

PROCEDURES FOR THE AUCTION OF MINING BUSINESS LICENSE AREA AND SPECIAL MINING BUSINESS LICENSE AREA IN METAL-MINERAL AND COAL MINING BUSINESS ACTIVITIES

(Regulation of the Minister of Energy and Mineral Resources
Number 28 Year 2013 dated September 13, 2013)

BY GRACE OF GOD THE ALMIGHTY
THE MINISTER OF ENERGY AND MINERAL RE-
SOURCES OF THE REPUBLIC OF INDONESIA,

Considering:

In order to implement the provision of Article 19 and Article 61 of Government Regulation Number 23 Year 2010 on the Execution of Mineral and Coal Mining Business Activities as already amended by Government Regulation Number 24 Year 2012, it's necessary to stipulate a regulation of the Minister of Energy and Mineral Resources regarding Procedures for the Tender of Mining Business License Area and Special Mining Business License Area in Metal-Mineral and Coal Mining Business Activities;

In view of:

1. Law Number 4 Year 2009 regarding Mineral and Coal Mining (Statute Book of the Republic of Indonesia Year 2009 Number 4, Supplement to Statute Book of the Republic of Indonesia Number 4959);

2. Law Number 32 Year 2009 regarding Environmental Protection and Management (Statute Book of the Republic of Indonesia Year 2009 Number 140, Supplement to Statute Book of the Republic of Indonesia Number 5059);

3. Government Regulation Number 38 Year 2007 regarding the Sharing of Public Administration Affairs between the government, provincial administration and regency/municipal administration (Statute Book of the Republic of Indonesia Year 2007 Number 82, Supplement to Statute Book of the Republic of Indonesia Number 4737);

4. Government Regulation Number 15 Year 2010 regarding Spatial Management (Statute Book of the Republic of Indonesia Tahun• 2010 Number 21, Supplement to Statute Book of the Republic of Indonesia Number 5103);

5. Government Regulation Number 22 Year 2010 regarding Mining Area (Statute Book of the Republic of Indonesia Year 2010 Number 28, Supplement

to Statute Book of the Republic of Indonesia Number 5110);

6. Government Regulation Number 23 Year 2010 regarding the Execution of Mineral and Coal Mining Business Activities (Statute Book of the Republic of Indonesia Year 2010 Number 29, Supplement to Statute Book of the Republic of Indonesia Number 5111) as already amended by Government Regulation Number 24 Year 2012 (Statute Book of the Republic of Indonesia Year 2012 Number 45, Supplement to Statute Book of the Republic of Indonesia Number 5282);

7. Presidential Decree Number 59/P Year 2011 dated October 18, 2011;

8. Regulation of the Minister of Energy and Mineral Resources Number 18 Year 2010 regarding Organization and Working Mechanism of the Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2010 Number 552) as already amended by Regulation of the Minister of Energy and Mineral Resources Number 22 Year 2013 (State Gazette of the Republic of Indonesia Year 2013 Number 1022);

9. Regulation of the Minister of Energy and Mineral Resources Number 12 Year 2011 regarding Procedures for Stipulating Mining Business Area and Information System of Mineral and Coal Mining

Area (State Gazette of the Republic of Indonesia Year 2011 Number 487);

DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES ON PROCEDURES FOR THE AUCTION OF MINING BUSINESS LICENSE AREA AND SPECIAL MINING BUSINESS LICENSE AREA IN METAL-MINERAL AND COAL MINING BUSINESS ACTIVITIES

CHAPTER I

GENERAL

Article 1

Referred to in this ministerial regulation as:

1. Mining Business License Area, hereinafter called WIUP, shall be an area granted to holder of mining business license.
2. Special Mining Business License Area, hereinafter called WIUPK, shall be an area granted to holder of special mining business license.
3. Mining Business License, hereinafter called IUP, shall be a license to undertake mining business.
4. IUP of Exploration shall be a business license granted to execute activities of general survey, exploration and feasibility study.

5. Special Mining Business License, hereinafter called IUPK, shall be a license to undertake mining business in WIUPK.
6. IUPK of Exploration shall be a business license granted to execute activities of general survey, exploration and feasibility study in WIUPK.
7. Business Entity shall be a legal entity operating in mining sector, which is established on the basis of Indonesian law and domiciled in the territory of the Unitary State of the Republic of Indonesia.
8. State-owned Business Entity hereinafter called BUMN shall be BUMN operating in mining sector in accordance with the provision of legislation.
9. Regional administration-owned Business Entity hereinafter called BUMD shall be BUMD operating in mining sector in accordance with the provision of legislation.
10. National Private Business Entity shall be a business entity having legal entity wherein domestic party controls capital or share 100% (one hundred percent).
11. Auction shall be a method of bid for WIUP or WIUPK in the framework of granting IUP of Exploration or IUPK of Exploration of Metal Minerals and Coal.
12. Prequalification shall be a process evaluating business competence and capability as well as the fulfillment of other specified requirements by bidders before submitting bid.
13. Pre-qualification document shall be a document containing package of information about requirement, timetable and procedures of pre-qualification tender, which is prepared by tender committee.
14. Tender document shall be a document containing package of information about requirements, timetable and procedure of qualification tender, which is prepared by tender committee.
15. Foreign capital shall be capital owned by foreign country, citizen, business entity, legal entity and/or Indonesian legal entity having capital controlled partly or wholly by foreign party.
16. Minister shall be the minister in charge of mineral and coal mining affairs.
17. Director General shall be the Director General executing task and responsible for the formulation and implementation of technical policy and standardization in the field of mineral and coal mining.

