

# GOVERNMENT REGULATIONS

## PROCEDURES FOR STIPULATING AND OFFERING WORK AREAS OF OIL AND NATURAL GAS

(Regulation of the Minister of Energy and Mineral Resources Number 35 Year 2008,  
Dated November 12, 2008)

THE MINISTER OF ENERGY AND MINERAL RESOURCES,

Considering:

- a. that in the framework of enhancing and facilitating the preparation, stipulation and offering of work areas of oil and natural gas as governed in Regulation of the Minister of Energy and Mineral Resources Number 040 Year 2006 on Procedures for Stipulating and Offering Work Areas of Oil and Natural Gas, it's necessary to review Regulation of the Minister of Energy and Mineral Resources No. 040 Year 2006;
- b. that having regards letter a and in order to implement the provision of Article 4 of Government Regulation Number 35 Year 2004 on Upstream Oil and Natural Gas Business Activities as already amended by Government Regulation Number 34 Year 2005, it is necessary to stipulate a regulation of the Minister of Energy and Mineral Resources on Procedures for Stipulating and Offering Work Areas of Oil and Natural Gas;

In view of:

1. Law Number 22 Year 2001 (*BN No. 6696 pages 16A-27A and so on*) on Petroleum and Natural Gas (Statute Book of the Republic of Indonesia Year 2001 Number 136, Supplement to Statute Book of the Republic of Indonesia Number 4152);
2. Government Regulation Number 35 Year 2004 (*BN No. 7137 pages 22A-31A and so on*) on Upstream Oil and Natural Gas Business Activities (Statute Book of the Republic of Indonesia Year 2004 Number 123, Supplement to Statute Book of the Republic of Indonesia Number 4435) as already amended by Government Regulation Number 34 Year 2005 (Statute Book of the Republic of Indonesia Year 2005 Number 81, Supplement to Statute Book of the Republic of Indonesia Number 4530);
3. Presidential Decree Number 187/M Year 2004 (*BN No. 7128 page 11A*) dated October 20, 2004 as already amended several times and the latest by Presidential Decree Number 77/P Year 2007 dated August 28, 2007;
4. Decree of the Minister of Energy and Mineral Resources Number 1088 K/2C/MEM/2003 dated September 17, 2003 on Technical Guidelines on the Fostering, Supervision, Regulation and Control over Upstream and Downstream Oil and Natural Gas Business Activities;
5. Regulation of the Minister of Energy and Mineral Resources Number 0030 Year 2005 dated July 20, 2005 on the Organization and Working Arrangement of the Ministry of Energy and Mineral Resources;

6. Regulation of The Minister of Energy and Mineral Resources Number 03 Year 2008 dated February 5, 2008 on Guideline and Procedures for Returning Part of Work Area which is not used by production sharing contractors in the framework of increasing the production of oil and natural gas;

5. Business Entity shall be a company in the form of statutory body which runs business permanently, continually and established in accordance with legislation in force as well as working and domiciled in the territory of the Unitary State of the Republic of Indonesia.

#### DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES ON PROCEDURES FOR STIPULATING AND OFFERING WORK AREAS OF OIL AND NATURAL GAS.

6. Permanent Establishment shall be a business entity established and in the form of statutory body outside the territory of the Unitary State of the Republic of Indonesia, which conducts activity in the territory of the Unitary State of the Republic of Indonesia and obliged to abide by legislation in force in the Republic of Indonesia.

#### CHAPTER 1

##### GENERAL PROVISION

##### Article 1

Referred to in this regulation as:

1. Work Area shall be a certain area in Indonesia's mining jurisdiction designated to exploration and exploitation.
2. Open Area shall be a part of Indonesia's mining jurisdiction not yet stipulated as work area.
3. Available Work Area shall be work area once offered in tender for work area or direct offering of work area but the winner cannot be stipulated.
4. Offering of Work Area shall be a series of activities in the framework of offering certain work area to business entities or permanent establishment to undertake exploration and exploitation in a work area in a tender for work area or direct offering of work area.

7. Tender for Work Area shall be a mechanism of the offering of work area whose area is prepared by the Directorate General.

8. Direct Offering of Work Area shall be a mechanism of the offering of work area whose area is proposed by business entity or permanent establishment.

9. Joint Study shall be an activity executed jointly by business entity or permanent establishment and the Directorate General in the framework of direct offering of work area by means of inventorying, processing and evaluating data to ascertain potential of oil and natural gas.

10. Bid Document shall be a document containing information about tender for work area or direct offering of work area.

11. *Participating Document shall be a document submitted by business entity or permanent establishment to participate in tender for work area or direct offering of work area in accordance with the requirements stipulated in bid document.*
12. *Data shall be all facts, directives, indications and information in the form of writing (character), figure (digital), picture (analog), magnetic media, documents, bitumen sample, fluid and other forms which are obtained from general survey, exploration and exploitation of oil and natural gas.*
13. *Joint Cooperation Contract shall be a production sharing contract or other contract of joint cooperation in the exploration and exploitation, which rather benefit the state and the output is used maximally for the people's welfare.*
14. *Exploration shall be an activity intended to obtain information about geological condition to find and predict oil and natural gas reserves in the stipulated work area.*
15. *Exploitation shall be a series of activities intended to produce oil and natural gas from the stipulated work area, consisting of drilling and completion of well, development of transport, storage and processing facilities for the separation and purification of oil and natural gas in the field as well as other supporting activities.*
16. *Minister shall be the minister in charge of oil and natural gas business activities.*
17. *Minister shall be the ministry in charge of oil and natural gas business activities.*
18. *Executive Board shall be a business entity established to control upstream business activities in the oil and natural gas sector.*
19. *PT Pertamina (Persero) shall be a state-owned limited liability company (Persero) established on the basis of Government Regulation Number 31 Year 2003 on the Change in the Status of State Oil and Natural Gas Mining Company (PERTAMINA) into a state limited liability company (Persero).*
20. *Directorate General shall be the Directorate General in charge of oil and natural gas affairs.*
21. *Director General shall be the Director General in charge of oil and natural business affairs.*
22. *Work Area Offering Team shall be a team assigned to provide considerations in the framework of the offering of work area.*
23. *Bidding Team shall be part of the work area offering team assigned to evaluate and judge tender participants in the framework of tender for work area.*
24. *Evaluating Team shall be a part of the work area offering team assigned to evaluate and judge*

joint study and tender participants in the framework of the direct offering of work area.

