

Type: REGULATION (PER)

By: MINISTER FOR NATIONAL DEVELOPMENT
PLANNING/CHAIRPERSON OF NATIONAL DEVELOPMENT
PLANNING BOARD

Number: 4 YEAR 2015

Date: MAY 29, 2015 (JAKARTA)

Title: IMPLEMENTATION PROCEDURES FOR COOPERATION BETWEEN
GOVERNMENT AND BUSINESS ENTITY IN THE PROVISION OF
INFRASTRUCTURE

BY THE GRACE OF THE ALMIGHTY GOD,

STATE FOR NATIONAL DEVELOPMENT PLANNING/CHAIRPERSON OF NATIONAL
DEVELOPMENT PLANNING BOARD OF THE REPUBLIC OF INDONESIA,

Considering:

- a. whereas in the framework of encouraging the participation of business entities and the government in the services and organization of facilities and infrastructure that provide social and economic benefits for the community, Presidential Regulation Number 38 Year 2015 regarding Cooperation Between Government and Business Entity in the Provision of Infrastructure has been stipulated;
- b. whereas to implement the provision of Article 46 paragraph (1) of Presidential Regulation Number 38 Year 2015 regarding Cooperation Between Government and Business Entity in the Provision of Infrastructure, it is necessary to stipulate a Regulation of Minister for National Development Planning/Chairperson of National Development Planning Board regarding Implementation Procedures for Cooperation Between Government and Business Entity in the Provision of Infrastructure;

In view of:

1. Presidential Regulation Number 82 Year 2007 regarding National Development Planning Board;
2. Presidential Regulation Number 2 Year 2015 regarding National Medium Term Development Plan Year 2015-2019;
3. Presidential Regulation Number 7 Year 2015 regarding Organization of State Ministry;
4. Presidential Regulation Number 38 Year 2015 regarding Cooperation Between Government and Business Entity in the Provision of Infrastructure;
5. Regulation of State Minister for National Development Planning/Chairperson of National Development Planning Board Number PER.005/M.PPN/10/2007 regarding Organization and Work Mechanisms of State Ministry for National Development Planning as has been amended several times, lastly by Regulation

of Minister for National Development Planning/Chairperson of National Development Planning Board Number 3 Year 2014;

HAS DECIDED:

To stipulate: REGULATION OF MINISTER FOR NATIONAL DEVELOPMENT PLANNING/CHAIRPERSON OF NATIONAL DEVELOPMENT PLANNING BOARD REGARDING IMPLEMENTATION PROCEDURES FOR COOPERATION BETWEEN GOVERNMENT AND BUSINESS ENTITY IN THE PROVISION OF INFRASTRUCTURE.

CHAPTER I GENERAL PROVISION

Article 1

In this Minister Regulation, referred to as:

1. Cooperation of Government and Business Entity, hereinafter referred to as KPBU, shall be cooperation between government and business entity in the Provision of Infrastructure for public interests which refers to the specification set forth previously by the person in charge of cooperation project and uses in part or in whole, resource of business entity by considering risk-sharing between the parties.
2. Implementation Procedures for KPBU, hereinafter referred to as General Guidelines, shall be guidelines for the implementation of cooperation used as reference by the person in charge of cooperation project and stakeholders in the implementation of KPBU pursuant to KPBU agreement.
3. Provision of Infrastructure shall be activity that includes construction works to build or improve the capacity of infrastructure and/or infrastructure management and/or infrastructure maintenance in the framework of improving the utilities of infrastructure.
4. Infrastructure shall be technical, physical, system facilities, hardware and software required to perform services to the community and to support the structure network which would allow proper economic and social development.
5. Person in Charge of the Cooperation Project, hereinafter referred to as PJPK, shall be Minister, Head of Agency, Head of Region and Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise as long as it is set forth in laws and regulations on sector.
6. Minister/Head of Agency shall be the leader of ministry/head of agency or party that is delegated to represent the ministry/agency based on laws and regulations, whose scope, duties, and responsibilities include the Infrastructure sector as set forth in this Minister Regulation.
7. Head of Region shall be governor of province, or regent/mayor of regency/city or party that is delegated based on laws and regulations to represent the relevant Head of Region.
8. Business Entity shall be State-Owned Enterprises (BUMN), Region-Owned

Enterprise (BUMD), private business entity in the form of Limited Liability Company, foreign legal entity, or cooperative.