STIPULATION OF MINING BUSINESS LICENSE AREA
AND SPECIAL MINING BUSINESS LICENSE AREA

Article 2

- (1) WIUP of metal minerals and WIUP of coal shall be stipulated by the minister following the stipulation by governor and regent/mayor on the basis of criteria in accordance with the provision of legislation.
- (2) Governor or regent/mayor by virtue of their authority, before determining WIUP of metal minerals and WIUP of coal, which is to be recommended to the minister as meant in paragraph (1), shall be obliged to announce it publicly.

Article 3

- (1) WIUPK of metal mineral and WIUPK of coal shall be stipulated by the minister on the basis of criteria in accordance with the provision of legislation.
- (2) The minister, before stipulating WIUPK of metal mineral and WIUPK of coal as meant in paragraph (1) shall be obliged to announce it publicly.

Article 4

- (1) In the case of WIUP of metal mineral, WIUP of coal, WIUPK of metal mineral and WIUP of Coal Exploration being located inside forest area, the stipulation of WIUP of metal mineral, WIUP of coal, WIUPK of metal mineral and WIUPK of coal as meant in Article 2 and Article 3 shall be ex-

ecuted after coordinating with the Ministry of Forestry.

- (2) The coordination as meant in paragraph (1) shall be executed in the framework of securing certainty about the use of forest area for mining activity.

Article 5

- (1) The minister shall stipulate the price of compensation for information data and/or total cost of investment substitute to WIUP of metal mineral, WIUP of coal, WIUPK of metal minerals and WIUPK of coal already stipulated as meant in Article 2 and Article 3 on the basis of the availability of:
 - a. formation of rocks carrying metal or coal mineralization;
 - b. data about indication of metal or coal mineralization;
 - c. data about potential of metal or coal mineralization;
 - d. data about reserves of metal mineral or coal; and/or
 - e. other supporting facilities and infrastructure.
- (2) The price of compensation for information data and/or total cost of investment substitute as meant in paragraph (1) shall constitute the

minimum value of the basic price of tender for WIUP of metal mineral, WIUP of coal, WIUPK of metal minerals and WIUPK of coal.

(3) The price of compensation for information data and/or total cost of investment substitute in WIUP of metal mineral, WIUP of coal, WIUPK of metal minerals and WIUPK of coal as meant in paragraph (1) shall be calculated in accordance with the provision of legislation.

(4) The price of compensation for information data and/or total cost of investment substitute in WIUP of metal mineral, WIUP of coal, WIUPK of metal minerals and WIUPK of coal shall be remitted as non-tax state revenue.

Article 6

The Director General shall submit WIUP of metal mineral, WIUP of coal, WIUPK of metal minerals and WIUPK of coal already stipulated by the minister as meant in Article 2 and Article 3 to governor or regent/mayor by virtue of their authority.

Article 7

(1) WIUP of metal mineral and WIUP of coal already stipulated as meant in Article 2 paragraph (1) shall be granted by the minister, governor or regent/mayor by virtue of their authority by means of tender to business entities, cooperatives and individuals.

(2) WIUPK of metal minerals and WIUPK of coal already stipulated as meant in Article 3 paragraph (1) shall be granted by the minister by means of priority or tender to BUMN, BUMD or private business entity.

CHAPTER III

GRANTING OF SPECIAL MINING BUSINESS AREA BY PRIORITY

Article 8

(1) The minister shall offer to BUMN and BUMD by means of priority to secure WIUPK of metal minerals or WIUPK of coal following the stipulation of WIUPK of metal minerals or WIUPK of coal as meant in Article 3 paragraph (1).

(2) BUMD as meant in paragraph (1) shall constitute BUMD established by provincial government or regency/municipal government overseeing the location of the would-be offered WIUPK of metal minerals or WIUPK of coal

Article 9

(1) In the case of only one BUMN or BUMD being interested in the bid for WIUPK of metal mineral or WIUPK of coal as meant in Article 8 paragraph (1), WIUPK of metal mineral or WIUPK of coal shall be granted directly to the the said BUMN or BUMD by paying the price of compensation for

information data and/or total cost of investment substitute.

