shall be based on the result of competition among bidders and selected based on the lowest bid.
- (5) Compensation shall only be given to Infrastructure Procurement Cooperation Projects having social interests and benefits after the Minister/Head of Institution/Regional Head performs a complete and comprehensive analysis into the social benefits.

CHAPTER VI

RISK MANAGEMENT AND GOVERNMENT SUPPORT

Article 16

- (1) Risk shall be managed based on the principles of risk allocation between the Minister/Head of Institution/Regional Head and Enterprises adequately by allocating the risk to the party with the best risk controlling capacity in the framework of ensuring of ef-

Article 17

- (1) Government support to Enterprises shall be given in consideration of the principles of financial risk management and control in the State Revenue and Expenditure Budget (APBN) or the Regional Revenue and Expenditure Budget (APBD).
- (2) The risk management and control, as meant in paragraph (1), shall be implemented by the Minister of Finance or Head of the Work Unit for Management of Regional Finances in case that government support is given by the Regional Government.
- (3) In performing the duty and function, as meant in paragraph (2), the Minister of Finance or Head of the Work Unit for Management of Regional Finances shall be authorized to:
 - a. Obtain the necessary data and information from the parties related to the Infrastructure Procurement cooperation projects that need government support;
 - b. Agree or reject the proposal for government support to Enterprises in the framework of Infrastructure Procurement based on the criteria decided by the Minister of Finance in case that government support is given by the Central Government, or Head of the Work Unit for Management of Regional Finances in case that government support is given by the Regional Government;
 - c. Determine the procedure of payment of obligations of the Minister/Head of Institution/Regional Head on the Infrastructure Procurement projects in case of compensation for intellectual property rights, payment of subsidy, and failures to comply with the Cooperation Agreement.

CHAPTER VII

PROCEDURE OF PROCUREMENT OF ENTERPRISES IN THE FRAMEWORK OF COOPERATION AGREEMENT

Article

Article 18

The procurement of Enterprises in the framework of Cooperation Agreement shall be done through a tender.

Article 19

The Minister/Head of Institution/Regional Head shall establish a procurement committee.

Article 20

The procedure of procurement, as meant in Article 18, shall consist of:

- a. Preparations for procurement;
- b. Performance of procurement;
- c. Designation of winner; and
- d. Arrangement of cooperation agreement.

Article 21

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

Article 22

The provisions of Articles 18, 19, 20, and 21 will be further stipulated in the Attachment to this Regulation, which is a part of this Regulation.

CHAPTER VIII
COOPERATION AGREEMENT

Article 23

(1) Cooperation Agreement shall at least contain clauses regarding:

- a. Scope of work;
- b. Term;
- c. Performance bond;
- d. Tariff and mechanism of adjustment;
- e. Rights and obligations, including risk allocation;
- f. Standard of performance of services;
- g. Prohibition to assign the Cooperation Agreement or shares to the Enterprise being holder of Cooperation Agreement before Infrastructure Procurement has started its commercial operations;
- h. Sanctions in case that the parties did not comply with the clauses of the agreement;
- i. Termination of agreement;

- j. Financial statements of the Enterprise in the framework of execution of agreement annually audited by an independent auditor and published in the national-scale printed media;
- k. Mechanism of settlement of disputes hierarchically, namely unanimous consent, mediation, and arbitration/court settlement;
- l. Mechanism of supervision of performance of Enterprise in the execution of the agreement;
- m. Surrender of the infrastructure and/or the management to the Minister/Head of Institution/Regional Head;
- n. Force majeure;
- o. Governing laws, namely the laws of Indonesia.

(2) In case that Infrastructure Procurement were performed by land clearance by the Enterprise, the amount of the Performance Bond, as meant in paragraph (1) clause c, may be decided in consideration of the cost expended by the Enterprises for the land clearance.

(3) The Cooperation Agreement shall clearly contain the status of ownership of the procured assets during the term of the agreement.

Article 24

(1) Within not later than 12 (twelve) months after the Enterprise signed the Cooperation Agreement, the Enterprise must have obtained financing for the Cooperation Project.

(2) In case that the provisions of paragraph (1) cannot be fulfilled by the Enterprise, the Cooperation Agreement will terminate and the Bid Bond can be cashed.

