

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 2 OF 2012

REGARDING  
LAND PROCUREMENT FOR PUBLIC UTILITIES CONSTRUCTION

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. whereas in order to realize a just and prosperous society that is based on Pancasila and the 1945 Constitution of the State of Republic of Indonesia, the government is required to implement the development;
  - b. whereas to ensure the construction of public utilities, it is necessary to have a land procurement which put forward the principle of humanity, democratic and fair;
  - c. whereas the laws and regulations in the field of land procurement for public utilities construction have not been able to ensure land procurement for development;
  - d. whereas having due regard to letter a, letter b, and letter c, it is necessary to formulate a Law regarding Land Procurement for Public Utilities Construction.
- Bearing in Mind :
1. Article 5 paragraph (1), Article 18B paragraph (2), Article 20, Article 28G paragraph (1), Article 28 H, Article 28I paragraph (5), Article 28J paragraph (2), and Article 33 paragraph (3 & 4), of the 1945 Constitution of the State of the Republic of Indonesia;
  2. Law Number 5 of 1960 regarding Basic Agrarian (State Gazette of Republic of Indonesia of 1960 No. 104, Supplement of State Gazette of Republic of Indonesia No. 2034);

With Joint Consent of  
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDE

To : LAW REGARDING LAND PROCUREMENT FOR PUBLIC  
Stipulate UTILITIES CONSTRUCTION

CHAPTER I  
GENERAL PROVISIONS

Article 1

In this Law, definition of terms is as follows:

1. Agency means state agencies, ministry and non-ministry government agencies, provincial government, regencies/municipalities government, and State-Owned Legal Entity/ State-Owned Enterprises which received special delegation from the Government.
2. Land Procurement means activities to provide land by giving an adequate and fair compensation to the entitled party.
3. Entitled Party means a party who owned or possessed land procurement object.
4. Land Procurement Object means land, space above ground and underground, building, plants, objects relating to land, or other that can be assessed.
5. Right of Land means right of land as mentioned in Law No. 5 of 1960 regarding Basic Agrarian and other rights to be stipulated by laws.
6. Public Interest means interest of nation, state and society that must be realized by government and used for the benefit of the greatest prosperity of the people.
7. Right to Manage means right to control by the state, in which the authority of implementation partially delegated to the holder.
8. Public Consultation means dialogic communication process or discussion between interested parties in order to achieve understanding and consensus in the planning of land procurement for development for public interest.
9. Relinquishment of Right means termination of legal relationship from entitled party to the state through Land Agency.
10. Compensation means an adequate and fair compensation to the entitled party in the process of land procurement.
11. Land Appraiser, hereinafter referred to Appraiser, means an individual who perform an independent and professional valuation, which has obtained the license

of appraisal practices given by Minister of Finance and licensed by Land Agency to calculate the price/value of the Land Procurement Object.

12. Central Government, hereinafter referred to Government, means the President of the Republic of Indonesia with the power of Government of the State of Republic of Indonesia vested in him as mentioned in the 1945 Constitution of the Republic of Indonesia.
13. Regional Government means the governors, the regents or the mayors and regional instrumentalities that form components to administer the regional governments.
14. Land Agency means National Land Agency of the Republic of Indonesia, government agencies which conduct government affairs in the field of land.

## CHAPTER II PRINCIPLES AND OBJECTIVES

### Article 2

The implementation of land procurement for public services is based under the principles of:

- a. humanity;
- b. justice;
- c. favorable;
- d. certainty;
- e. transparency;
- f. consensus;
- g. participation;
- h. prosperity;
- i. sustainability; and
- j. harmony.

### Article 3

Land Procurement for Public Interest aims to provide land for the construction in order to enhance the welfare and prosperity of nation, state, and society while ensuring the law interest of Entitled Party.

## CHAPTER III BASICS OF LAND PROCUREMENT

### Article 4

- (1) Government and/or Regional Government ensure the land availability for Public Interest.
- (2) Government and/or Regional Government ensure the funding availability for Public Interest.

Article 5

The Entitled Party is obliged to relinquish its land at the time of the Land Procurement for Public Interest exercise after the granting compensation or based on a final and binding on court decision.

Article 6

Land Procurement for Public Interest is conducted by Government.

Article 7

- (1) Land Procurement for Public Interest is conducted in accordance with:
  - a. Regional Spatial Layout Plan;
  - b. National/Regional Development Plan;
  - c. Strategic Plan; and
  - d. Work Plan of each Agency which requires land.
- (2) In the event of Land Procurement is conducted for infrastructure of oil, gas, and geothermal, the procurement is carried out in the basis of Strategic Plan and Agency Work Plan who requires land as mentioned in paragraph (1) letter c and letter d.
- (3) Land Procurement for Public Interest is conducted through planning which involved all conservators and stakeholders.

Article 8

The Entitled Party and any party who controls the Land Procurement Object for Public Interest shall comply with the provisions as mentioned in this Law.

Article 9

- (1) The exercise of Land Procurement for Public Interest must regard to the balance between development interest and public interest.
- (2) Land Procurement for Public Interest is conducted by granting adequate and fair Compensation.