- (2) BUMN or BUMD shall be obliged to pay the price of compensation for information data and/or total cost of investment substitute as meant in paragraph (1) in no later than 30 (thirty) working days as from the date of stipulation as recipient of WIUPK metal mineral or WIUPK of coal by priority.
- (3) BUMN or BUMD already fulfilling the obligation as meant in paragraph (2) shall be obliged to submit application for IUPK of Metal Mineral Exploration or IUPK of Coal Exploration in no later than 5 (five) working days as from the payment of compensation for information data and/or total cost of investment substitute.

Article 10

- (1) In the case of BUMN and/or BUMD interested in the bid for WIUPK of metal minerals or WIUPK of coal as meant in Article 8 paragraph (1) being more than one, WIUPK of metal minerals or WIUPK of coal shall be granted by tender.
- (2) In the event that none of BUMN and/or BUMD are interested in the bid for WIUPK of metal minerals or WIUPK of coal as meant in paragraph (1), WIUPK of metal minerals or WIUPK of coal shall be offered to private business entity by tender.

CHAPTER IV

PROCEDURES FOR THE TENDER OF MINING BUSINESS LICENSE AREA OR SPECIAL MINING BUSINESS LICENSE AREA OF METAL MINERALS AND COAL

Part One

Preparation of Tender

Article 11

- (1) The minister, governor or regent/mayor by virtue of their authority shall be obliged to announce plan for the tender of WIUP of metal minerals or WIUP of coal already stipulated by the minister as meant in Article 2 paragraph (1).
- (2) The minister shall be obliged to announce the plan for the tender of WIUPK of metal minerals or WIUPK of coal already stipulated as meant in Article 3 paragraph (1).
- (3) The announcement of the plan for the tender of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in paragraph (1) and paragraph (2) shall be executed in no later than 3 (three) months before the tender.

Article 12

The announcement of the plan for the tender of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in Article 11 shall be published publicly:

- a. in at least one local printed media and/or one national printed media;

- b. in the office of the ministry in charge of mineral and coal affairs or through website; and
- c. in provincial and reGENCY/municipal government office in charge of mineral and coal affairs or through website.

Article 13

- (1) Tender for WIUPK of metal minerals and WIUPK of coal shall be executed by the Minister.
- (2) Tender for WIUP of metal minerals and WIUP of coal shall be executed by:
 - a. the minister, if WIUP of metal minerals and WIUP of coal is located in inter-provincial territory or offshore over 12 (twelve) nautical miles from the coastline after securing recommendation from local governor and regent/mayor;
 - b. governor, if WIUP of metal minerals and WIUP of coal is located in inter-reGENCY/city territory or offshore as long as 4 (four) up to 12 (twelve) nautical miles from the coastline after securing recommendation from local regent/mayor; and
 - c. regent/mayor if WIUP of metal minerals and WIUP of coal is located in one reGENCY/city or offshore up to 4 (four) nautical miles from the coastline.

- (3) The recommendation as meant in paragraph (2) letter a and letter b shall be in the form of consideration containing information about the utilization of land in WIUP of metal minerals and WIUP of coal and cultural characteristic of communities on the basis of local wisdom in the framework of the tender for WIUP of metal minerals and WIUP of coal.
- (4) Governor or regent/mayor shall grant the recommendation as meant in paragraph (2) and paragraph (3) in no later than 5 (five) working days as from the date of receipt of request for recommendation.
- (5) Unless the recommendation as meant in paragraph (1) is granted in no later than 5 (five) working days, the governor or regent/mayor shall be deemed approving the tender for WIUP of metal minerals and WIUP of coal.

Part Two

Establishment of Tender Committee

Article 14

- (1) In the framework of executing tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals and WIUPK of coal, tender committee shall be established by:
 - a. the minister, in the case of the tender committee of WIUP of metal minerals and WIUP

of coal being located in inter-provincial territory and/or offshore over 12 (twelve) nautical miles from the coastline and tender committee of WIUPK of metal minerals and WIUPK of coal;

- b. governor, in the case of the tender committee of WIUP of metal minerals and WIUP of coal being located in inter-regency/city territory inside one province and/or offshore as long as 4 (four) nautical miles up to 12 (twelve) nautical miles from the coastline; and
- c. regent/mayor, in the case of the tender committee of WIUP of metal minerals and WIUP of coal being located inside one regency/city and/or offshore up to 4 (four) nautical miles from the coastline.

- (2) The tender committee of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals and WIUPK of coal established by the minister as meant in paragraph (1) letter a shall be odd in number and comprise at least 7 (seven) people having competence in the field of mineral or coal mining, consisting of representatives of:
- a. the secretariat general of the ministry in charge of mineral and coal mining affairs;
 - b. the directorate general;

- c. the Geology Board;
- d. local provincial government; and/or
- e. local regency/municipal government.