9. Executing Business Entity of KPBU, hereinafter referred to as Executing Business Entity, shall be a Limited Liability Company established by Business Entity as successful tender awardee or that has been directly selected.
10. Preparatory Agency shall be a Business Entity and national or international agency/institution/organization, which provides assistance and/or financing to PJKP in the preparation stage or in the preparation stage up to transaction stage of KPBU.
11. Procurement by Executing Business Entity shall be procurement by Business Entity in the framework of performance of KPBU using the method of public auction as well as direct selection.
12. Central Government, hereinafter referred to as Government, shall be the President of the Republic of Indonesia who holds the administrative power of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.
13. Regional Government shall be Head of Region as the executive element of regional administration who leads the implementation of governmental affairs under the authority of autonomous region.
14. Government Support shall be fiscal contribution and/or other form provided by the Minister/Head of Agency/Head of Region and/or Minister that organizes governmental affairs in the field of finance and state assets in accordance with the respective authorities based on laws and regulations in the framework of improving financial feasibility and effectiveness of KPBU.
15. Government Guarantee shall be financial compensation provided by the Minister that organizes governmental affairs in the field of finance and state assets to the Executing Business Entity through risk-sharing scheme for cooperation project.
16. Service Availability Payment shall be periodic payment by the Minister/Head of Agency/Head of Region to the Executing Business Entity upon the availability of infrastructure service according to the quality and/or criteria as set forth in KPBU agreement.
17. Public Consultation shall be interaction process between the Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise and the community including stakeholders to improve the transparency, efficiency, accountability and effectiveness of KPBU.
18. Market Sounding shall be interaction process to obtain inputs as well as interest of candidate investor, bank, and insurance on KPBU that will be subject to cooperation.
19. Preliminary Study shall be initial study performed by Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise to provide illustration as to the need for provision of a particular infrastructure as well as its benefits, when it will become the subject of cooperation with the Executing Business Entity through KPBU.

20. Pre-Feasibility Study shall be study performed to assess the feasibility of KPBU by considering at least legal, technical, economic, financial, risk management, environmental, and social aspects.
21. Feasibility Study shall be study performed by Business Entity as candidate initiator of KPBU using the mechanism of Business Entity initiative in the framework of improving the Pre-Feasibility Study.
22. Success Fee shall be fee payable by PJKP and may be charged by the Executing Business Entity to Preparatory Agency that is involved in the performance of KPBU until the financial close.
23. Minister for National Development Planning/Chairperson of National Development Planning Board hereinafter referred to as the Minister of Planning shall be Minister that organizes governmental affairs in the field of national development planning.
24. Minister of Finance shall be Minister that organizes governmental affairs in the field of finance and state assets.
25. Indonesia Infrastructure Guarantee Fund, hereinafter referred to as BUPI, shall be a business entity that is established by the Government and given special duties to perform infrastructure guarantee in accordance with laws and regulations.
26. List of KPBU Plans shall be a document containing KPBU plans that are proposed by Minister/Head of Agency/Head of Region and have been assessed by the Minister of Planning to be determined as KPBU plans which are ready for offering and in preparation process.

Article 2

The General Guidelines shall be aimed to:

- a. provide Minister/Head of Agency/Head of Region and stakeholders with guidelines on the implementation procedures for KPBU in the framework of encouraging the participation of Business Entity in the Provision of Infrastructure; and
- b. provide Minister/Head of Agency/Head of Region with guidelines to govern the implementation procedures for KPBU in accordance with their respective authorities.