Article 25

(1) In case that there were transfer of control of assets owned or controlled by the Minister/Head of Institution/Regional Head to Enterprises for the realization of the Cooperation Project, the Cooperation Agreement must rule about:

- a. The purpose of the use of asset and prohibition to use the asset for the purposes other than those that were already agreed;

b. Responsibility

- b. Responsibility in operation and maintenance including payment of taxes and other obligations on the use of asset;
- c. Rights and obligations of the parties that control the asset to supervise and maintain performances of asset during the time of use of asset;
- d. Prohibition for Enterprises to use asset as guarantee to a third party;
- e. Procedure of delivery and/or return of asset.

(2) In case that the Cooperation Agreement ruled about transfer of control of asset procured by Enterprises during the term of the agreement, the Cooperation Agreement must rule about:

- a. The condition of the asset that will be transferred;
- b. Procedure of transfer of asset;
- c. Status of asset, which is free from any guarantees or encumbrances in whatever form when the asset is delivered to the Minister/Head of Institution/Regional Head;
- d. Status of asset, which is free from third party claims;
- e. Freeing of the Minister/Head of Institution/Regional Head from any claim arising after the delivery of asset;
- f. Compensation to Enterprises that release asset.

Article 26

In relation to the use of Intellectual Property Rights, Cooperation Agreement must contain a representations of the Enterprises that:

- a. Intellectual Property Rights are entirely free from any violations against the law;
- b. The Minister/Head of Institution/Regional Head will be freed from all suits or claims of any third party concerning the use of Intellectual Property Rights in Infrastructure Procurement;
- c. When settlement of disputes is ongoing due to a suit or claim, as meant in paragraph b:
 - 1) The continuity of Infrastructure Procurement could still be maintained;
 - 2) Trying to obtain license so that the use of the Intellectual Property Rights could be maintained.

CHAPTER IX

INFRASTRUCTURE PROCUREMENT BASED ON

OPERATIONAL LICENSE

Article 27

The procurement of Enterprises In Infrastructure Procurement based on Operational License shall be done through a license auction/tender.

Article 28

The procedure of the license auction, as meant in Article 27, shall be further stipulated by the Minister/Head of Institution/Regional Head with the principles as meant in Article 6.

CHAPTER X

TRANSITORY PROVISIONS

Article 29

With the validity of this Regulation:

1. Cooperation Agreements that have already been signed prior to the validity of this Regulation shall remain valid.
2. Process of procurement, which has been performed and the winner has been designated pursuant to Presidential Decree No. 7/1998 on Cooperation Between the Government and Private Enterprises In Infrastructure Development and/or Management, but the Cooperation Contract has not been signed, the Cooperation Contract shall be made pursuant to this Regulation.
3. Cooperation Agreement that has been signed pursuant to Presidential Decree No. 7/1998 on Cooperation Between the Government and Private Enterprises In Infrastructure Development and/or Management, but has not been achieved fulfillment in financing, the rules concerning the obligations for fulfillment of financing shall be enforced pursuant to the provisions of Article 24 of this Regulation.

CHAPTER XI

CLOSING

Article 30

When this Regulation starts to be valid, Presidential Decree No. 7/1998 on Cooperation Between the Government and Private Enterprises In Infrastructure Development and/or Management shall be revoked and declared invalid.

Article 31

This Regulation shall be valid from the date it is stipulated.

Stipulated In Jakarta
On November 9, 2005

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

Dr. H. SUSILO BAMBANG YUDHOYONO

ATTACHMENT

PROCEDURE OF PROCUREMENT OF ENTERPRISES IN THE FRAMEWORK OF COOPERATION AGREEMENT

A. Procurement Planning

1. The Minister/Head of Institution/Regional Head shall establish a Procurement Committee.
2. Members of the Procurement Committee consists of people having knowledge about:
 - a. Procedure of procurement;
 - b. Substances of the work/activity;
 - c. Law of the agreement;
 - d. Technical aspect;
 - e. Financial aspect.
3. Schedule for performance of procurement and arrangement of schedule of realization of procurement must give sufficient time for all stages of the procurement process.
4. Self-Calculated Price (HPS) must be done carefully.
5. The tender document shall at least contain:
 - a. Invitation to bidders;
 - b. Instruction to bidders, which shall at least contain:
 - 1) General: scope of work, sources of fund, conditions and qualifications of bidder, number of bids submitted, and survey of work location;
 - 2) Content of the tender document, clarification of the content of the tender document,

and amendment to the content of the tender document;