## CHAPTER II

### POLICY ON THE OFFERING OF WORK AREA

#### Article 2

- (1) The Minister shall stipulate policies on the stipulation and offering of work areas of oil and natural gas.
- (2) Preparation, stipulation and offering of the work area as meant in paragraph (1) shall be done by the Director General by paying attention to consideration of the executive board.
- (3) The offering of work area as meant in paragraph (1) shall be done through tender for work area and direct offering of work area.
- (4) In the framework of preparing, stipulating and offering work area, the Director General shall stipulate a work area offering team with the members consisting of representatives of units within ministries, executive board and universities.

#### Article 3

The Minister shall stipulate policies on the preparation, stipulation and offering of the work areas as meant in Article 2 paragraph (1), on the basis of technical and economic considerations, risks and efficiency and principles of transparency, justice, accountability and fair business competition.

## CHAPTER III

### PREPARATION OF WORK AREA

#### Part One

#### GENERAL

#### Article 4

- (1) The Director General shall prepare work areas to be offered to business entities or permanent establishment, which result from open area.
- (2) The open area as meant in paragraph (1) shall result from, among others:
  - a. areas never stipulated as work area;
  - b. part of work area which is set aside on the basis of joint cooperation contract;
  - c. work areas having joint cooperation contract expiring;
  - d. part of work area never developed and/or being or once produced, which is set aside on the basis of recommendation of contractor;
  - e. part of area never developed and/or once produced, which is set aside on the basis of request of the Minister.

#### Part Two

#### Preparation of Work Area in the Framework of Offering Work Area through Tender for Work Area

#### Article 5

- (1) The preparation of work area as meant in Article 4 in the framework of offering work area through tender for work area shall be done by the Directorate General through technical and economic evaluation as well as data processing.

- (2) In order to implement the technical, economic evaluation and data processing as meant in paragraph (1), the Director General may appoint other parties having capability and expertise and/gr data in accordance with the provisions of legislation.
- (3) Based on the result of the technical and economic evaluation as well as data processing as meant in paragraph (1), the Director General shall formulate:
- borders of work area by using a grid system;
  - technical procedures, mechanism and requirements for the offering of work area;
  - model and basic provisions of joint cooperation contract.
- (4) The Director General shall submit to the Minister recommendation about the stipulation of work area to be offered to business entities or permanent establishment in accordance with the result of the technical and economic evaluation as well as data processing as meant in paragraph (3).
- (2) The proposal of direct offering of work area as meant in paragraph (1) may only be submitted to open area not yet evaluated for reservation in the framework of tender for work area by the Directorate General.
- (3) The direct offering of work area for the recommended area as meant in paragraph (2) shall be subject to joint study first.
- (4) The recommendation about the the direct offering of work area for the open area as meant in Article 4 paragraph (1) letter b, c, d and e may only be done following the issuance of written approval with regards to reservation or termination by the Minister.
- (5) Business entities or permanent establishments may recommend the direct offering of work area in the available work area to the Director General as long as the area has not been reserved again in the framework of tender for work area by the Directorate General.

### Part Three

#### Preparation of Work Area in the Framework of the Offering of Work Area through

##### Direct Offering of Work Area

##### Article 6

- (1) The preparation of the work area as meant in Article 4 in the framework of the offering of work area through the direct offering of work area shall be done by the Directorate General on the basis of proposal of business entities or permanent establishment.

##### Article 7

Recommendation about the direct offering of work area for part of work area never developed and/or currently or once produced, which is set aside on the basis of recommendation of contractors and part of work area never developed and/or once produced, which is set aside on the basis of request of the Minister as meant in Article 4 paragraph (1) letter d and e may only be submitted by business entities.

### Article 8

(1) The recommendation about the direct offering of work area as meant in Article 6 and Article 7 shall be submitted in writing to the Director General by enclosing the following requirements:

- a. borders of the recommended open area or available work area in accordance with grid guide and not exceeding 8 (eight) grids;
- b. brief report on geological potential of oil and natural gas, covering brief history of exploration activities, availability and access of data representing the recommended area, regional geology, petroleum system and exploration concept;
- c. in the case of the direct offering of work area being recommended to part of the work area as meant in Article 4 paragraph (1) letter d and, the recommendation shall be accompanied by estimated reserves, estimated production, field production plan and field economic study;
- d. profile of business entities or permanent establishment, covering among others:
  1. activities of business line of the said business entities or permanent establishments;
  2. financial statement in the last 3 (three) years, already audited by registered public accountants in accordance with the provisions of legislation in force, in the case of the business entities or permanent establishments have been established over three years;
  3. certificate from prime bank domiciled in Jakarta, which certifies that the business

entities or permanent establishment have financial capability to finance joint study, in the case of new business entities or permanent establishments;

4. having human resources experiencing in the field of oil and natural gas;
- e. statement of readiness to give up guarantee for the implementation of joint study;
- f. action plan of joint study and time frame.

(2) In the case of the requirements as meant in paragraph (1) being declared incomplete, the recommendation shall be returned to business entities or permanent establishments and shall not be recorded as recommendation about the direct offering of work area.