CHAPTER II TYPES OF INFRASTRUCTURE

Article 3

Infrastructure that may be the subject of cooperation based on this General Guidelines shall include:

- a. transportation infrastructure, among others:

1. provision and/or management of airport facilities and/or services, including supporting facilities such as terminal for passengers and cargo;
 2. provision and/or management of port facilities and/or services;
 3. facilities and/or infrastructure for railroad system;
 4. facilities and infrastructure for urban mass transport and traffic; and/or
 5. facilities and infrastructure for crossing the sea, river, and/or lake.
- b. road infrastructure, among others:
1. artery road, collector road and local road;
 2. toll road; and/or
 3. toll bridge.
- c. infrastructure for water resources and irrigation, among others:
1. raw water carrier channel; and/or
 2. irrigation network and infrastructure for water reservoir as well as its complementary structure, among others reservoirs, dams, and weirs.
- d. drinking water infrastructure, among others:
1. raw water unit;
 2. production unit; and/or
 3. distribution unit.
- e. infrastructure for centralized wastewater management system, among others:
1. service unit;
 2. collection unit;
 3. processing unit;
 4. final disposal unit; and/or
 5. water disposal channel, and sanitation.
- f. infrastructure for local wastewater management system, among others:
1. local processing unit;
 2. transportation unit;
 3. sludge treatment unit;
 4. final disposal unit; and/or
 5. water disposal channel, and sanitation.
- g. infrastructure for waste processing system, among others:
1. transportation;
 2. processing; and/or
 3. waste final processing.
- h. telecommunication and informatics infrastructure, among others:
1. telecommunication network;

2. infrastructure for e-government; and/or
 3. passive infrastructure such as pipelines for cable transmission media (ducting).
- i. energy and electricity infrastructure, including infrastructure for renewable energy, among others:
1. electricity infrastructure, among others:
 - a) power plant;
 - b) electricity transmission;
 - c) main station; and/or
 - d) electricity distribution.
 2. oil and natural gas infrastructure, including bio-energy, among others:
 - a) processing;
 - b) storage;
 - c) transportation; and/or
 - d) distribution.
- j. energy conservation infrastructure, among others:
1. public road lighting; and/or
 2. energy efficiency.
- k. infrastructure for urban economic facilities, among others:
1. utilities channel (tunnel); and/or
 2. public market.
- l. zone infrastructure, among others:
1. science, technology and innovation development zone including the development of science and techno park; and/or
 2. industrial estate.
- m. tourism infrastructure, among others tourism information center.
- n. infrastructure for education, research and development facilities, among others:
1. learning facilities;
 2. laboratory;
 3. training center;
 4. research center/study center;
 5. research and development facilities and infrastructure;
 6. business incubator;
 7. learning gallery;
 8. student practice room;
 9. library; and/or
 10. learning and training supporting facilities.
- o. infrastructure for sports, arts and cultural facilities, among others:

1. sports building/stadium; and/or
 2. arts and cultural building.
- p. health infrastructure, among others:
1. hospital, such as hospital building, hospital infrastructure, and medical equipment;
 2. basic health service facilities, such as building, infrastructure, and medical equipment whether for community health center (puskesmas) as well as clinic; and/or
 3. health laboratory, such as health laboratory building, health laboratory infrastructure and laboratory equipment.
- q. infrastructure for correctional purpose, among others:
1. correctional institution;
 2. correctional center;
 3. state penitentiary;
 4. storehouse for state-confiscated and expropriated goods;
 5. temporary child placement institution;
 6. children special development institution; and/or
 7. correctional hospital.
- r. public housing infrastructure, among others:
1. public housing for low class; and/or
 2. basic apartment for lease.

Article 4

- (1) Minister/Head of Agency/Head of Region may perform other type of KPBU than those as referred to in Article 3.
- (2) Minister/Head of Agency/Head of Region shall submit an application for KPBU for other type of Infrastructure to the Minister of Planning.
- (3) KPBU for other type of Infrastructure as referred to in paragraph (1) shall be performed after obtaining determination from the Minister of Planning.

CHAPTER III PERSON IN CHARGE OF KPBU PROJECT

Part One PJPK

Article 5

- (1) PJPK shall be Minister/Head of Agency/Head of Region in the framework of performance of KPBU.
- (2) Minister/Head of Agency/Head of Region as PJPK may delegate its authority to

any party that can represent the ministry/agency/regional government whose scope, duties, and responsibilities shall include the Infrastructure sector in accordance with the provisions of laws and regulations.

Article 6

Minister/Head of Agency/Head of Region shall act as PJPK based on the result of Preliminary Study in the planning stage of KPBU.

Article 7

Board of Directors of State-Owned Enterprise/Region-Owned Enterprise may act as PJPK as long as it is regulated in laws and regulations on sector.