CHAPTER IV  
IMPLEMENTATION OF LAND PROCUREMENT

First Section  
General

Article 10

Land for Public Interest as mentioned in Article 4 paragraph (1) is used for the construction of:

- a. national defense and security;
- b. public road, toll road, tunnel, railroad, railway station, and railway operational facility;
- c. reservoirs, dams, weir, irrigation, drinking water channels, water and sanitary sewer, and others irrigation buildings;
- d. ports, airports, and terminals;
- e. oil, gas and geothermal infrastructures;
- f. generators, transmitters, relay stations, network and power distribution;
- g. government's telecommunication and information networks;
- h. landfills and waste treatment;
- i. Government/Regional Government's hospital;
- j. public safety facilities;
- k. Government/Regional Government's cemeteries;
- l. social facility, public facility and green open space;
- m. nature reserve and cultural reserve;
- n. Government/Regional Government/village office;
- o. structuring urban slums and/or land consolidation, as well as housing for low-income communities with lease status;
- p. education infrastructure or Government/Regional Government school;
- q. Government/ Regional Government sport infrastructure; and
- r. Public market and public parking lot.

Article 11

- (1) Land Procurement for Public Interest as mentioned in Article 10 shall be conducted by Government and that land subsequently owned by Government or Regional Government.
- (2) In the event of Agency which requires the Land Procurement for Public Interest is State-Owned Enterprise, the land will be owned by the State-Owned Enterprise.

Article 12

- (1) Land Procurement for Public Interest as mentioned in Article 10 letter b to letter r shall be conducted by Government and may cooperate with State-Owned Enterprises, Regional Government-Owned Enterprises, or Private-Owned Enterprises.
- (2) In the event development of national defense and security as mentioned in Article 10 letter a, the construction shall be conducted in accordance with the prevailing laws and regulations.

Article 13

Land Procurement for Public Interest will be held through following stages:

- a. planning;
- b. preparation;
- c. implementation; and
- d. delivery of result.

Second Section

Land Procurement Planning

Article 14

- (1) The Agency which requires the land shall prepare the plan of Land Procurement for Public Interest according to the prevailing laws and regulations.
- (2) Land Procurement for Public Interest plan as mentioned by paragraph (1) is based on Regional Spatial Layout Plan and development priority as stated on Medium-Term Development Plan, Strategic Plan, and respective Government Agency Work Plan.

Article 15

- (1) Land Procurement for Public Interest plan as mentioned in Article 14 paragraph (1) is prepared in the form of Land Procurement plan document consisting at least as follows:
  - a. principles and objectives of development plan;
  - b. the compatibility with Regional Spatial Layout Plan and National and Regional Development Plan;
  - c. location of the land;
  - d. size of land required;
  - e. general description of the land status;
  - f. approximate time of Land Procurement implementation;
  - g. approximate period of construction;
  - h. approximated value of the land; and
  - i. budgeting plan.
- (2) Land Procurement document plan as mentioned in paragraph (1) is prepared based on feasibility study conducted in accordance with the prevailing laws and regulations.
- (3) Land Procurement plan document as mentioned in paragraph (2) is determined by respective Agency which requires the land.
- (4) Land Procurement plan document as mentioned in paragraph (3) is submitted to provincial government.

Third Section

Land Procurement Preparation

Article 16

The respective Agency which requires the land jointly with provincial government based on Land Procurement plan document, as mentioned in Article 15 shall perform:

- a. notification of construction plan;
- b. preliminary data collection of development location plan;
- c. Public Consultation of development plan.

#### Article 17

The notification of development plan as mentioned in Article 16 letter a shall be presented to the public on development location plan for Public Interest, either direct or indirectly.

#### Article 18

- (1) Initial data collection of development location plan as mentioned in Article 16 letter b comprises initial data collection activity of Entitled Party and Land Procurement Object.
- (2) Initial data collection as mentioned in paragraph (1), shall be conducted at the latest 30 (thirty) days since the date of development plan notification.
- (3) The result of initial data collection of development plan as mentioned in paragraph (1) is used as data to conduct Public Consultation of development plan as mentioned in Article 16 letter c.

#### Article 19

- (1) Public Consultation of development plan as mentioned in Article 18 paragraph (3) is conducted in order to achieve an agreement regarding location of the development plan from the Entitled Party.
- (2) Public Consultation of development plan as mentioned in paragraph (1) is conducted by involving Entitled Party and affected society, and be performed at development location plan of Public Interest or at the place agreed upon.
- (3) The involvement of Entitled Party as mentioned in paragraph (2) may be conducted through representative with power of attorney from and by the Entitled Party over construction location plan.
- (4) The agreement as mentioned in paragraph (1) set forth in the form of minutes of agreement.
- (5) Based on the agreement as mentioned in paragraph (4), the respective Agency which requires the land shall submit an application of location determination to governor.
- (6) Governor shall determine the location as mentioned in paragraph (5) at the latest of 14 (fourteen) working days since the application of location determination received from the Agency which requires the land.

#### Article 20

- (1) Public Consultation of development plan as mentioned in Article 19 shall be implemented not later than 60 (sixty) working days period.

- (2) In the event after the 60 (sixty) working days period the implementation of Public Consultation of construction plan as mentioned in paragraph (1) there are parties who object to the construction location plan, Public Consultation with the objection party shall be repeated in the period of 30 (thirty) working days at the latest.