(3) Business entities or permanent establishments already fulfilling the requirements as meant in paragraph (1) shall be recorded as proponent of the direct offering of work area as from the data of receipt of recommendation by the Director General.

### Article 9

(1) In the case of other business entities or permanent establishments submitting proposal of the direct offering of work area with the area covering 25% (twenty five percent) of the previously recommended area in not later than 14 (fourteen) working days following the receipt of the recommendation from the business entities or permanent establishments as meant in Article 8 paragraph (3), the recommended area shall be reserved for tender for work area.

(2) In the case . . . .

(2) In the case of other business entities or permanent establishments submitting proposal of the direct offering of work area with the area covering 25% (twenty five percent) of the previously recommended area in not later than 14 (fourteen) working days following the receipt of the recommendation from the business entities or permanent establishments as meant in Article 8 paragraph (3), the following recommending business entities or permanent establishments shall be obliged to adjust their area to the recommendation of the first business entities or permanent establishments.

#### Article 10

- (1) *The evaluating team shall evaluate recommendation about the direct offering of work area already fulfilling completely the requirements as meant in Article 8 paragraph (3).*
- (2) *In the framework of evaluating and clarifying the data submitted by the business entities or permanent establishments as meant in Article 8 paragraph (1), the business entities or permanent establishments submitting recommendation about the direct offering of work area shall be obliged to make preservation before the evaluating team.*
- (3) *Following the presentation as meant in paragraph (2), the business entities or permanent establishments submitting recommendation about the direct offering of work area shall be obliged to convey commitment to joint study, time frame of joint study and other matters which must be fulfilled in accordance with*

*recommendation of the evaluating team in not later than 14 (fourteen) working days as from the date of presentation.*

- (4) *Business entities or permanent establishments not submitting the whole documents in the period as meant in paragraph (3) shall be declared resigning and the recommendation about the direct offering of Work area already submitted shall be declared null and void.*

#### Article 11

- (1) *The evaluating team shall evaluate the fulfillment of the documents as meant in Article 10 paragraph (3) and convey results of the evaluation to the Director General.*
- (2) *Based on result of evaluation by the evaluating team, the Director General shall approve or reject the recommendation about the direct offering of work area.*
- (3) *In the case of the Director General approving the recommendation about the direct offering of work area as meant in paragraph (2), business entities or permanent establishments shall be obliged to conduct joint study in the recommended area/field.*
- (4) *The joint study shall be executed in a period of 8 (eight) months and the period may be extended once for a maximum period of 4 (four) months.*

#### Article 12

- (1) *In the framework of obtaining optimal and proper as well as scientifically accountable results, the Directorate*

General may involve other parties having capability and/or expertises and/or data on the behalf of the Directorate General in the execution of joint study.

- (2) All costs and risks arising from the Implementation of joint study shall be borne and become responsibility of business entities or permanent establishments executing joint study.
- (3) Business entities or permanent establishments and other parties executing joint study shall be obliged to keep secrecy of the data used and produced in the joint study in accordance with the provisions of legislation.

#### Article 13

- (1) During the operational period of joint study, business entities or permanent establishments shall be prohibited from building consortium or transferring or handing over the approval of the direct offering of work area to other business entities or permanent establishments.
- (2) Business entities or permanent establishments executing the direct offering of work area shall be obliged to give up operational guarantee from prime bank domiciled in Jakarta as much as US\$1,000,000 (one million US Dollar) for the validity period of joint study and shall be given up in not later than 14 (fourteen) working days as from the date of issuance of approval of the direct offering of work area.
- (3) Business entities or permanent establishments executing the direct offering of work area that could not

complete joint study because the business entities or permanent establishments:

- a. resign;
  - b. are unable to comply with the requirements in approval of joint study; or
  - c. reduce commitment to joint study or other causes, the approval of the direct offering of work area already issued shall be declared null and void and the Directorate General shall be entitled to disburse operational guarantee and remit it to the state cash as non-tax state revenue.
- (4) In executing joint study, business entities or permanent establishments shall be obliged to report the progress of joint study to the Directorate General periodically or at any time if necessary.
  - (5) Business entities or permanent establishments already securing approval of the direct offering of work area may not recommend The direct offering of work area for other new area until the joint study is completed.

#### Article 14

- (1) In the case of business entities or permanent establishments submitting recommendation about the direct offering of work area being consortium and any of the members of consortium resigning during the execution of joint study, other members of the consortium may continue the Implementation of joint study.
- (2) In order to continue joint study, the other members of consortium as meant in paragraph (1) shall be obliged to convey:

- a. *statement from the resigning member of consortium; and*
- b. *statement of readiness to continue joint study.*

(3) *Based on the submitted documents as meant in paragraph (2), the Directorate General shall conduct administrative change related to approval of the direct offering of work area.*

#### Article 15

- (1) *Business entities or permanent establishments already securing approval of the direct offering of work area as meant in Article 11 paragraph (3) shall be obliged to enhance the quality of data and collect data through geological, geophysics and/or geochemical surveys in the recommended area in accordance with the submitted commitment.*
- (2) *The data as meant in paragraph (1) may be collected directly by business entities or permanent establishments executing joint study or from general survey conducted by other parties in accordance with the provisions of legislation.*

#### Article 16

*Business entities executing joint study in work area resulting from part of the area as meant in Article 4 paragraph (2) letter d and e shall conduct activities, covering evaluation of reserves, predicting production growth and plan of development of field.*

#### Article 17

- (1) *The evaluating team shall evaluate result of joint study executed by business entities or permanent establishments, covering technical and economic aspects.*
- (2) *Based on the result of evaluation as meant in paragraph (1), the Director General shall recommend area of joint study to the Minister for stipulation as work area.*
- (3) *The size of area of joint study which may be recommended to the Minister for stipulation as work area shall not exceed 6 (six) grids for offshore area and 4 (four) grids for onshore area.*
- (4) *Business entities or permanent establishments executing joint study shall be given a right to change bid (right to match), in other business entities or permanent establishment participating in the tender for the direct offering of work area submitting a higher bid.*
- (5) *Business entities or permanent establishments executing joint study failing to win the the direct offering of the said work area shall give up the whole collected to the Directorate General in not later than 14 (fourteen) working days after the winner of the the direct offering in the said work area is announced.*