Part Two PJPK in Combined KPBU

Article 8

- (1) KPBU may constitute a combination of 2 (two) or more types of Infrastructure.
- (2) In the event that the combination of 2 (two) or more types of Infrastructure as referred to in paragraph (1) involves more than 1 (one) PJPK, Minister/Head of Agency/Head of Region having authority in the respective sector of Infrastructure that will be the subject of cooperation, shall act jointly as PJPK.
- (3) Minister/Head of Agency/Head of Region that has authority as referred to in paragraph (2), shall sign the memorandum of understanding.
- (4) Memorandum of understanding as referred to in paragraph (3) shall include at least:
 - a. agreement of the party serving as coordinator of PJPK;
 - b. agreement on distribution of duties and responsibilities of the respective PJPK, including rights and obligations of the respective PJPK in KPBU agreement;
 - c. agreement on budgeting in the framework of preparation stage and transaction stage, including management of KPBU;
 - d. validity period of memorandum of understanding; and
 - e. performance period of KPBU.
- (5) Coordinator of PJPK shall act as the signatory of KPBU agreement with the Executing Business Entity representing PJPK as set forth in the memorandum of understanding.

CHAPTER IV PARTIAL FINANCING OF KPBU BY GOVERNMENT

Article 9

- (1) PJPk may finance in part the Provision of Infrastructure.
- (2) Financing of part of Provision of Infrastructure as referred to in paragraph (1) may be performed by PJPk together with other ministry/agency/region.
- (3) Mechanism of financing as referred to in paragraphs (1) and (2) shall be performed in accordance with the provisions of laws and regulations.

CHAPTER V PERFORMANCE STAGE OF KPBU

Article 10

- (1) KPBU shall be performed in the following stages:
 - a. planning of KPBU;
 - b. preparation of KPBU; and
 - c. transaction of KPBU.
- (2) Minister/Head of Agency/Head of Region shall perform planning of KPBU as referred to in paragraph (1) letter a.
- (3) In performing the planning of KPBU as referred to in paragraph (2), Minister/Head of Agency/Head of Region shall perform Public Consultation.
- (4) In performing its function as PJPk, Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise shall perform preparation and transaction of KPBU.
- (5) In performing preparation of KPBU as referred to in paragraph (1) letter b, PJPk shall perform Public Consultation and may perform Market Sounding.
- (6) In performing transaction of KPBU as referred to in paragraph (1) letter c, PJPk shall perform Market Sounding.
- (7) In performing the performance stage of KPBU as referred to in paragraph (1), PJPk may carry out supporting activities simultaneously that forms part of the implementation of stages of KPBU.
- (8) Supporting activities as referred to in paragraph (7), shall include:
 - a. planning and implementation of land procurement;
 - b. environment study; and
 - c. application for the granting of Government Support and/or Government Guarantee.
- (9) PJPk shall perform land procurement and assist the process of granting of license to organize KPBU in accordance with its authority.

CHAPTER VI PLANNING STAGE OF KPBU

Article 11

The planning stage of KPBU shall consist of activities on:

- a. preparation of budget plan for funding of KPBU;
- b. identification and determination of KPBU;
- c. budgeting of funds in the planning stage of KPBU;
- d. making decision whether or not to proceed with plan on KPBU;
- e. preparation of List of KPBU Plans; and
- f. categorization of KPBU.

Article 12

- (1) Minister/Head of Agency/Head of Region shall prepare budget plan for funding the implementation of KPBU in accordance with the provisions of laws and regulations.
- (2) Minister/Head of Agency/Head of Region shall handle the preparation of budget plan as referred to in paragraph (1), which includes every stage of implementation of KPBU.
- (3) Budget plan as referred to in paragraph (1) may originate from:
 - a. State Revenues and Expenditures Budget (APBN) or Regional Revenues and Expenditures Budget (APBD);
 - b. loan/grant; and/or
 - c. other sources in accordance with the provisions of laws and regulations.

Article 13

Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise shall allocate funds for the planning stage of KPBU in accordance with laws and regulations.