- (3) The tender committee of WIUP of metal minerals and WIUP of coal established by the governor as meant in paragraph (1) letter b shall be odd in the number and minimally comprise 5 (five) people having competence in the field of mineral and coal mining, consisting of representatives of:

- a. provincial government;
- b. the ministry in charge of mineral and coal mining affairs, minimally one person; and
- c. local regency/municipal government.

- (4) The tender committee of WIUP of metal minerals and WIUP of coal established by the governor as meant in paragraph (1) letter c shall be odd in the number and minimally comprise 5 (five) people having competence in the field of mineral and coal mining, consisting of representatives of:

- a. regency/municipal government;
- b. the ministry in charge of mineral and coal mining affairs, minimally one person; and
- c. local provincial government.

Article 15

(1) The competence in the field of mineral and coal mining as meant in Article 14 paragraph (2), paragraph (3), and paragraph (4) shall include knowledge, expertise and/or experience in the field of mineral and/or coal, among others:

- a. mining technical affairs;
- b. mining law;
- c. mining finance; and/or
- d. having working experience at least 3 (three) years in the ministry in charge of mineral and coal mining affairs and provincial technical service and/or regency/municipal technical service in charge of mineral and coal mining affairs.

(2) Task and authority of the tender committee of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals and WIUPK of coal as meant in Article 14 shall include:

- a. preparing tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal;
- b. preparing pre-qualification document and tender document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WI-

UPK of coal;

- c. formulating timetable of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal;
- d. announcing the time of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal;
- e. executing re-announcement for two times at the maximum, if participant of tender for WIUP Of metal minerals, WIUP Of coal, WIUPK of metal minerals or WIUPK of coal is only one;
- f. evaluating pre-qualification and qualification of participants of tender for WIUP Of metal minerals, WIUP Of coal, WIUPK of metal minerals or WIUPK of coal;
- g. executing tender for WIUP Of metal minerals, WIUP Of coal, WIUPK of metal minerals or WIUPK of coal;
- h. evaluating the incoming bid prices; and
- i. preparing account of result of the tender and recommending the winner of tender for WIUP Of metal minerals, WIUP Of coal, WIUPK of metal minerals or WIUPK of coal.

Part Three

Requirement for Tender Participant

Article 16

(1) Tender for WIUP of metal minerals or WIUP of coal with the acreage 1,000 (one thousand) hectares or smaller may be attended by:

a. business entity, as follows:

1. local BUMD;
2. local national private business entity;

b. cooperative; and

c. individual, consisting of:

1. individual person;
2. limited partnership company; and
3. firm.

(2) Tender for WIUP of metal minerals or WIUP of coal with the acreage 1,000 (one thousand) hectares up to 5,000 (five thousand) hectares may be attended by:

a. business entity, as follows:

1. BUMN;
2. BUMD; and
3. national private business entity;

b. cooperative.

(3) Tender for WIUP of metal minerals or WIUP of coal with the acreage over 5,000 (five thousand) hectares may be attended by the following busi-

ness entities:

- a. BUMN;
- b. BUMD; and
- c. national private business entities or private business entity in the framework of foreign investment.

Article 17

(1) In order to participate in the tender for WIUP of metal minerals or WIUP of coal, the tender participants as meant in Article 16 shall fulfill requirements:

- a. administrative;
- b. technical; and
- c. financial.

(2) The administrative requirement as meant in paragraph (1) letter a, in the case of:

- a. business entity, submitting at least:
 1. completion form prepared by the tender committee;
 2. deed of establishment of business entity operating specifically in the mining business, already legalized by the authorized official;
 3. profile of business entity;
 4. statement that it has not had IUP or IUPK, in the case of non-listed business entity;

5. integrity pact containing statement that the business entity is not under supervision of the court, not in the state of bankruptcy, business activity is not being suspended and director acting for and on behalf of the company is not serving penalty;

6. statement that the business entity does not come into the list of ailing business entities;

7. address, which is permanent and clear as well as accessible by post; and

8. taxpayer code number.

b. Cooperative, submitting at least:

1. completion form already prepared by tender committee;

2. deed of establishment of cooperative operating specifically in mining business, already legalized by the authorized official;

3. profile of cooperative;

4. statement that the cooperative has not had IUP;

5. integrity pact containing statement that

the cooperative is not under supervision of the court, not in the state of bankruptcy, business activity is not being suspended and executive acting for and on behalf of the cooperative is not serving penalty;

6. statement that the cooperative does not come into the list of ailing cooperatives;

7. address which is permanent and clear as well as accesible by post; and

8. taxpayer code number.

c. individual person, submitting at least:

1. completion form already prepared by tender committee;

2. statement that the said person has not had IUP;

3. integrity pact containing statement that the said person is not under supervision of the court, not in the state of bankruptcy, and not serving penalty;

4. statement that the said period does not come into the list of ailing persons;

5. address which is permanent and clear as

well as accessible by post;

6. citizenship identity card; and

7. taxpayer code number.

d. firm and limited partnership company, submitting at least:

1. completion form prepared by the tender committee;

2. deed of establishment of company operating specifically in the mining business;

3. profile of company;

4. statement that it has not had IUP;

5. integrity pact containing statement that the company is not under supervision of the court, not in the state of bankruptcy, business activity is not being suspended and/or executive acting for and on behalf of the company is not serving penalty;

6. statement that the company does not come into the list of ailing companies;

7. address, which is permanent and clear as well as accessible by post; and

8. taxpayer code number.