#### Article 18

- (1) *In the case of joint study being executed by consortium of business entities and/or permanent establishments and result of the joint study being followed up by tender for the direct offering of work area and any of the consortium members resigning and not submitting participating documents, the other consortium members submitting participating document shall continue to have the right to match as meant in Article 17 paragraph (4).*
- (2) *In the case of joint study being executed by consortium of business entities and/or permanent establishments and result of the joint study being followed up by tender for the direct offering of work area and participating document submitted by consortium members as participants of the tender for the direct offering being more than one, the granted right to match as meant in Article 17 paragraph (4) shall be declared null and void.*

#### Article 19

- (1) *Business entities or permanent establishments executing joint study which have completed joint study may set up consortium or involve other parties in the membership of consortaum to participate in the tender for the direct offering of work area and shall have interest minimally accounting for 51% (fifty one percent) until the signing of joint cooperation contract.*
- (2) *The consortium agreement or agreement on participation of other parties as members of consortium as*

*meant in paragraph (1), shall be submitted in not later than the moment of delivery of participating document.*

- (3) *The consortium agreement or agreement on participation of other parties as members of consortium as meant in paragraph (2) may not be nullified until the signing of joint cooperation contract.*
- (4) *In the event that business entities or permanent establishments executing joint study, which set up consortium or involve other parties in the membership of the consortium that fail to abide by the provision as meant in paragraph (1), the granted right to match as meant in Article 17 paragraph (4) shall be declared null and void.*

#### Article 20

- (1) *Starting from the issuance of approval of direct offering of work area to the tender for the direct offering of work area, majority shareholders of business entities or permanent establishments executing joint study shall be prohibited from transferring their majority shares or taking other action changing the main controlling party in the business entities or permanent establishments executing joint study.*
- (2) *In the event that business entities or permanent establishments executing joint study that transfer shares or take other action as meant in in paragraph (1), the granted right to match as meant in Article 17 paragraph (4) shall be declared nul and void.*

CHAPTER IV  
STIPULATION OF WORK AREA

Article 21

The Minister shall stipulate work area to be offered to business entities or permanent establishments on the basis of the recommendation of the Director General as meant in Article 5 paragraph (4) and Article 17 paragraph (2).

Article 22

- (1) Before the work area as meant in Article 21 is stipulated, the Minister shall consult with governor overseeing jurisdiction where the offered work area is located.
- (2) The consultation as meant in paragraph (1) shall be intended to provide explanation and obtain information about the offering of certain regions deemed potential to contain oil and natural gas resources to become work areas.
- (3) The consultation as meant in paragraph (2) shall be done by the Directorate General.

CHAPTER V  
OFFERING OF WORK AREA

Part One

General

Article 23

- (1) The offering of work area as meant in Article 21 shall be done by the Director General through:
  - a. tender for work area; and/or
  - b. tender for the direct offering of work area.

- (2) In offering the work area as meant in paragraph (1), the Director General shall set up a work area offering team consisting of tender team and appraisal team.
- (3) The work area offering team as meant in paragraph (2) shall consist of representatives of units within ministries and executive board, having the main tasks and functions as well as competence in technical, economic, legal and other fields in accordance with the need, as well as specialists from universities in accordance with the required competence.

Article 24

- (1) The offering of work area through tender for work area and tender for the direct offering of work area shall be done by the Director General through:
  - a. announcement of work area through printed media, electronic media and other media; and
  - b. promotion of work area.
- (2) In the announcement and promotion of work area as meant in paragraph (1), the Director General may appoint other parties having capability and expertise in accordance with the provisions of legislation.

Part Two

Procedures for Tender for Work area and Tender for  
The direct offering of Work Area

Article 25

- (1) Tender for the work area shall be applied to:
  - a. the . . . . .

- a. the work area already stipulated by the Minister as meant in Article 21, which is prepared by the Directorate General as meant in Article 5 paragraph (4) ; and
  - b. available work area
- (2) In the case of the tender for available work area as meant in paragraph (1) letter b, model and basic provision of joint cooperation contract already stipulated shall apply, unless otherwise stipulated by the Minister.
- (3) Tender for the direct offering of work area shall be applied to work area already stipulated by the Minister as meant in Article 21, which constitutes result of the joint study as in Article 17 paragraph (2).

#### Article 26

- (1) In order to offer the work area as meant in Article 25, the Director General shall prepare and issue bid document for every work area which will be offered.
- (2) The bid document as meant in paragraph (1) shall contain at least:
- a. tender procedure;
  - b. geological information and potential of oil and natural gas (geological synopsis);
  - c. reserves and estimated production of oil and natural gas; and
  - d. concept of joint cooperation contract.

#### Article 27

- (1) Business entities or permanent establishments that constitute prospective participants of offering of work

are shall be obliged to buy bid document in accordance with the interested work area.

- (2) Business entities or permanent establishments already buying the bid document as meant in paragraph (1) shall be recorded by the Directorate General as prospective participants of work area or participants of tender for the direct offering of work area.
- (3) In the case of prospective participants of tender for work area or participants of the direct offering of work area establishing a consortium, each member of the consortium shall be obliged to buy bid document.