Article 14

- (1) Minister/Head of Agency/Head of Region shall identify the Provision of Infrastructure that will be the subject of cooperation through the scheme of KPBU in accordance with the provisions of laws and regulations.
- (2) In the event of identification, Minister/Head of Agency/Head of Region shall prepare Preliminary Study and perform Public Consultation.
- (3) Based on the result of Preliminary Study and Public Consultation as referred to in paragraph (2), Minister/Head of Agency/Head of Region shall decide whether or not to proceed with plan for the Provision of Infrastructure through the mechanism of KPBU.

Article 15

- (1) In the event that the result of identification shows a combination of 2 (two) or more types of Infrastructure involving more than 1 (one) PJKP, the authorized

Minister/Head of Agency/Head of Region shall sign the memorandum of understanding.

- (2) Based on memorandum of understanding as referred to in paragraph (1), coordinator of PJPK shall submit proposal on the combined 2 (two) or more types of Infrastructure to the Minister of Planning.

Article 16

Public Consultation in the planning stage of KPBU shall be aimed to obtain considerations regarding the benefits for and impacts of KPBU on public interests.

Article 17

- (1) Minister of Planning shall prepare the List of KPBU Plans based on:
 - a. proposal of Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise that is indicated as requiring Government Support and/or Guarantee; and
 - b. result of identification of the Minister of Planning based on national development priorities.
- (2) Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise and/or Board of Directors of Region-Owned Enterprise shall submit proposal as referred to in paragraph (1) letter a to the Minister of Planning and furnished with supporting documents as set forth in the Attachment to this Minister Regulation.
- (3) Minister of Planning shall select and assess the proposal of Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise as referred to in paragraph (1) letter a based on the supporting documents as referred to in paragraph (2).

Article 18

- (1) Based on the result of preparation as referred to in article 17, Minister of Planning shall determine a List of KPBU Plans that consists of:
 - a. KPBU ready for offering; and
 - b. KPBU in preparation process.
- (2) Determination of List of KPBU Plans as referred to in paragraph (1) shall be performed by considering the level of readiness of KPBU and benefits for the community in accordance with the national development plan.
- (3) List of KPBU Plans as referred to in paragraph (1) shall be used as consideration in the preparation of Government Work Plan as well as other planning documents in accordance with the provisions of laws and regulations.

Article 19

- (1) List of KPBU Plans as referred to in article 18 shall be updated periodically to be announced and disseminated to the public.

- (2) Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise and/or Board of Directors of Region-Owned Enterprise shall submit information on the progress of KPBU periodically at least 1 (one) time in 1 (one) year to the Minister of Planning.
- (3) Minister of Planning shall perform evaluation on KPBU that does not show any progress within a period of 2 (two) years as from the determination of List of KPBU Plans.

CHAPTER VII PREPARATION STAGE OF KPBU

Article 20

Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise shall act as PJPK in the preparation stage of KPBU.

Article 21

- (1) PJPK shall prepare budget plan for the performance of preparation stage of KPBU in accordance with the provisions of laws and regulations.
- (2) Preparation of KPBU shall consist of activities on:
 - a. preparation of Pre-Feasibility Study including study on the return of investment of Executing Business Entity;
 - b. application for Government Support and/or Government Guarantee; and
 - c. application for determination of location of KPBU.
- (3) Preparation of KPBU as referred to in paragraph (1), shall result in among others:
 - a. Pre-Feasibility Study;
 - b. plan on Government Support and/or Government Guarantee;
 - c. determination of procedures for the return of investment of Executing Business Entity; and
 - d. land procurement for KPBU.

Article 22

- (1) PJPK may be assisted by Preparatory Agency to perform preparation of KPBU.
- (2) Procedures for procurement of Preparatory Agency as referred to in paragraph (1) shall be set forth further in a Regulation of the Head of Agency that organizes governmental affairs in the field of policy on procurement of government goods/services.