#### Article 21

- (1) In the event of the repeated Public Consultation as mentioned in Article 20 paragraph (2) there are still parties who object to the construction location plan, the Agency which requires the land shall report such objection to the respective governor.
- (2) Governor shall form a team in order to conduct a study regarding the objection of construction location plan as mentioned in paragraph (1).
- (3) Team as mentioned in paragraph (2) consists of:
  - a. provincial secretary or officer appointed as the leader and concurrently also a member;
  - b. Head of Regional Office of National Land Agency as secretary and concurrently also a member;
  - c. agency who handle in the field of regional development plan affair as a member;
  - d. Head of Regional Office of Minister of Law and Human Rights as a member;
  - e. regent/municipal or appointed officer as a member; and
  - f. academics as a member.
- (4) Team as mentioned in paragraph (3) will be in charge of:
  - a. inventory the problems which become the reason of objection;
  - b. conduct meeting and clarification with the objection party; and
  - c. provide a recommendation of acceptance or refusal of the construction location plan.
- (5) The result of the study as mentioned in paragraph (2) is in the form of recommendation of acceptance or refusal regarding the objection of construction location plan shall be provided at the latest of 14 (fourteen) work days since the application received by governor.
- (6) Based on the recommendation as mentioned in paragraph (4), Governor shall issue a letter of acceptance or refusal regarding the objection of construction location plan.

#### Article 22

- (1) In the event the objection of construction location plan is refused as mentioned in Article 21 paragraph (6), the governor shall determine the location of construction.
- (2) In the event of the objection of construction location plan is accepted as mentioned in Article 21 paragraph (6), the governor shall announce to the



Agency which requires the land to submit the construction location plan in other place.

#### Article 23

- (1) In the event after the development location is determined as mentioned in Article 19 paragraph (6) and Article 22 paragraph (1) and there is still objection exists, the Entitled Party of the determined location may submit a claim to a respective State Administrative Court at the latest 30 (thirty) working days period since the issuance of determined location;
- (2) State of Administrative Court shall decide whether to accept or refuse the claim as mentioned in paragraph (1) at the latest of 30 (thirty) working days since the claim received.
- (3) The objection party of the State Administrative Court's decision as mentioned in paragraph (2) at the latest period of 14 (fourteen) working days may appeal to the Supreme Court of the Republic of Indonesia.
- (4) Supreme Court shall make the decision at the latest period of 30 (thirty) working days since the cassation request received.
- (5) Court decision which has become final and binding shall be the base of whether to continue or discontinue the Land Procurement for Development for Public Interest.

#### Article 24

Location determination of the construction for Public Interest as mentioned in Article 19 paragraph (6) and Article 22 paragraph (1) is granted within 2 (two) years and may be extended in maximum 1 (one) year.

#### Article 25

In the event the period of location determination of construction for Public Interest as mentioned in Article 24 is not fulfilled, the location determination of construction for Public Interest shall be repeated for the remaining land site which the procurement has not yet completed.

#### Article 26

- (1) Governor with the Agency which requires the land announce the location determination of construction for Public Interest.
- (2) The announcement as mentioned in paragraph (1) is intended to notify the respective society that the construction for Public Interest will be conducted on such location.

### Fourth Section

#### Land Procurement Implementation

#### Paragraph 1

##### General

Article 27

- (1) Based on location determination of development for Public Interest as mentioned in Article 26 paragraph (1), the Agency which requires the land shall submit the application of Land Procurement implementation to the Land Agency.
- (2) Implementation of Land Procurement as mentioned in paragraph (1) consists of:
  - a. Inventory and identification of control, ownership, use, and utilization of land;
  - b. Appraisal of Compensation;
  - c. Deliberation on the Compensation determination;
  - d. Distribution of Compensation; and
  - e. Relinquishment of Agency's land.
- (3) After the determination of construction location for Public Interest as mentioned in Article 26 paragraph (1), the Entitled Party may only transfer the right of his land to the Agency which requires the land through the Land Agency.
- (4) The transfer of right as mentioned in paragraph (3) is performed by granting Compensation which value is determined on the announcement of location determination.

Paragraph 2

Inventory and Identification of Control, Ownership, Use, and Utilization of Land

Article 28

- (1) Inventory and identification of control, ownership, use, and utilization of land as mentioned in Article 27 paragraph (2) letter a including the activities of:
  - a. Area measurement and mapping per plot of land; and
  - b. Data collection of the Entitled Party and the Land Procurement Object.
- (2) Inventory and identification of control, ownership, use, and utilization of land as mentioned in paragraph (1) is conducted in the latest period of 30 (thirty) working days.

Article 29

- (1) The result of inventory and identification of control, ownership, use, and utilization of land as mentioned in Article 28 must be announced in the village administration office, sub-district office, and in the location where the Land Procurement is exercised, at the latest of 14 (fourteen) working days.
- (2) The result of inventory and identification of control, ownership, use, and utilization of land as mentioned in Article 28 must be announced gradually, partial, or entirety.

- (3) Announcement of inventory and identification result as mentioned in paragraph (2) consists of the subject of the right, size of area, location, and map of land of the Land Procurement Object.
- (4) In the event of not accepting the inventory result as mentioned in paragraph (3), the Entitled Party may submit objection to the Land Agency at the latest of 14 (fourteen) working days since the announcement of inventory result.
- (5) In the event of objection on the inventory result as mentioned in paragraph (4), there will be a verification and correction at the latest of 14 (fourteen) working days since the submission of objection on the inventory result is accepted.
- (6) The inventory and identification is conducted in accordance with the prevailing laws and regulations.