(3) The technical requirement as meant in paragraph (1) letter b shall be at least:

a. technical and managerial experience in the field of mineral and coal mining for 3 (three) years at the minimum, or in the case of new company, securing support from holding company, working partner or affiliate operating in the mining sector;

b. the availability of human resources, minimally one mining specialist and/or geologist having experience 3 (three) years at the minimum;

c. work plan, covering:

1. RKAB, in the case of WIUP of metal minerals and WIUP of coal in relations to activity in 4 (four) exploration years; and

2. procurement of equipment and other facilities needed in the exploration of metal mineral and coal mining.

(4) The financial requirement as meant in paragraph (1) letter c shall include:

a. the last year financial statement already audited by public account, except for new company by enclosing financial statement;

b. placing guarantee for tender commitment in

the form of cash money at state bank, accounting for 10% (ten percent) of the basic value of compensation for information data; and

- c. statement of readiness to pay the price of compensation for information data in accordance with tender for WIUP of metal minerals andor WIUP of coal in no later than 5 (five) working days following the announcement of the tender winner.

Article 18

(1) Tender for WIUPK of metal minerals or WIUPK of coal may be attended by business entities as follows:

- a. BUMN;
- b. BUMD; and
- c. private business entity.

(2) In order to participate in the tender for WIUPK of metal minerals and/or WIUPK of coal as meant in paragraph (1), the participants of the tender shall fulfill requirements:

- a. administrative;
- b. technical; and
- c. financial.

(3) The administrative requirement as meant in paragraph (2) letter a shall include:

- a. completion form prepared by the tender com-

mittee;

- b. deed of establishment of business entity operating specifically in the mining business, already legalized by the authorized official;

- c. profile of business entity;

- d. integrity pact containing statement that the business entity is not under supervision of the court, not in the state of bankruptcy, business activity is not being suspended and director acting for and on behalf of the company is not serving penalty;

- e. statement that the business entity does not come into the list of ailing business entities;

- f. address, which is permanent and clear as well as accessible by post; and

- g. taxpayer code number.

(4) The technical requirement as meant in paragraph (2) letter b shall include:

- a. technical and managerial experience in the field of mineral and coal mining for 3 (three) years at the minimum, or in the case of new company, securing support from holding company, working partner or

affiliate operating in the mining sector;

- b. the availability of human resources, minimally one mining specialist and/or geologist having experience 3 (three) years at the minimum;
- c. work plan, covering:
 - 1. RKAB, in the case of WIUP of metal minerals and WIUP of coal in relations to activity in 4 (four) exploration years; and
 - 2. procurement of equipment and other facilities needed in the exploration of metal mineral and coal mining.

(5) The financial requirement as meant in paragraph

(2) letter c shall include:

- a. the last year financial statement already audited by public account, except for new company by enclosing financial statement;
- b. placing guarantee for tender commitment in the form of cash money at state bank, accounting for 10% (ten percent) of the basic value of compensation for information data; and
- c. statement of readiness to pay the price of compensation for information data in accordance with tender for WIUPK of metal minerals and/or WIUPK of coal in no later than 5

(five) working days following the announcement of the tender winner

Part Four

Tender Procedure

Article 19

- (1) The tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals and WIUPK of coal shall be executed in 2 (two) phases, namely:
 - a. pre-qualification; and
 - b. qualification.
- (2) The pre-qualification phase shall include:
 - a. announcing pre-qualification;
 - b. taking pre-qualification document;
 - c. submitting pre-qualification document;
 - d. evaluating pre-qualification;
 - e. clarifying and confirming pre-qualification document;
 - f. stipulating result of pre-qualification;
 - g. announcing result of pre-qualification; and
 - h. invitation to participants passing pre-qualification.
- (3) The qualification phase shall include:
 - a. taking tender document;
 - b. briefing tender;
 - c. submitting bid price;
 - d. opening envelope;
 - e. rating;
 - f. stipulating/announcing tender winner by the

minister, governor or regent/mayor by virtue of their authority on the basis of evaluation of bid price and technical consideration; and

g. opening opportunity to submit rejoinder against the tender decision.

(4) The tender committee of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals and WIUPK of coal shall be obliged to implement the tender procedure as meant in paragraph (1), paragraph (2), and paragraph (3) fairly, transparently and boost fair competition.