Article 23

- (1) Preparation of study on KPBU shall include Pre-Feasibility Study activities, which consist of:
 - a. preparation of initial study on Pre-Feasibility Study, comprising of:
 1. legal and institutional study;
 2. technical study;
 3. economy and commercial study;
 4. study on environment and social;
 5. study on format of cooperation in the provision of infrastructure;
 6. risk study;
 7. study on need for Government Support and/or Government Guarantee; and
 8. study on matters that require follow-up.
 - b. preparation of final review on Pre-Feasibility Study, which consists of adjusting the data with the latest condition and updating the feasibility and readiness of KPBU as referred to in paragraph (1) letter a.
 - c. final review on Pre-Feasibility Study as referred to in paragraph (1) letter b shall also include study on readiness of KPBU that comprises of:
 1. all requirements on the review of Pre-Feasibility Study including matters that require follow-up have been met;
 2. approval of stakeholders regarding KPBU; and
 3. certainty as to whether or not Government Support and/or Guarantee is required.
- (2) In the preparation of study on KPBU as referred to in paragraph (1), Ministry/Agency/Region may determine the content and level of depth of Pre-Feasibility Study in accordance with their need in the respective sector.

Article 24

- (1) In the preparation stage of KPBU, PJPK shall prepare the environmental assessment document.
- (2) Environmental document preparation and assessment as referred to in paragraph (1) shall be arranged based on the provisions of laws and regulations.

Article 25

- (1) PJPK shall identify the need for land for KPBU based on the result of final review on Pre-Feasibility Study.

- (2) In the event that the result of identification shows the need for land acquisition, PJPK shall perform planning and preparation of document on land procurement for determination of location.
- (3) In the event that the result of identification as referred to in paragraph (2) has the status of State-Owned Properties or Region-Owned Properties, PJPK shall submit proposal on utilization of State-Owned Properties/Region-Owned Properties for the performance of KPBU in accordance with the provisions of laws and regulations.

Article 26

PJPK shall perform Public Consultation in the preparation stage of KPBU that is aimed to:

- a. explore compliance with social norms and environmental norms in accordance with the provisions of laws and regulations in the field of environment;
- b. obtain inputs on public needs related to KPBU; and
- c. ensure the readiness of KPBU.

Article 27

- (1) PJPK may perform Market Sounding in the preparation stage.
- (2) Market Sounding as referred to in paragraph (1) shall be aimed to obtain inputs and responses on KPBU from stakeholders.
- (3) Stakeholders as referred to in paragraph (2) shall originate from national or international business entity/agency/institution/organization.

Article 28

- (1) Minister/Head of Agency/Head of Region and/or Minister of Finance may provide Government Support to KPBU.
- (2) Government Support as referred to in paragraph (1) may be provided jointly between Minister/Head of Agency/Head of Region.
- (3) Government Support as referred to in paragraph (2) in the form of:
 - a. feasibility support of KPBU
 - b. tax incentive; and/or
 - c. other form in accordance with laws and regulations.
- (4) Minister of Finance may approve the provision of Government Support in the form of feasibility support and/or tax incentive, in accordance with laws and regulations based on proposal of PJPK.
- (5) Government Support as referred to in paragraph (1) shall be specified in the Business Entity procurement document.

Article 29

- (1) KPBU may obtain Government Guarantee.
- (2) PJPK shall submit proposal on Government Guarantee to the Minister of Finance through BUPI prior to the completion of final review on Pre-Feasibility Study for the purpose of guaranteeing the Provision of Infrastructure.
- (3) Government Guarantee to KPBU as referred to in paragraph (1) must be specified in the Business Entity procurement document.

CHAPTER VIII TRANSACTION STAGE OF KPBU

Article 30

Minister/Head of Agency/Head of Region/Board of Directors of State-Owned Enterprise/Board of Directors of Region-Owned Enterprise shall act as PJPK in the transaction stage of KPBU.

Article 31

Transaction stage of KPBU shall consist of activities on:

- a. Market Sounding;
- b. determination of location of KPBU;
- c. procurement by the Executing Business Entity that covers preparation and performance of procurement by the Executing Business Entity;
- d. signing of KPBU agreement; and
- e. financial close.

Article 32

- (1) PJPK shall perform transaction of KPBU following the compliance with terms and conditions to utilize State-Owned Properties and/or Region-Owned Properties for the implementation of KPBU in accordance with the provisions of laws and regulations.
- (2) PJPK may be assisted by Preparatory Agency to perform transaction of KPBU.
- (3) Procedures for procurement by Preparatory Agency as referred to in paragraph (2) shall be set forth further in a Regulation of the Head of Agency that organizes governmental affairs in the field of policy on procurement of government goods/services.