#### Article 30

The announcement result or verification and correction as mentioned in Article 29 are determined by the Land Agency and further will become the basis to determine the Entitled Party in granting Compensation.

#### Paragraph 3

#### Appraisal of Compensation

#### Article 31

- (1) The Land Agency determines the Appraiser in accordance with the prevailing laws and regulations.
- (2) The Land Agency announces the determined Appraiser as mentioned in paragraph (1) to conduct appraisal of Land Procurement Object.

#### Article 32

- (1) The determined Appraiser as mentioned in Article 31 paragraph (1) must be responsible for appraisal that has been conducted.
- (2) Violation of Appraiser's obligation as mentioned in paragraph (1) will be subject to administrative sanction and/or criminal sanction according to the prevailing laws and regulations.

#### Article 33

The Appraisal of compensation value by the Appraiser as mentioned in Article 32 paragraph (1) is conducted per land area, including:

- a. Land;
- b. Space above and under the ground;
- c. Building;
- d. Plants;
- e. Objects related to land; and/or
- f. Other losses that can be assessed.

Article 34

- (1) Compensation value appraised by the Appraiser as mentioned in Article 33 is the value which prevails on the announcement of determined location of construction for Public Interest as mentioned in Article 26.
- (2) The amount of Compensation value based on the result of Appraiser's assessment as mentioned in paragraph (1) shall be delivered to the Land Agency along with the minutes.
- (3) The Compensation value based on the Appraiser's assessment as mentioned in paragraph (2) will become the basis of deliberation on the Compensation determination.

Article 35

In the event that in certain land area affected by the Land Procurement there is residual area which cannot be functioned according to its use and utilization, the Entitled Party may request for full compensation for his/her plot of land.

Article 36

Distribution of Compensation may be granted in the form of:

- a. Money;
- b. Land replacement;
- c. Resettlement;
- d. Share ownership; or
- e. Other form approved by both parties.

Paragraph 4

Deliberation on Compensation Determination

Article 37

- (1) The Land Agency conducts deliberation with the Entitled Party at the latest period of 30 (thirty) working days since the assessment result from the Appraiser delivered to the Land Agency to determine the form and/or amount of Compensation based on appraisal of Compensation as mentioned in Article 34.
- (2) The result of agreement in the deliberation as mentioned in paragraph (1) shall be the basis of granting Compensation to the Entitled Party which is stated in the minutes of agreement.

Article 38

- (1) In the event of no agreement on the form and/or amount of Compensation, the Entitled Party may submit objection to the relevant district court at the latest period of 14 (fourteen) working days after the deliberation on determination of Compensation as mentioned in Article 37 paragraph (1).

- (2) The District Court will decide the form and/or amount of Compensation at the latest period of 30 (thirty) working days since the submission of objection.
- (3) Any party object with the district court's decision as mentioned in paragraph (2), at the latest period of 14 (fourteen) working days may appeal to the Supreme Court of Republic of Indonesia.
- (4) The Supreme Court oblige to provide decision at the latest period of 30 (thirty) working days since the request of the appeal accepted.
- (5) The decision of district court/Supreme Court which has become final and binding will be the basis of Compensation payment to the party who submitted objection.

#### Article 39

In the event of the Entitled Party refuse the form and/or amount of Compensation, but not submitting objection within the period as mentioned in Article 38 paragraph (1), by law, the Entitled Party are considered accepted the form and amount of Compensation as mentioned in Article 37 paragraph (1).

#### Paragraph 5

#### The Granting of Compensation

#### Article 40

The Granting of Compensation for the Land Procurement Object will be granted directly to the Entitled Party.

#### Article 41

- (1) The Compensation is granted to the Entitled Party based on the appraisal result which is determined in the deliberation as mentioned in Article 37 paragraph (2) and/or the district court/Supreme Court's decision as mentioned in Article 38 paragraph (5).
- (2) At the time of granting the Compensation, the Entitled Party who receive Compensation must:
  - a. Conduct relinquishment of right; and
  - b. Provide the evidence of control or ownership of the Land Procurement Object to the Agency which requires the land through the Land Agency
- (3) The evidence mentioned in paragraph (2) letter b is the only valid evidence according to the law and inviolability in the later days.
- (4) The Entitled Party who receives Compensation is responsible for the validity and legality of the evidence of possession and ownership which has been delivered.
- (5) Any objection from other parties on the Land Procurement Object which has been delivered to the Agency which requires the land as mentioned in paragraph

- (2) will become the responsibility of the Entitled Party who receives Compensation.
- (6) Anyone violating the provision mentioned in paragraph (4) will be imposed with criminal sanction according to the prevailing laws and regulations.