- 3) The required language to be used in the bid, writing of bid prices, currency of bid, and methods of payment, validity of bid, bid bond, proposal of alternative bid by bidder, form of bid, and signing of bid;
- 4) Procedure of submission and marking of bid cover, deadline for submission of bid, treatment of late-submitted bid, and prohibition to change and withdraw bid that has been submitted;
- 5) Procedure of opening of bid, confidentiality and prohibitions, clarifications of bid, inspection into completeness of bid, arithmetic corrections, conversion into a single currency, system of evaluation of bid consisting of criteria, formulation, and procedure of evaluation, and evaluation of price preferences;
 - c. Draft of cooperation agreement;
 - d. List of quantity and prices;
 - e. Technical specifications and pictures;
 - f. Form of bid;
 - g. Form of cooperation;
 - h. Form of bid bond;
 - i. Form of performance bond;
 - j. The tender document must explain the methods of submission of bid.

B. Performance of Procurement:

1. Announcement and Registration of Bidder
 - a. The Procurement Committee must widely announce that a tender will be held;
 - b. The announcement shall at least contain: name and address of the Minister/Head of Institution/Regional Head who will hold tender, brief description of the work performed, estimated work value, bidders qualifications, place, date, day, and time for picking up of tender document;
 - c. So that the announcement, as meant in clause a, will achieve the target widely, efficiently, and accurately and within the accessibility of the target society and enterprises, the announcement

shall

shall be ruled as follows: bid /pre-qualification announcement in newspapers and regional government/private radio broadcasts accessible by national/international viewers and audience.

2. Pre-qualification shall consist evaluation into:
 - a. Business license;
 - b. Authority to sign contract;
 - c. Legal status of company, meaning that the company is not under court supervision, bankruptcy, its operations are not halted, and/or it is not enforcing penalty;
 - d. Experiences in similar Infrastructure Procurement Cooperation Projects;
 - e. Ability to provide facilities, tools, and personnel;
 - f. Letter of financial support from bank; and
 - g. Availability of special tools, the necessary experts, or certain experiences for specific/high-technology works.
3. Procedure of pre-qualification
 - a. Pre-qualification announcement;
 - b. Registration and picking-up of tender document;
 - c. Submission of pre-qualifications document by bidder;
 - d. Evaluation of pre-qualifications document;
 - e. Deciding of list of bidders who passed pre-qualification by the Procurement Committee;
 - f. Ratification of result of pre-qualification by the Procurement Committee;
 - g. Announcement of result of pre-qualification;
 - h. Submission of objections by bidders who did not pass pre-qualification to the Minister/Head of Institution/Regional Head, if any;
 - i. Examination and follow-ups of the objections concerning result of pre-qualification;
 - j. Repeat evaluation by the Procurement Committee if the objection of bidders were proven right and announcement of result of the repeat evaluation.
4. Arrangement of List of Bidders, Submission of In-

itations, and Picking-Up of Tender Document:

- a. List of bidders who will be invited must be ratified by the Minister/Head of Institution/Regional Head;
 - b. If the number of bidders who passed pre-qualification were less than 3 (three), announcement shall be made and a repeat pre-qualification shall be held by inviting new bidders;
 - c. If, after the announcement of bid/repeat pre-qualification, there were no new bidders or the number of bidders remained less than 3 (three), the Procurement Committee shall proceed with bidding process;
 - d. All bidders listed on the list of bidders must be invited to pick up tender document;
 - e. The invited bidders may pick up tender document from the Procurement Committee.
5. Due Diligence
 - a. Due diligence shall be held at the decided place and time attended by bidders listed on the list of bidders;
 - b. Absence of bidders in the due diligence may not be used as reasons for rejecting/nullifying bids;
 - c. The due diligence must explained to bidders about:
 - 1) Bidding methods;
 - 2) Methods of submission of bids;
 - 3) Documents that must be attached to the bids;
 - 4) Opening of bids;
 - 5) Methods of evaluation;
 - 6) Matters that nullify the bids;
 - 7) Form of cooperation agreement;
 - 8) Rules and procedure of evaluation relating to preferences of prices on the use of domestic products;
 - 9) Amount, validity, and parties that may issue bid bond;
 - d. If deemed necessary, the Procurement Committee may give further clarification by doing a field survey;
 - e. The giving of clarifications of the Articles of the tender document in the form of questions

from bidders and answers from the Procurement Committee and other information, including the amendment and field survey, must be contained in a Clarification Report (BAP) signed by the Procurement Committee and at least 1 (one) representative of the present bidders, and is a part of the tender document;

- f. If, in the BAP, as meant in clause e, there were new items/rules or important amendments that need to be incorporated, the Procurement Committee must contain them in an addendum to the tender document.