#### Article 28

- (1) In the case of prospective participants of tender for work area or participants of tender for the direct offering of work area as meant in Article 27 paragraph (2) planning to continue their participation as participants of tender for work area or participants of tender for the direct offering of work area, the participants shall be obliged to give up to the offering team participant documents consisting of:
- a. application form already filled completely and truthfully and signed by executive director or anybody authorized by executive director.
  - b. action and budgetary plan for 6 (six) years of exploration period, covering commitment for the first three years of exploration period (firm commitment) and commitment for the second three years of exploration period;

- c. commitment to seismic survey, covering kind, plan of quantitative lane of seismic survey and/or planned location of wildcat well on the basis of results of geological and geophysics survey and technical justification (engineering) applied in a technical and montage report, covering at least aspect of petroleum system and potential of resources and/or hydrocarbon reserves conducted in accordance with proper technical norms on the basis of suistable and supporting data by mentioning sources and enclosing evidence of the collection;
- d. Financial capability to finance the action plan for the commitment in the first three years of exploration period (firm commitment) and other financial obligations on the basis of the joint cooperation contract, which are shown by:
  - 1. annual financial statement of the business entities or permanent establishments in the last three years, already audited by public accountant;
  - 2. financial statement of their principal companies, already audited by public accountants, in the case of the business entities or permanent establishments being subsidiaries; or
  - 3. certificate from prime bank domiciled in Jakarta, which certifies that prospective participants of tender for work area or participants of tender for the direct offering of work area have financial capability to finance the action plan for the firm commitment in the first three years of exploration period and other financial obligations on the basis of joint cooperation contract;
- e. statement of readiness of prospective participants of tender for the work area or participants of tender for the direct offering of work area to pay bonuses directly, which may not be charged as operation cost of joint cooperation contract in Indonesia;
- f. statement regarding agreement on the establishment of consortium and appointment of operator, which is binding and could not be nullified until the joint cooperation contract is signed if the consortium is declared as winner; in the case of prospective participants of tender for work area or participants of tender for the direct offering of work area establishing a consortium.
- g. statement certifying that business entities or permanent establishments being prospective participants of tender for work area or participants of tender for the direct offering of work area accept and are ready to sign and implement the joint cooperation contract as meant in bid document if they are declared as winner;
- h. copy of the purchasing form of bid document;
- i. copy of the deed of establishment of business entities or permanent establishments being prospective participants of tender for work area and participants of tender for the direct offering of work area acting for themselves or consortium, legalized by notary/authorized official;
- j. letter of support from principal company certifying that the principal ocompany supports the realization of the commitment;
- k. original bid guarantee;

- l. letter of statement from prospective participants of tender for work area or participants of the direct offering of work area to abide by result of tender announced by the government;
- m. other requirements as stipulated in bid document.

(2) In the case of the would-be offered work area resulting from part of the work area meant in Article 4 paragraph (2) letter d and e, the submitted documents as meant in paragraph (1) letter b, c, and d shall not apply and be replaced by the following documents;

- a. action and budgetary plan of development of field, among others, addition to wells, workover and/or development of production facilities and/or advanced production phase (EOR) as well as commitment to commencement of production;
- b. results of technical and economic evaluation on the basis of cash flow of the plan of development of field based on proper technical norms on the basis of the relevant data by mentioning their sources and enclosing evidences of the collection;
- c. financial capability to implement the action plan on the basis of joint cooperation contract, which is shown by:
  - 1. annual financial statement of the said business entities already audited by public accountant in the last three years, or
  - 2. certificate from prime bank domiciled in Jakarta, which certifies that prospective participants of tender for work area or participants of tender for direct offering work area have financial capability to finance the whole action plan.

#### Article 29

- (1) The participating documents as meant in Article 28 shall be made in duplicate and inserted in a closed and sealed envelope and given up by prospective participants of tender for work area or participants of tender for direct offering work area to the work area offering team at the moment, in the place and address already stipulated in the bid documents.
- (2) The deadline of delivery of the participating document as as meant in paragraph (1) shall be as follows:
  - a. in the case of tender for work area, maximally 120 (one hundred and twenty) calendar days as from the date of announcement of tender for work area;
  - b. in the case of tender for the direct offering of work area, maximally 45 (forty five) calendar days as from the date of announcement of tender for the direct offering of work area.
- (3) Based on technical, economic considerations and in the framework of ensuring the successful offering of work area, the Director General may recommend the extension of the delivery period of participating document as as meant in paragraph (2) to the Minister.
- (4) Prospective participants of tender for work area or participants of tender for direct offering work area already giving up the participating document as meant in paragraph (1) shall be given evidence of receipt from the Directorate General as a legitimate evidence of receipt and shall be recorded as participants of tender for work area or participants of tender for the direct offering of work area.

(5) Prospective participants of tender for work area or participants of tender for direct offering work area not giving up the participating document or giving up participating document but not abiding by the provision on the stipulated deadline, place and address as meant in paragraph (1) shall be declared null as participants of tender for work area or participants of tender for the direct offering of work area.

Article 30

Participating documents already given up by participants of tender for work area or participants of tender for direct offering of Work area as meant in Article 29 shall become confidential documents belonging to the state and may only be opened for other parties for justifiable purposes in accordance with the provisions of legislation.

Article 31

(1) The opening and examination of participating document in the execution of tender for work area shall be done by tender team on the presence of minimally 5 (five) members.

(2) In the case of the participating document being not complete following the opening and examination, participants of the tender for work area shall declare null and further evaluation shall not be executed.

(3) Results of the opening and examination of participating document as meant in paragraph (1) shall be written down in an account and signed by members of tender team that are present.

Article 32

(1) Final evaluation of the participating document in the execution of tender for work area shall be done by tender team and shall be attended by minimally a half plus one of the total members of the tender team.

(2) The final evaluation as as meant in paragraph (1) shall be based in criteria for technical evaluation of the commitment to the first three years of exploration period (firm commitment), financial evaluation and evaluation of performance of participants of tender for work area.

Article 33.....