Part Five

Pre-qualification Document

Article 20

The pre-qualification document of WIUP Of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in Article 19 paragraph (2) shall include at least:

- a. the administrative, technical and financial requirements as meant in Article 17 dan Article 18;
- b. completion list of pre-qualification document prepared by tender committee.

Part Six

Tender Document

Article 21

The document of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or

WIUPK of coal as meant in Article 19 paragraph (3) shall include at least:

- a. map, coordinate, location and acreage of the would-be auctioned WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal;
- b. basic price of compensation for data and information and/or total cost of investment substitute with the amount stipulated on the basis of the provision as meant in Article 5;
- c. status of land, such as located in forest area or area destined to other purpose; and
- d. completing list of qualification form prepared by the tender committee.

Part Seven

Tender for Mining Business License Area and Special Mining Business License Area of Exploration

Paragraph 1

Pre-qualification of Tender for Mining Business License Area and Special Mining Business License Area

Article 22

(1) The tender committee of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal shall be obliged to announce publicly pre-qualification upon the expiration of the announcement of the plan for the tender by the minister, governor or regent/mayor by virtue of their authority as meant in Article 11.

- (2) The pre-qualification phase of the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal shall be announced publicly in:
- a. at least one local printed media and/or one national printed media;
 - b. the office of the ministry in charge of mineral and coal affairs or through website; and
 - c. provincial and regency/municipal government office in charge of mineral and coal affairs or through website.
- (3) Document of pre-qualification shall be taken in no later than 7 (seven) working days as from the announcement of the pre-qualification.
- (4) Document of pre-qualification shall be taken in office organizing tender by virtue of their authority.

Article 23

- (1) Document of pre-qualification shall be submitted in no later than 30 (thirty) working days as from the announcement of the pre-qualification.
- (2) Tender participants shall submit pre-qualification document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal

in one envelope in office organizing tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal with the provision that the address of the tender committee of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal is mentioned in the envelope with the phrase "Pre-qualification document of WIUP of metal minerals or WIUP of coal" or Pre-qualification Document of WIUPK of metal minerals or WIUPK of coal".

- (3) The tender committee shall put note of date, time of receipt and register number in the outer envelope of the pre-qualification document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.
- (4) The pre-qualification document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal submitted after surpassing the deadline as meant in paragraph (1) shall not be received by the tender committee.

Article 24

- (1) The tender committee shall evaluate pre-qualification document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal already securing registry number on the basis of administrative, technical and financial requirements.

(2) The evaluation of the pre-qualification document as meant in paragraph (1) shall be executed by:

- a. examining the completeness of administrative, technical and financial requirements that tender participants have to fulfill; and
- b. judging technical requirements, covering the completeness of data, rationality and quality of data as follows:
 - 1. experience in the mining sector, having score 20% (twenty percent) of the total score of technical requirement;
 - 2. the availability of human resources, having score 35% (thirty five percent) of the total score of technical requirements; and
 - 3. work plan having score 45% (forty five percent) of the total score of technical requirement.

(3) In evaluating the pre-qualification document as meant in paragraph (2), the tender committee may clarify and confirm the pre-qualification document of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal, which is less clear without changing the substance.

Article 25

(1) Stipulation of tender participants passing the pre-qualification shall be based on:

- a. evaluation of the completeness of administrative, technical and financial requirements; and
- b. technical evaluation with the minimum evaluation standard stipulated by tender committee.

(2) The stipulation and announcement of tender participants passing pre-qualification and reserving a right to continue qualification process shall be done in no later than 7 (seven) working days as from the closing date of the submission of pre-qualification document.

(3) The stipulation and announcement of the pre-qualification result as meant in paragraph (2) and invitation to take tender document by tender participants passing the pre-qualification shall be done in office organizing the tender or through website.

Article 26

(1) In the event that only one tender participant submits pre-qualification document of the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal, the tender committee shall announce again repeated pre-qualification in no later than 5 (five) working days as from the deadline of the submission of pre-qualification document.

- (2) In the case of only one tender participant submitting pre-qualification document of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal following the announcement of the repeated pre-qualification:
- a. the announcement of repeated pre-qualification may be executed for the second time; or
 - b. the tender participant may be recommended as the winner of the tender with the provision that:
 - 1. the pre-qualification document has fulfilled the stipulated requirement;
 - 2. document of bid price is submitted.
- (3) The bid price as meant in paragraph (2) letter b point 2 shall be the same as or higher than the basic price of tender already stipulated.

Paragraph 2

Qualification Phase of Tender for Mining

Business License Area and Special Mining Business License Area
Article 27

- (1) Tender document shall be taken in office organizing tender for IUP of Metal Mineral Exploration, IUP of Coal Exploration, IUPK of Metal Mineral Exploration, or IUPK of Coal Exploration in no later than 7 (seven) working days as from the date when the taking of tender document is announced.
- (2) In no later than 3 (three) working days following the closing date of the taking of tender document, tender committee shall be obliged to provide tender explanation for tender participants.