Article 42

- (1) In the event of the Entitled Party refuse the form and/or amount of Compensation based on the deliberation result as mentioned in Article 37, or the district court/Supreme Court's decision as mentioned in Article 38, the Compensation may be deposited in the relevant district court.
- (2) The deposit of Compensation other than as mentioned in paragraph (1), is also conducted for:
- a. The Entitled Party is not known on his/her location; or
  - b. The Land Procurement Object which will compensate:
    1. Subject to pending dispute in the court;
    2. The ownership is still in dispute;
    3. Is being seized by the authorized official; or
    4. Become a security for bank

Article 43

At the implementation of granting the Compensation and Relinquishment of Right as mentioned in Article 41 paragraph (2) letter a have been conducted or the distribution of Compensation has been deposited in the district court as mentioned in Article 42 paragraph (1), the ownership or Right of Land from the Entitled Party become null and the evidence of right is no longer valid and the land is under direct of the state.

Article 44

- (1) The Entitled Party who receives Compensation or Agency which obtain the land from Land Procurement for Public Interest may be granted with the tax incentives.
- (2) Further provisions related to the tax incentives will be regulated by the Government or the Regional Government according to the authorization.

Paragraph 6

Relinquishment of Agency's Land

Article 45

- (1) Relinquishment of Land Procurement Object for Public Interest which owned by the Government is conducted according to the prevailing laws and regulations regarding management of state/regional properties.

- (2) Relinquishment of Land Procurement Object for Public Interest which owned by the Government or possessed/owned by the State-Owned Enterprise/Regional-Owned Enterprise, is conducted based on this Law.
- (3) Relinquishment of Land Procurement Object as mentioned in paragraph (1) and paragraph (2) are conducted by the authorized officer or officer who obtain delegation of authority.

#### Article 46

- (1) Relinquishment of Land Procurement Object as mentioned in Article 45 paragraph (1) and paragraph (2) will not receive compensation, unless:
  - a. The Land Procurement Object which have contained building thereon and actively used for implementation of government duties;
  - b. The Land Procurement Object which owned/possessed by the State-Owned Enterprise/Regional-Owned Enterprise; and/or
  - c. The Land Procurement Object village treasury.
- (2) Compensation of the Land Procurement Object as mentioned in paragraph (1) letter a and letter c will be granted in the form of land and/or building or relocation.
- (3) Compensation of Land Procurement Object as mentioned in paragraph (1) letter b may be granted in the form stated in Article 36.
- (4) The Compensation value as mentioned in paragraph (2) and paragraph (3) are based on the appraisal of Compensation result as mentioned in Article 34 paragraph (2).

#### Article 47

- (1) Relinquishment of Land Procurement Object as mentioned in Article 45 and Article 46 are conducted at the latest period of 60 (sixty) working days since the determination of development location for Public Interest.
- (2) If the relinquishment of Land Procurement Object has not been done within the period mentioned in paragraph (1), the land will be stated as delivered and become the state land and may directly used for development for Public Interest.
- (3) The officer who violates provisions as mentioned in paragraph (1) will be imposed with administrative sanction according to the prevailing laws and regulations.

### Fifth Section

#### The Delivery of Land Procurement Result

#### Article 48

- (1) The Land Agency deliver the Land Procurement result to the Agency which requires the land after:

- a. The Granting of Compensation to the Entitled Party and Relinquishment of Right as mentioned in Article 41 paragraph (2) letter a has been delivered;
  - b. The Granting of Compensation has been deposited in the district court as mentioned in Article 42 paragraph (1).
- (2) The Agency which requires the land may start conducting the construction activities after the delivery of Land Procurement result as mentioned in paragraph (1).

#### Article 49

- (1) The Land Procurement for Public Interest because of urgent situation as the effect of natural disaster, war, expanded social conflict, and diseases, may immediately be constructed after the determination of construction location for Public Interest.
- (2) Before the determination of construction location for Public Interest as mentioned in paragraph (1), shall deliver a prior notice to the Entitled Party.
- (3) In the event of any objection or claim on the implementation of Land Procurement, the Agency which requires the land may still conduct the construction as mentioned in paragraph (1).

#### Article 50

The Agency which receives the land must register the land according to the prevailing laws and regulations.

### Sixth Section

#### Monitoring and Evaluation

#### Article 51

- (1) Monitoring and evaluation of implementation of Land Procurement for Public Interest as mentioned in Article 13 are conducted by the Government.
- (2) Monitoring and evaluation of the result of the delivery of Land Procurement for Public Interest which has been received, as mentioned in Article 48 paragraph (1) are conducted by the Land Agency.

## CHAPTER V

### LAND PROCUREMENT SOURCE OF FUND

#### First Section

#### Source of Fund

#### Article 52



- (1) Land Procurement for Public Interest fund is sourced from the State Budget (APBN) and/or Regional Budget (APBD).
- (2) In the event of the Agency which requires the land is State-Owned Legal Entity/State-Owned Enterprise which obtain special assignment, the fund is sourced from the company's internal or other sources according to the prevailing laws and regulations.
- (3) The special assignment as mentioned in paragraph (2) is according to the prevailing laws and regulations.

#### Article 53

- (1) The Land Procurement fund as mentioned in Article 52, including the fund for:
  - a. Planning;
  - b. Preparation;
  - c. Implementation;
  - d. Delivery of result;
  - e. Administration and management; and
  - f. Socialization.
- (2) The funding on Land Procurement for Public Interest is conducted by the Agency and stated in the budgeting document according to the prevailing laws and regulations.
- (3) The provision on mechanism of funding on Land Procurement for Public Interest is regulated in the Presidential Regulation.