6. Submission and Opening of Bid

- a. The methods of submission and opening of bid must be in conformity with the conditions in the tender document;
- b. The methods of submission of bid that will be used must be explained in the due diligence;
- c. The Procurement Committee shall write down the time, date, and place of receipt of bids through mail on the outer envelope of the bid and put it into the bid box;
- d. At the deadline of the submission of bid, the Procurement Committee shall open the meeting on opening of bid, stated in front of the bidders that the time for submitting the bids has been closed on time, reject any late-submitted bids and/or additional bids, then open the bids that were already submitted;
- e. Regarding bids delivered by mail and received lately, the Procurement Committee shall open the bid envelope to find out the address of the bidder and notify the bidder to pick up the entire bid. The returning of bid shall be completed with a certificate of delivery and acceptance;
- f. It is not allowed to change the time for closing of time for submitting of bids for unimportant matters. In case of change of time of closing of time for submitting of bids, such change must be contained in addendum to tender document and distributed to all bidders.
- g. Opening of bids:
- 1) The Procurement Committee shall ask at least 2 (two) representatives of bidders who

are present as witnesses. If there were no witnesses from the present bidders, the Procurement Committee shall postpone the opening of the bid box up to a certain time decided by the Procurement Committee. When the decided time has come, there were no representatives of bidders who were present, the opening of the bid box shall be witnessed by 2 (two) witnesses who are not the members of the Procurement Committee authorized in writing by the Procurement Committee;

- 2) The Procurement Committee shall inspect the bid box and count the number of envelopes of the submitted bids (not including letter of withdrawal), and if the number of submitted bids were less than 3 (three), tender may not be continued and must be repeated, then shall be re-announced by inviting new bidders;
- 3) The opening of bid for each system shall be done as follows:
 - a) The Procurement Committee shall open the box and Envelope I in front of bidders;
 - b) Envelope I containing technical and administrative data shall be opened, and shall be attached to the report of opening of Bid Envelope I;
 - c) Envelope II containing data on prices shall be submitted later by bidders who have been certified as qualified technically and administratively.
- 4) The Procurement Committee shall examine, show, and read to bidders the completeness of the bid, which consists of:
 - a) Bid letter containing validity of bid, but not containing bid prices;
 - b) Original bid bond;
 - c) Document of technical bid and other supporting documents required in the tender document.
- 5) The Procurement Committee shall not nullify the bids at the time of opening of bids, except on late-submitted bids;

6) The

- 6) The Procurement Committee shall immediately make a report on opening of bids for all submitted bids;
 - 7) After it is clearly read, the report shall be signed by members of the Procurement Committee who are present and 2 (two) bidders representatives authorized by bidders who are present;
 - 8) In case of delay of the time of opening of bids, the reason for the delay must be clearly contained in the report of opening of bid (BAPP);
 - 9) BAPP shall be distributed to bidders representatives who are present without completed with the bids.
7. Evaluation of bids shall be performed in accordance with the conditions stipulated in the tender document.
8. Making of Report on The Result of Tender
- a. The Procurement Committee shall make a conclusion from the result of evaluation contained in the report on result of tender (BAHP). BAHP shall contain the result of realization of tender, including methods of evaluation, the formulas used, up to the designation of winners in sequence order in the form of list of bidders. BAHP shall be signed by the chairperson and all members of the Procurement Committee or by at least two-third of the total number of members of the Committee.
 - b. BAHP shall be confidential up to the signing of agreement.
 - c. BAHP must contain the following items:
 - 1) Names of all bidders and bid prices and/or corrected bid prices of each bidder;
 - 2) The methods of evaluation used;
 - 3) The formulas used;
 - 4) Other information deemed necessary concerning the realization of tender;
 - 5) Date of issuance of report and number of qualified and unqualified bidders on every stage of evaluation;
 - 6) Designation of the sequence order starting

from 1 (one) winner and 2 (two) reserve winners. If there were no qualified bids BAHP must state that tender has failed, and a repeat tender must be held immediately. If the number of qualified bidders were less than 3 (three), these bidders will be proposed as winners.