(3) The
to be continued

(R)

PROCEDURES FOR THE AUCTION OF MINING BUSINESS LICENSE AREA AND SPECIAL MINING BUSINESS LICENSE AREA IN METAL-MINERAL AND COAL MINING BUSINESS ACTIVITIES

(Regulation of the Minister of Energy and Mineral Resources Number 28 Year 2013 dated September 13,2013)

[Continued from Business News No. 8545 page 31-48]

(3) The tender explanation as meant in paragraph (2) shall include:

- a. procedure for completing form of tender document;
- b. detail explanation about data related to the condition of mineral and/or coal potentials in the auctioned IUP of Metal Mineral Exploration, IUP of Coal Exploration, IUPK of Metal Mineral Exploration, or IUPK of Coal Exploration, consisting of:
 1. location;
 2. coordinate;
 3. kind of mineral, including associated mineral and coal;
 4. summary of result of study and survey;
 5. summary of result of preliminary exploration, if any a;
 6. other supporting facilities and infrastructure, if any; and
 7. status of land;

c. procedures for evaluating tender document and calculating the rating of tender winner.

(4) The tender committee shall make account of explanation signed by the tender committee Panitia Lelang membuat berita acara penjelasan yang ditandatangani oleh and 2 (two) witnesses at the minimum.

Article 28

(1) Tender committee by virtue of authority granted by the Minister, governor or regent/mayor may grant opportunity for participants of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal that pass pre-qualification to conduct site visit in a period adjusted to the distance of the would-be auctioned location after securing the tender explanation as meant in Article 27.

(2) If the participants of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals

or WIUPK of coal planning to conduct site visit involve foreigner, the tender participants shall be obliged to fulfill requirements in accordance with the provision of legislation.

- (3) Cost needed to conduct the site visit as meant in paragraph (1) and paragraph (2) shall be charged to the participants of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.

Article 29

- (1) Participants passing pre-qualification shall be given opportunity to prepare bid price in no later than 5 (five) working days following the signing of account of tender explanation or site visit, if required.
- (2) The bid price shall be submitted in 2 (two) hours before the opening of envelope of bid price.
- (3) The bid price as meant in paragraph (1) shall be submitted in office authorized to organize tender for the said WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.
- (4) In the bid price as meant in paragraph (1), tender participants shall be obliged to insert bid price of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal in one envelope

with the provision that the address of the tender committee of the WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal. Is mentioned with the phrase "Bid Price of WIUP of Metal Minerals or WIUP of Coal" or Bid Price of WIUPK of Metal Minerals or WIUPK of Coal ".

- (5) Note of date, receipt time and registry number shall be put on the outer envelope of bid price received by the tender committee.

Article 30

- (1) The tender committee shall open the envelopes of the bid price on the stipulated time for the need of evaluation in a bid to determine the ranking of bid price of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.
- (2) Tender participants unable to appear in the opening of envelope and the rating as meant in paragraph (1) shall send their representatives by power of attorney.
- (3) In the case of tender participant not ending representative as meant in paragraph (2), the tender participant shall be deemed already accepting the result of the rating of bid price of bid price of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.

Paragraph 3

Evaluation and Stipulation of Tender Winner

Article 31

- (1) The tender committee shall stipulate the ranking of prospective winner of the tender for bid price of WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal on the basis of the sum of
- a. scores resulting from the evaluation of prequalification; and
 - b. scores of the bid price in accordance with the ranking.
- (2) The score resulting from the pre-qualification evaluation as meant in paragraph (1) letter a shall be 40% (forty percent).
- (3) The score of the bid price according to the ranking as meant in paragraph (1) letter b shall be 60 % (sixty percent).
- (4) In evaluating the bid price, the tender committee shall be prohibited from changing, supplementing and reducing bid price by whatever reason.
- (5) The tender committee shall stipulate the ranking of prospective winner of the tender in accordance with the result of evaluation as meant in paragraph (1), paragraph (2), and paragraph (3), which is written down into account of tender.

Article 32

- (1) The tender committee shall report result of the rating of prospective winners of the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal to the minister, governor or regent/mayor by virtue of their authority to be stipulated as the winner of the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as long with account of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.
- (2) The minister, governor or regent/mayor by virtue of their authority, in no later than 5 (five) working days after receiving report of the result of the rating of prospective winners of the tender from the tender committee as meant in paragraph (1) shall stipulate the winner of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.
- (3) The minister, governor or regent/mayor by virtue of their authority shall announce and notify in writing the stipulation of the winner of the tender to the winner of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal.

Article 33

- (1) In the case of only one tender participant submitting the bid price as meant in Article 28, the

tender shall be repeated by inviting participants passing the pre-qualification to submit again bid price in no later than 3 (three) working days as from the date of invitation to repeat tender.