#### Second Section

#### Availability and Usage of Fund

#### Article 54

Guarantee for the availability of fund for Land Procurement for Public Interest is allocated by the Agency according to the prevailing laws and regulations.

### CHAPTER VI

#### RIGHTS, OBLIGATIONS, AND PARTICIPATION OF THE SOCIETY

#### Article 55

In the implementation of Land Procurement, the Entitled Party has the rights to:

- a. Know the implementation plan of Land Procurement; and
- b. Obtain information on Land Procurement.

#### Article 56

In the implementation of Land Procurement for Public Interest, every person obliges to obey the Land Procurement provisions on Development for Public Interest.

Article 57

In the implementation of Land Procurement for Public Interest, the society may participate, among others:

- a. Contributing verbal or written suggestion related to Land Procurement;
- b. Contributing support on the implementation of Land Procurement.

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 58

By the time this Law comes into force:

- a. The Land Procurement process which is being conducted before the this Law come into force, will be finished based on the provision before this Law come into force;
- b. The residual land which the procurement has not been finished in the process of Land Procurement as mentioned in letter a, the procurement will be finished based on the provisions in this Law; and
- c. The Regulation on the procedures of Land Procurement is declared as still in force to the extent it is not contradictory or has not being replaced based on this Law.

CHAPTER VIII

CLOSING PROVISIONS

Article 59

Further provisions on implementation of Land Procurement for Development for Public Interest are regulated in Presidential Regulation.

Article 60

The implementing regulations of this Law shall be stipulated at the latest of 1 (one) year after this Law is being promulgated.

Article 61

This Law shall be effective upon the date of its promulgation.

For the public to recognize, orders the promulgation of this Law by having it place on the State Gazette of the Republic of Indonesia.

Legalized in Jakarta,

On January 14<sup>th</sup>, 2012

PRESIDENT OF REPUBLIC OF INDONESIA

signed

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On January 14<sup>th</sup>, 2012

MINISTER OF LAW AND HUMAN RIGHTS

signed

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2012 NUMBER  
22

The copy is appropriate with the original

MINISTRY OF STATE SECRETARY OF THE REPUBLIC OF INDONESIA

Deputy Assistant of Legislation

Politics and Public Welfare Department,

Wisnu Setiawan

**ELUCIDATION**  
**OF**  
**LAW OF THE REPUBLIC OF INDONESIA**  
**NUMBER 2 YEAR 2012**  
**REGARDING**  
**LAND PROCUREMENT FOR PUBLIC UTILITIES CONSTRUCTION**

**I. GENERAL**

In the event of realizing a just and prosperous society based on Pancasila and the 1945 Constitution of Republic of Indonesia, the government is needed to carry out the development.

One of the development efforts within the framework of national development held by the Government is development for Public Interest. The construction for Public Interest requires land that the procurement conducted with prioritizes the principles consisted in the 1945 Constitution of Republic of Indonesia and the national land law, among others the principle of humanity, justice, usefulness, certainty, transparency, consensus, participation, prosperity, continuity, and harmony according to the principles of nation and state.

The national land law recognizes and honors the society rights of land and objects related to the land, and also provide the public authority to the State in the form of authority to arrange, regulate, manage, and supervise as stated in the following basics of Land Procurement:

1. The Government and Regional Government guarantee the availability of land for Public Interest and its fund.
2. The Land Procurement for Public Interest is conducted with:
  - a. Regional Spatial Layout Plan;
  - b. National/Regional Development Plan;
  - c. Strategic Plan; and
  - d. Work Plan of each Agency that requires land.
3. The Land Procurement is conducted through the planning which involves all stakeholders.
4. The implementation of Land Procurement shall concern the balance of development interest and public interest.
5. The Land Procurement for Public Interest is conducted with granting proper and fair Compensation.

**II. ARTICLE BY ARTICLE**

Article 1  
Sufficiently clear

Article 2

Letter a

The means of “humanity principle” is the Land Procurement shall provide protection and honor to the human rights, dignity, and prestige of each citizen and resident of Indonesia proportionally.

Letter b

The means of “justice principle” is to provide guarantee of proper compensation to the Entitled Party within the process of Land Procurement to achieve the chance to continue a better life.

Letter c

The means of “usefulness principle” is the result of Land Procurement will provide benefits for the interest of society, nation, and state.

Letter d

The means of “certainty principle” is to provide a legal certainty of land availability in the process of Land Procurement for development and guarantee the Entitled Party to obtain proper Compensation.

Letter e

The means of “transparency principle” is that the Land Procurement for development is conducted with provides access for the society to obtain information related to the Land Procurement.

Letter f

The means of “consensus principle” is that the Land Procurement process is conducted with deliberation of each party without any coercion to achieve mutual consensus.

Letter g

The means of “participation principle” is the support for Land Procurement implementation through the society participation, whether directly or indirectly, since the planning process until the construction activity.

Letter h

The means of “prosperity principle” is that the Land Procurement for development may provide added values for the life continuity of the Entitled Party and society generally.

Letter i

The means of “sustainability principle” is the construction activity may continuously conduct, simultaneously, to achieve the expected goals.

Letter j

The means of “harmony principle” is that the Land Procurement for development may conduct in balance and harmonize with the society and state interest.