( To be continued )

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## **PROCEDURES FOR STIPULATING AND OFFERING WORK AREAS OF OIL AND NATURAL GAS**

(Regulation of the Minister of Energy and Mineral Resources Number 35 Year 2008,

Dated November 12, 2008)

[Continued from Business News No. 7836 pages 1A-5A]

### Article 33

- (1) The opening and examination of participating document during the execution of tender for the direct offering of Work area shall be done by appraisal team on the presence of 5 (five) members at the minimum.
- (2) In the case of participating document being found incomplete following the opening and examination, the participant of tender for the direct offering of work area shall be declared null and further evaluation shall not be done.
- (3) Results of the opening and examination of participating document as meant in paragraph (1) shall be written down in an account and signed by the present members of the appraisal team.

### Article 34

- (1) Final evaluation of participating document in the tender for the direct offering of work area shall be done by appraisal team and attended by minimally a half plus one of the total members of the appraisal team.
- (2) The final evaluation as meant in paragraph (1) shall be based on criteria for technical evaluation of commitment in the first three years of exploration period

(firm commitment), financial evaluation and evaluation of performance of participants of tender for the direct offering of work area.

- (3) Final evaluation of tender for the direct offering of work area in work area resulting from part of the work area as meant in Article 4 paragraph (2) letters d and e shall be based on criteria for technical evaluation, financial evaluation and the amount of production cost and/or evaluation of performance of business entities.

### Part Three

#### Direct Offering of Work Area By PT Pertamina (Persero)

### Article 35

- (1) PT Pertamina (Persero) may recommend the direct offering of work area to the Director General for:
  - a. area never stipulated as work area;
  - b. part of work area set aside on the basis of joint cooperation contract;
  - c. work area having joint cooperation contract expiring.
- (2) The recommendation about the direct offering of work area by PT Pertamina (Persero) as meant in paragraph

(1) may be approved as long as the share of PT Pertamina (Persero) is 100% (hundred percent) owned by the State.

#### Article 36

Provision on procedures for submitting recommendation about the direct offering of work area, stipulating work area through joint study, preparing bid document, and conveying participating document for PT Pertamina (Persero) shall follow the provision as governed in Article 6, Article 8, Article 10, Article 11, Article 12, Article 13, Article 15, Article 17 paragraph (1), paragraph (2), dan paragraph (3), Article 21, Article 22, Article 27, Article 28, Article 29 and Article 30.

#### Article 37

Following the receipt of participating document from PT Pertamina (Persero), the appraisal team shall open and examine the participating document in accordance with the provision of Article 33 and final evaluation as meant in Article 34.

#### Article 38

- (1) Based on result of the final evaluation by the appraisal team as meant in Article 34 the Director General shall approve or reject bid of PT Pertamina (Persero).
- (2) In the case of the bid of PT Pertamina (Persero) as meant in paragraph (1) already complying with the

criteria for technical evaluation of the firm commitment, financial evaluation and performance evaluation, the Director General shall recommend the stipulation of PT Pertamina (Persero) as the executor of exploration and exploitation in the said work area to the Minister.

#### Article 39

PT Pertamina (Persero) already stipulated as the executor of exploration and exploitation in the work area as meant in Article 38 paragraph (2) shall be prohibited from transferring its share during the period of joint cooperation contract.

### CHAPTER VI

#### BID GUARANTEE AND OPERATIONAL GUARANTEE

#### Article 40

- (1) Participants of tender for work area or participants of tender for the direct offering of work area as meant in Article 29 paragraph (4) shall be obliged to give up bid guarantee accounting for 100% (one hundred percent) of the bid value of signature bonus upon giving up participating document.
- (2) The validity period of the bid guarantee as meant in paragraph (1) shall be 6 (six) months as from the moment of delivery of participating document and may be extended in accordance with the need related to the execution of tender for work area or tender for the direct offering of work area.

(3) The.....

- (3) The bid guarantee as meant in paragraph (2), shall be in the form of a guarantee from prime bank domiciled in Jakarta, which certifies the readiness of the said bank to guarantee and provide funds amounting to 100% (one hundred percent) of the bid value of signature bonus of participants of tender for work area or participants of tender for the direct offering of Wilayah Kerja.
- (4) In the case of a participant of tender for work area or participant of tender for the direct offering of work area as meant in paragraph (1) resigning or declared as winner of tender for work area or tender for the direct offering of work area being unready to sign joint cooperation contract, the participant shall be deemed failing to win the tender for work area or tender for the direct offering of work area and the Director General shall be entitled to disburse bid guarantee and the guarantee shall be remitted to the state cas as non-tax state revenue.
- (5) Unless contractor pays signature bonus up to 30 (thirty) calendar days as from the signing of joint cooperation contract, the Director General shall be entitled to disburse bid guarantee and the guarantee shall be remitted to the state cas as non-tax state revenue.

#### Article 41

- (1) Participants of tender for work area or participants of tender for the direct offering of work area as meant in

Article 29 paragraph (4) shall be obliged to give up operational guarantee accounting for:

- a. 10% (ten percent) of the total firm commitment to exploration in the first three years of the exploration period, or minimally US\$1,500,000 (one million US dollar) for the area as meant in Article 4 paragraph (2) letters a, b, and c; or
  - b. 10% (ten percent) of the budget of the whole commitment to action plan for the first two years of exploration period or minimally US\$1,000,000 (one million US Dollar), which is bigger, for the area as meant in Article 4 paragraph (2) letters d and e.
- (2) The operational guarantee as meant in paragraph (1) shall be given up to the Director General in not later than the moment of signing of joint cooperation contract.
- (3) The validity period of the operational guarantee as meant in paragraph (1) letter a shall be 3 (three) Years following the signing of joint cooperation contract and the validity period of the operational guarantee as meant in paragraph (1) letter b shall be 2 (two) Years from the date of signing of joint cooperation contract.
- (4) The value of the operational guarantee may be subtracted gradually in accordance with annual working program on the basis of notification by the executive board to the Director General.
- (5) Participants of tender for work area or participants of tender for the direct offering of work area already

signing joint cooperation contract that are unable to fulfill their obligation to execute commitment to the first 3 (three) years of exploration period (firm commitment) or commitment to the first two years of the exploration period and other financial obligations on the basis of joint cooperation contract, the Director General, based on notification from the Executive Board shall disburse the operational guarantee as meant in paragraph (1) and the guarantee shall be remitted to the state cash as non-tax state revenue.