(2) If the tender participant as meant in paragraph (1) is still one, the tender participant shall be stipulated as the winner of the tender with the provision that the bid price shall be the same as or higher than the stipulated basic price of tender.

Paragraph 4

Rejoinder

Article 34

(1) Participants of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal that feel affected individually or collectively with other participants may file rejoinder to the minister, governor or regent/mayor by virtue of their authority in no later than 3 (three) working days following the stipulation and announcement of the winner of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal in the case of the tender participants finding:

- a. deviation from the provision and procedure already stipulated in tender document;
- b. specified engineering thus preventing fair competition;
- c. abuse of power by tender committee or other authorized official;

- d. substance of corruption, collusion and nepotism among tender participants; and/or
- e. substance of corruption, collusion and nepotism between tender participant and tender committee or other authorized official.

(2) In the case of participant of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal submitting rejoinder to the Minister, governor or regent/mayor by virtue of their authority after surpassing the period as meant in paragraph (1), the rejoinder shall not be processed.

(3) The minister, governor or regent/mayor by virtue of their authority shall be obliged to provide answer in no later than 5 (five) working days as from the receipt of the rejoinder.

(4) If the rejoinder turns out to be true, the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal shall be repeated.

(5) In the case of the rejoinder period expiring and no rejoinder coming or the settlement of rejoinder deciding that the execution of the tender and rating have been true, the winner of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in Article 32 shall be obliged to submit application for IUP of

Exploration or IUPK of Exploration in no later than 5 (five) working days to the Minister, governor or regent/mayor by virtue of their authority.

Article 35

The winner of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in Article 34 paragraph (5) shall submit application for IUP of Exploration and IUPK of Exploration to the minister, governor or regent/mayor by virtue of their authority on the basis of requirement and procedures governed separately in a ministerial regulation.

Part Eight

Guarantee for Tender Commitment

Article 36

(1) The placement of guarantee for tender commitment to WIUP of metal minerals or WIUP of coal as meant in Article 17 paragraph (4) letter b shall be executed at the same time as the submission of the pre-qualification document as meant in Article 23.

(2) The guarantee for tender commitment of WIUP of metal minerals or WIUP of coal as meant in paragraph (1) shall be placed in the form of time deposit at state bank on behalf of the minister, governor or regent/mayor by virtue of their authority qualitate qua (q.q.) Business Entity, Cooperative or Individual tender participant.

Article 37

(1) The placement of guarantee for tender commitment to WIUPK of metal mineral or WIUPK of coal as meant in Article 18 paragraph (5) letter b shall be executed at the same time as the submission of the pre-qualification document as as meant in Article 23.

(2) J The gurantee for tender comittment of WIUPK of metal minerals or WIUPK of coal as meant in paragraph (1) shall be placed in the form of time deposit at state bank on behalf of the minister qualitate qua (q.q.) BUMN, BUMD or Private Business Entity Being Tender Participant.

Article 38

(1) The guarantee for tender commitment to WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in Article 36 paragraph (2) and Article 37 paragraph (2) shall be returned wholly to the tender participant in accordance with the remitted nominal value along with the interest thereof.

(2) The guarantee for tender commitment to WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal as meant in paragraph (1) shall be returned:

a. 5 (five) working days following the announcement of the pre-qualification result of tender

for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal, to tender participants not passing the pre-qualification;

- b. 14 (fourteen) working days following the stipulation of the winner of the tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal, to tender participants ranking fourth or more in the rating of tender winner; or
- c. 5 (five) working days following the issuance of IUP of Exploration or IUPK of Exploration, to the winners of tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal that rank second and third in the rating of tender winners.

Article 39

The guarantee for tender commitment shall become property of the state as non-tax state revenue or regional government in the event that:

- a. tender participants already passing pre-qualification do not submit bid price as long as the winner of tender has been stipulated;
- b. tender participants already stipulated as tender winner do not submit application for IUP of Exploration or IUPK of Exploration.

CHAPTER V

TRANSITIONAL PROVISION

Article 40

In the case of the minister, governor and regent/mayor already executing tender for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal and already stipulating IUP of Metal Mineral Exploration, IUP of Coal Exploration, IUPK of Metal Mineral Exploration, or IUPK of Coal Exploration to winners of tenders for WIUP of metal minerals, WIUP of coal, WIUPK of metal minerals or WIUPK of coal before the enforcement of this ministerial regulation, IUP of Metal Mineral Exploration, IUP of Coal Exploration, IUPK of Metal Mineral Exploration, or IUPK of Coal Exploration shall be declared to remain effective until the licensing period expires.

CHAPTER VI

CONCLUSION

Article 41

The ministerial regulation shall come into force as from the date of promulgation.

For public cognizance, the ministerial regulation shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On September 13, 2013

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

Sgd

JEROWACIK

Promulgated in Jakarta

On September 13, 2013

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

sgd.

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2013 NUMBER 1123

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