Article 3

Sufficiently clear

Article 4

Sufficiently clear

Article 5

Sufficiently clear

Article 6  
Sufficiently clear

Article 7  
Paragraph (1)  
Sufficiently clear

Paragraph (2)  
The means of “oil, gas, and geothermal infrastructure” is the infrastructure related to the upstream business activities of oil and gas, which including the exploration, exploitation, transmission, and/or distribution activities.

The characteristic of oil, gas, and geothermal activities consist of high level of uncertainty. The requirement of land for exploration, exploitation, transmission, and/or distribution cannot be determined certainty from the beginning which require flexibility of planning to guarantee the effectivity of implementation in controlling the oil, gas and geothermal as the strategic and vital natural resources and development resources.

Paragraph (3)  
The means of “conservators” among others are traditional leaders and religious figures.

The means of “stakeholders” are people or parties which have interest on the object of land relinquishment, such as the Entitled Party, government, and society.

Article 8  
Sufficiently clear

Article 9  
Sufficiently clear

Article 10  
Letter a  
Sufficiently clear

Letter b  
Sufficiently clear

Letter c  
The means of “reservoirs” is buildings in the form of land overdraft, stone overdraft, concrete, and/or masonry built in addition to detain and accommodate water, also to detain and accommodate the mining waste (tailing) or mud until it form a reservoir.

The means of “weir” is levees to detain water in the river, seaside, and others.

Letter d  
Sufficiently clear

Letter e  
Sufficiently clear

Letter f  
Sufficiently clear

Letter g  
Sufficiently clear

Letter h  
The means of “waste” is waste according to the prevailing regulations related to waste management.

Letter i  
Sufficiently clear

Letter j  
The means of “public safety facilities” is all facilities required to prevent the effects of disaster, among others emergency hospital, emergency shelter, and mitigation levees on the risks of floods, lava, and landslide.

Letter k  
Sufficiently clear

Letter l  
The means of “green open space” is a green open space according to the prevailing regulations related to spatial arrangement.

Letter m  
Sufficiently clear

Letter n  
The means of “Government/Regional Government/village office” is a facility and infrastructure to conduct the governmental functions, including the penitentiary, state house arrest, and technical implementer unit of other penitentiaries.

Letter o  
The means of “housing for low-income communities” is public housing built on the Government/Regional Government land and to the occupant will be granted rent status.

Letter p

Sufficiently clear

Letter q

Sufficiently clear

Letter r

The means of “common market and public parking lot” is market and parking lot which planned, conducted, managed, and owned by the Government and/or Regional Government and the management may be conducted by cooperation with State-Owned Enterprise, Regional Government-Owned Enterprise, or private company.

Article 11

Sufficiently clear

Article 12

Sufficiently clear

Article 13

Sufficiently clear

Article 14

Sufficiently clear

Article 15

Paragraph (1)

Arrangement of Land Procurement planning document may be conducted together by the Agency which requires the land with the relevant technical institution or may be assisted by a professional agency appointed by the Agency which requires the land.

Paragraph (2)

The feasibility study consists of:

- a. Economical social survey;
- b. Location feasibility;
- c. Cost analysis and benefit of development for the area and society;
- d. Approximate value of the land;
- e. The environmental impact and social impact that probably raised as the effect of the Land Procurement and construction; and
- f. Other studies required.

Article 16

Sufficiently clear

Article 17

Direct notification among others is through socialization, face to face, or notification letter.



Indirect notification among others is through printed media or electronic media.

Article 18  
Sufficiently clear

Article 19

Paragraph (1)

In the Public Consultation, the Agency which requires the land shall explain among others; the development plan and calculation method of Compensation which is conducted by the Appraiser.

Paragraph (2)

The means of “affected society” is such as the society which directly adjacent with the Land Procurement location.

Paragraph (3)

The means of “power of attorney” is a power of attorney to represent the public consultation according to the prevailing regulations.

The means of “from and by the Entitled Party” is the receiver and the grantor of attorney are from the Entitled Party.

Paragraph (4)

Sufficiently clear

Paragraph (5)

Sufficiently clear

Paragraph (6)

Sufficiently clear

Article 20

Paragraph (1)

Sufficiently clear

Paragraph (2)

The objected party on the plan of development location shall deliver the objection in written along with the reason of objection.

Article 21

Paragraph (1)

Sufficiently clear

Paragraph (2)

The means of “study regarding the objection on the development location plan” is a study on the objection document submitted by the Entitled Party.

Paragraph (3)

Sufficiently clear

Paragraph (4)  
Sufficiently clear

Paragraph (5)  
Sufficiently clear

Paragraph (6)  
Sufficiently clear

Article 22  
Sufficiently clear

Article 23  
Sufficiently clear

Article 24  
Sufficiently clear

Article 25

The means of “remaining land” is the land which right has not been delivered yet from the Entitled Party until the period of location determination ended.

Towards the remaining land, if the Agency which requires the land still need the related land, the land procurement process shall be submitted from the beginning. It is intended to guarantee the validity of the remaining land procurement

Article 26  
Sufficiently clear

Article 27

Paragraph (1)  
Land Procurement basically conducted by the Land Agency, which in the implementation may participate or coordinate with the provincial government or regency/municipal government.