## CHAPTER VII

### CRITERIA FOR EVALUATING TENDER FOR WORK AREA

#### AND

### THE DIRECT OFFERING OF WORK AREA

#### Article 42

(1) Final evaluation of participants of tender for work area or participants of tender for the direct offering of work area and work area as meant in Article 4 paragraph (2) letter a, b, and c shall be based:

- a. technical evaluation of commitment to the first three years of the exploration period (firm commitment);
- b. financial evaluation; and
- c. evaluation of performance of business entities or permanent establishments.

(2) The technical evaluation as meant in paragraph (1) letter a shall cover:

- a. commitment to seismic survey, covering kind, plan of orbit and quantity of seismic survey, and
- b. commitment to the number of new field wildcat well and planned locations thereof on the basis of results of geological and geophysics evaluation and technical justification in compliance with proper technical norms, based the suitable and supporting data, wherein the whole data and information are presented in a montage covering at least aspects of petroleum system and potential of resources and/or hydrocarbon reserves, including the rationality of financing.

(3) The technical evaluation as meant in paragraph (2) shall constitute the prime evaluation in determining the rating on the basis of rational and applicable bid.

(4) The financial evaluation as meant in paragraph (1) letter b, shall be applied to:

- a. the amount of signature bonus; and
- b. financial capability of executing action plan for the firm commitment in the first three years of the exploration period and other financial obligations on the basis of joint cooperation contract, reflected in the annual financial statements of the said business entities or permanent establishments in the last three years or financial statements of their principals already audited by public accountant or based on certificate from prime bank domiciled in Jakarta, which certifies that the participants of tender for

work area or participants of tenders for the direct offering of work area have funding capability of financing the work action plan for the firm commitment in the first three years of the exploration period and other financial obligations on the basis of joint cooperation contract;

c. the budget of firm commitment in the first three years of the exploration period.

(5) The financial evaluation as meant in paragraph (4) shall constitute the second evaluation in determining the rating.

(6) The evaluation of performance of business entities or permanent establishments as meant in paragraph (1) letter c shall be applied to:

- a. experience in the oil sector; and
- b. compliance to legislation in force in Indonesia, for companies once operating in Indonesia.

(7) The performance evaluation as meant in paragraph (6) shall constitute the third evaluation in determining the rating.

#### Article 43

Excluded from the provision as meant in Article 42 paragraph (2), having regards to the need for expediting exploration in an offered work area, the technical evaluation as meant in Article 42 paragraph (1) letter a, shall be applied to:

- a. commitment to seismic survey, covering kind, plan of orbit and quantity of seismic survey; or
- b. commitment to new field wildcat well and the planned location thereof on the basis of result of geological and geophysics evaluation and technical justification (engineering), which is applied in a montage and executed in accordance with proper technical norms on the basis of the suitable and supporting data.

#### Article 44

(1) Final evaluation of participants of the direct offering of work area in part of the work area as meant in Article 4 paragraph (2) letter d and e shall be based:

- a. technical evaluation;
- b. financial evaluation;
- c. production cost; and
- d. evaluation of performance of business entities.

(2) The technical evaluation as meant in paragraph (1) letter a shall be applied to action plan for the firm commitment in the first two years, supported by evaluation of reservoir, technical justification and economic analysis based on cash flow of field development on the basis of the proper and right technical norms.

(3) The technical evaluation as meant in paragraph (2) shall constitute the prime evaluation in determining rating on the basis of rational and applicable bid.

(4) The financial evaluation as meant in paragraph (1) letter b shall be applied to:

a. signature . . . . .

- a. signature bonus; and
  - b. financial capability of supporting the plan of development of field, reflected in annual financial statements consisting of corporate balance sheet and profit-loss report already audited by public accountant.
- (5) The financial evaluation as meant in paragraph (4) shall constitute the second evaluation in determining the rating.
- (6) The production cost as meant in paragraph (1) letter c shall be denominated in US\$/barrel for petroleum and/ or US\$/Million British Thermal Unit (MMBTU) for natural gas.
- (7) The evaluation of the production cost as meant in paragraph (6) shall constitute the third evaluation in determining the rating.
- (8) The evaluation of performance of business entities or permanent establishment as meant in paragraph (1) letter d shall cover:
- a. experience in the oil field; and
  - b. compliance to legislation in force in Indonesia, for companies once operating in Indonesia.
- (9) The performance evaluation as meant in paragraph (8) shall constitute the fourth evaluation in determining the rating.

#### Article 45

In the case of the participant of tender for the

work area or participant of tender for the direct offering of work area being only one, the participant shall not be stipulated automatically as candidate for the winner in the tender for work area or the direct offering of work area unless the participant complies with the criteria for the evaluation as meant in Article 42, Article 43, or Article 44.

### CHAPTER VIII

#### STIPULATION OF EXECUTOR OF EXPLORATION OR EXPLOITATION IN WORK AREA

##### Part One

##### Stipulation of Winner of Tender for Work Area

##### Article 46

- (1) Based on result of the examination of participating document as meant in Article 31 and the final evaluation as meant in Article 32, the tender team shall submit the sequence of rating of candidates for the winner of tender for work area to the Director General.
- (2) Based on the sequence of rating of candidates for the winner of tender for work area as meant in paragraph (1), the Director General shall submit recommendation to the Minister to stipulate the winner of tender for the work area.