9. Designation of Winner of Tender
- a. The Procurement Committee shall designate winner of tender based on result of evaluation;
 - b. The Procurement Committee shall make and submit report to the Minister/Head of Institution/Regional Head who designates the winner of tender. The report shall be completed with proposal of the tender winner and clarification or other information deemed necessary for decision-making purposes.
 - c. The Minister/Head of Institution/Regional Head shall designate the winner of tender based on the proposal of the Tender Committee.
 - d. The supporting data needed for the designation of winner of tender are:
 - 1) Tender document and the addendum (if any);
 - 2) Report of opening of bids (BAPP);
 - 3) Report of result of tender (BAHP);
 - 4) Summary of process of tender and result of tender;
 - 5) Bids of the tender winner and reserve winner initialed by the Procurement Committee and 2 (two) bidders representatives;
 - 6) If there were delay in the designation of tender winner resulting in the expiry of the validity of bids, a confirmation shall be made to all bidders to extend the bids and the bid bonds. The winner may withdraw himself without being imposed with sanctions.

10. Announcement of Winner of Tender

The winner of tender shall be announced and notified by the Procurement Committee to bidders within not later than 2 (two) working days after receipt of letter of designation of winner of tender from the Minister/Head of Institution/Regional Head.

11. Bidders

11. Bidders Objections

- a. Bidders who did not agree on the designation of winner of tender shall be given an opportunity to submit objection in writing within a sufficient time.
- b. Objection shall be submitted to the Minister/Head of Institution/Regional Head completed with evidences of violations.
- c. Objection shall be submitted by bidders individually or collectively.

12. Issuance of Letter of Designation of Winner of Tender

- a. The Minister/Head of Institution/Regional Head shall issue a Letter of Designation of Winner of Tender as the performer of the Cooperation Project with the conditions:
 - 1) There are no objections from bidders;
 - 2) The objections received by the officer authorized to decide the time for submitting objections were proven untrue or the objections were received after the said time.
- b. Bidder who is designated as winner must accept the decision. If the bidder withdraws himself and his bidding period is still valid, the withdrawal may only be done based on reasons acceptable objectively by the Minister/Head of Institution/Regional Head on the condition that the bid bond of the bidder becomes the property of the state.
- c. On winner who withdraws himself with unacceptable reasons and the bidding period is still valid, other than his bid bond becomes the property of the state, the winner is also imposed with sanctions in the form of prohibition to participate in the tender for Cooperation Project for 2 (two) years.
- d. If the first winner of the tender withdraws, his place shall be replaced by the second winner (if any) provided that:
 - 1) Designation of the second winner of tender must obtain prior approval of the Minister/Head of Institution/Regional Head;
 - 2) The bidding period of the second winner is still valid or has been extended.

- e. If the second winner of tender also withdraws, his place shall be replaced by the third winner (if any) provided that:
 - 1) Designation of the winner of tender must obtain prior approval of the Minister/Head of Institution/Regional Head;
 - 2) The bidding period of the third winner is still valid or has been extended.
 - 3) The bid bond of the second winner shall become the property of the state.
 - 4) If the second winner withdraws based on an unacceptable reason, he will be imposed with the sanctions as meant in clause 12.c above.
- f. If the third winner withdraws based on unacceptable reasons, he will be imposed with the sanctions as meant in clause 12.c above. Then, the Procurement Committee shall hold a repeat tender on the condition that the bid bond of the third winner becomes the property of the state.
- g. The Letter of Designation of Winner of Tender must be made within not later than 5 (five) working days after the announcement of designation of winner of tender and must immediately be delivered to the winner.
- h. One of the copies of the Letter of Designation of Winner of Tender shall be submitted (without being attached with agreement/contract) at least to the internal audit unit.

13. Repeat Tender

A Repeat Tender shall be held based on the considerations:

- a. The bid submitted did not meet the conditions in the tender document;
- b. There are only less than 3 (three) bids meeting the conditions in the tender document.

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

Dr. H. SUSILO BAMBANG YUDHOYONO

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