Paragraph (2)  
Sufficiently clear

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
The means of “value on the announcement of location determination” is that the Appraiser in determine the Compensation is based on the Land Procurement Object’s value on the announcement date of location determination.

Article 28

Inventory and identification are conducted to discover the Entitled Party and the Land Procurement Object. The result of inventory and identification consists of the nomination list on the Entitled Party and Land Procurement Object. The Entitled Party including name, address, and occupation of the party possessed/owned the land. The Land Procurement Object including location, area, status, and the usage type and land utilization.

Article 29

Sufficiently clear

Article 30

Sufficiently clear

Article 31

Paragraph (1)

The prevailing laws and regulations means provisions related to goods/service procurement in government institution.

Paragraph (2)

Sufficiently clear

Article 32

Sufficiently clear

Article 33

Letter a

Sufficiently clear

Letter b

Sufficiently clear

Letter c

Sufficiently clear

Letter d

Sufficiently clear

Letter e

Sufficiently clear

Letter f

The means of “other losses that can be assessed” is non-physically losses which can be equated with money, such as loss because of losing business or job, resettlement costs, reoccupation costs, and the value of the remaining properties.

Article 34

Sufficiently clear

Article 35

The means of “cannot be functioned” is the land area which cannot be used according to its function and prior usage, such as a house which broke until part of the house is no longer can used as house. Related to this matter, the party possessed/owned the land may request Compensation for all of his land.

Article 36

Letter a  
Sufficiently clear

Letter b  
Sufficiently clear

Letter c  
The means of “resettlement” is the process in providing the land replacement to the Entitled Party to other location according to the consensus in the Land Procurement process.

Letter d  
The means of “compensation in the form of share ownership” is share investment in the development activity for relevant Public Interest and/or the management which based on agreement between the parties.

Letter e  
Other form approved by both parties such as combination of 2 (two) or more Compensation form as mentioned in letter a, letter b, letter c, and letter d.

Article 37  
Sufficiently clear

Article 38

Paragraph (1)  
Sufficiently clear

Paragraph (2)  
As the consideration to determine a decision of Compensation amount, the interested party may present expert witness in the appraisal field to be listened as the comparison with the Compensation appraisal.

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
Sufficiently clear

Paragraph (5)

Sufficiently clear

Article 39

Sufficiently clear

Article 40

Distribution of Compensation basically shall directly grant to the Entitled Party of the Compensation. However, in the event of the Entitled Party is absence, the Entitled Party by law may provide authority to other party or the heir. The authority receiver may only accept authority from one person who entitled for the Compensation.

The entitled parties among others are:

- a. The holder of land right;
- b. The holder of management right;
- c. *Nadzir*, for the waqf land;
- d. the owner of land which before belonged to the indigenous;
- e. indigenous society;
- f. the party possessed the state land with good faith;
- g. the basic holder of land possession; and/or
- h. the owner of building, plants, or any objects related to the land.

On provisions, Compensation granted to the holder of land right. In addition of right to use building or right to use upon the land which not belong to them, Compensation shall be granted to the holder of right to use building or right to use over building, plants, or other objects related to the land whether owned or possessed by them, meanwhile Compensation for the land shall be distributed to the holder of right of ownership or management right.

Compensation for indigenous land shall be distributed in the form of replacement land, resettlement, or other forms agreed by the respective indigenous society.

The party that possessed the state land who may be granted Compensation is the state land user according to or not violating the prevailing regulations. Such as, the ex-land right holder which the period of right is already expired, who still use or utilize the respective land, the party who possessed the state land based on rent, or other party who use or utilize the state land freely without violating the prevailing regulations.

The means of “the basic holder of land right possession” is the party who owned evidence issued by the authorized officer to proof his right on the relevant land, such as the holder of Sale and Purchase Deed of Land Right which has not been renamed, the holder of Sale and Purchase Deed of indigenous land which has not received certificate, and the holder of occupy permit letter.

Building, plants, or other objects related to the land which have not or did not owned by the Land Right, the Compensation shall be distributed to the owner of building, plants, or other objects related to the land.

Article 41  
Sufficiently clear

Article 42  
Sufficiently clear

Article 43  
Sufficiently clear

Article 44  
Sufficiently clear

Article 45  
Sufficiently clear

Article 46  
Sufficiently clear

Article 47  
Sufficiently clear

Article 48  
Sufficiently clear

Article 49  
Sufficiently clear

Article 50  
Sufficiently clear

Article 51  
Sufficiently clear

Article 52  
Paragraph (1)  
Sufficiently clear

Paragraph (2)  
The means of “State-Owned Legal Entity” is such as Upstream Oil and Gas Executive Agency (BP MIGAS).

The means of “State-Owned Enterprise” is such as National Electricity Company (PLN).

Paragraph (3)  
Sufficiently clear

Paragraph (4)  
Sufficiently clear

Article 53  
Sufficiently clear

Article 54  
Sufficiently clear

Article 55  
Sufficiently clear

Article 56  
Sufficiently clear

Article 57  
Letter a  
Sufficiently clear

Letter b  
The means of “support” is approving the program and accelerate the  
Land Procurement process.

Article 58  
Sufficiently clear

Article 59  
Sufficiently clear

Article 60  
Sufficiently clear

Article 61  
Sufficiently clear