##### Article 47

- (1) Based on the stipulation of the Minister as meant in Article 46 paragraph (2), the Director General shall submit a written notification to the winner of tender

for the work area as the executor of exploration and exploitation in the work area.

- (2) In not later than 14 (fourteen) working days following the receipt of notification as meant in paragraph (1), the winner of tender for work area shall submit a letter of readiness to fulfill the whole commitments in participating document, including approval of concept of joint cooperation contract to the Director General.
- (3) In the case of the winner of tender for work area not submitting letter of readiness or resigning in not later than 14 (fourteen) working days as from the date of receipt of the notification as meant in paragraph (2), the Director General shall recommend the Minister to stipulate the winner of the subsequent rank as the winner of tender for work area.
- (4) Unless the the winner of the subsequent rank in the tender for the work area as meant in paragraph (3) is available, the work area shall become available work area.

#### Part Two

#### Stipulation of Winner of the Direct Offering of Work Area

##### Article 48

- (1) In the event that in not later than 45 (forty five) calendar days as from the date of announcement of the direct offering of work area as meant in Article 24, none of business entities or permanent establishments

express their interest in the work area, the appraisal team shall conduct the final evaluation as meant in Article 42, Article 43, Article 44 and Article 45 for the bids submitted by participants of tenders for the direct offering of work area executing joint study in accordance with the submitted participating document as meant in Article 29.

- (2) Based on result of the final evaluation by the appraisal team as meant in paragraph (1), the Director General may approve or reject recommendation of participants of tender for the direct offering of work area that execute joint study.
- (3) In the case of result of the final evaluation by the appraisal team as meant in paragraph (1) already complying with the criteria for evaluation as meant in Article 42, Article 43, Article 44 and Article 45, the Director General shall recommend the stipulation of participants of tender for the direct offering of work area executing joint study as the executor of exploration and exploitation in the work area to the Minister.

#### Article 49

- (1) In the event that in not later than 45 (forty five) calendar days as from the date of announcement of the direct offering of work area as meant in Article 24, none of business entities or permanent establishments express their interest in the work area, the appraisal team shall conduct the final evaluation as meant in

Article 42, Article 43, Article 44 and Article 45 for the bids submitted by the respective participants of tenders for the direct offering of work area in accordance with the submitted participating document.

(2) In the event that the result of final evaluation of participating document submitted by participants of tender for the direct offering of work area executing joint study is lower than bid of other participants of tender for the direct offering of work area interested in the said work area, the participants of tender for the direct offering of work area executing joint study may exercise the right to match as meant in Article 17 paragraph (4) with the provision that the bid is minimally equivalent to the highest bid for the technical and financial commitments.

(3) In the event that participants of tender for the direct offering of work area executing joint study being ready to revise the bid as meant in paragraph (2), the Director General shall recommend the stipulation of participants of tender for the direct offering of work area executing joint study as the winner of tender for the direct offering of work area to execute exploration and exploitation in the work area to the Minister.

(4) In the event that the participants of tender for the direct offering of work area executing joint study are not ready to change the bid as meant in paragraph (2), the Director General shall recommend the stipulation of participant of tender for the direct offering of work

area having the highest value as the winner of tender for the direct offering of work area to execute exploration and exploitation in the work area to the Minister.

(5) In the event that the executor of joint study already completing joint study in a specified area does not participate in the tender for the direct offering of work area in accordance with the provision of this regulation, the right to secure the area through right to match the highest bid shall be null legally.

#### Article 50

(1) Based on the stipulation of the Minister as meant in Article 48 paragraph (3), Article 49 paragraph (3) dan paragraph (4), the Director General shall submit written notification to the winner of the direct offering of work area.

(2) In not later than 14 (fourteen) working days as from the date of receipt of notification as meant in paragraph (1), the winner of tender for the direct offering of work area shall convey letter of readiness to fulfil the whole commitment in participating document, including concept of joint cooperation contract to the Minister.

(3) In the case of the winner of tender for the direct offering of working area not conveying letter of readiness or resigning in not later than 14 (fourteen) working days as from the date of receipt of notification as meant in paragraph (2), the Director General shall

recommend. . . . .

recommend the stipulation of participant of tender for direct offering in the subsequent rank as the winner of tender for the direct offering of work area to the Minister.

- (4) In the case of the winner of tender for direct offering of work area in the subsequent rank as meant in paragraph (3) being not available, the work area shall become available work area.

#### Article 51

The right owned by participants of tender for the direct offering of work area executing the joint study as meant in Article 49 paragraph (2) shall be declared void in the case of:

- a. the participants being declared null as participants of tender for the direct offering of Work area as meant in Article 49 paragraph (5);
- b. the participants of tender for the direct offering of work area executing joint study being stipulated as winner but not conveying letter of readiness to fulfill the whole commitments in participating document, including the approval of concept of joint cooperation contract as governed in Article 50 paragraph (2).

#### CHAPTER IX

#### TRANSITIONAL PROVISION

#### Article 52

With the enforcement of this regulation, the

application of coordinate border system in the tender for work area and the direct offering of work area already approved before the stipulation of this regulation shall remain effective and the provisions of this regulation shall apply to procedures for the offering thereof.

#### CHAPTER X

#### CONCLUSION

#### Article 53

With the enforcement of this regulation, Regulation of The Minister of Energy and Mineral Resources Number 040 Year 2006 regarding Procedures for Stipulating and Offering Work Area of Oil and Natural Gas shall be revoked and declared null and void.

#### Article 54

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

Stipulated in Jakarta

On November 12, 2008

THE MINISTER OF ENERGY AND MINERAL RESOURCES

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PURNOMO YUSGIANTORO

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