Article 33

- (1) PJPK shall perform Market Sounding in the transaction stage of KPBU.
- (2) Market Sounding as referred to in paragraph (1) shall be aimed to obtain inputs, responses to, and identify the interests of stakeholders in KPBU.

- (3) Stakeholders as referred to in paragraph (2) shall originate from national or international business entity/agency/institution/organization.

Article 34

PJPK shall perform Procurement of Executing Business Entity after obtaining determination of location.

Article 35

- (1) In the framework of performing Procurement of Executing Business Entity, PJPK shall establish a procurement committee.
- (2) Further provisions regarding Procurement of Executing Business Entity as referred to in Article 31 letter c, shall be set forth further in a Regulation of the Head of Agency that organizes governmental affairs in the field of policy on procurement of government goods/services.

Article 36

The signing of KPBU agreement shall be performed by PJPK and the Executing Business Entity.

Article 37

- (1) Executing Business Entity shall be obliged to acquire financing for KPBU by no later than 12 (twelve) months following the signing of KPBU agreement.
- (2) Period as referred to in paragraph (1) may be extended by PJPK, in the occurrence of failure to acquire financing which is not caused by the negligence of Executing Business Entity, based on the criteria set forth by PJPK and agreed upon in the KPBU agreement.
- (3) Every extension of period as referred to in paragraph (2) shall be given for a maximum period of 6 (six) months by PJPK.
- (4) In the event that the extension of period as referred to in paragraph (3) cannot be fulfilled by the Executing Business Entity, therefore, KPBU agreement shall be terminated and performance bond may be disbursed by PJPK.

Article 38

Financial close that originates from loan shall be declared successful, if:

- a. loan agreement has been signed to finance the entire KPBU; and
- b. part of loan can be disbursed to start the construction work.

Article 39

In the event that KPBU is divided into several stages, financial close shall be declared successful, if:

- a. loan agreement has been signed to finance one of the stages of KPBU; and

- b. part loan to finance one of the stages of KPBU can be disbursed to start the construction work.

CHAPTER IX KPBU ON THE INITIATIVE OF BUSINESS ENTITY

Article 40

- (1) Business Entity may initiate KPBU.
- (2) Initiative as referred to in paragraph (1) may apply to the type of Infrastructure as set forth in this Minister Regulation, except otherwise determined in laws and regulations.
- (3) Initiative as referred to in paragraph (1) shall be submitted to the Minister/Head of Agency/Head of Region and furnished with Feasibility Study.
- (4) In the event that KPBU results from cooperation on the initiative of Business Entity, the initiating Business Entity shall prepare the environmental assessment documents.
- (5) KPBU on the initiative of Business Entity must comply with requirements as follows:
 - a. it is technically integrated with master plan in the relevant sector;
 - b. it is economically and financially feasible; and
 - c. Business Entity that submits the initiative has adequate financial capability to finance the Provision of Infrastructure.
- (6) Implementation Procedures for KPBU on the initiative of Business Entity shall be set forth further in the Attachment to this Minister Regulation.

CHAPTER X KPBU NODE

Article 41

- (1) In the framework of implementing activities of KPBU, Minister/Head of Agency/Head of Region shall establish KPBU node.
- (2) KPBU node as referred to in paragraph (1) may be attached to the work unit that has been existed within the Ministry/agency/Region or a new work unit established within the Ministry/agency/Region.
- (3) KPBU node shall be established with the objective to formulate policies and/or for synchronization and/or coordination and/or supervision, and/or evaluation on activities of KPBU.
- (4) KPBU node shall be assisted by:
 - a. KPBU team for carrying out activities in the preparation stage and

transaction stage of KPBU; and

- b. procurement committee in carrying out procurement activities of Executing Business Entity.
- (5) The role and responsibility of KPBU team and procurement committee as referred to in paragraph (4) shall be set forth further in the Attachment to this Minister Regulation.

CHAPTER XI TRANSITIONAL PROVISION

Article 42

With the stipulation of this Minister Regulation:

- a. KPBU that has completed the activities at the Planning stage of KPBU by virtue of Minister Regulation prior to the promulgation of this Minister Regulation, activities in the next stages must be adjusted and comply with the provisions as set forth in this Minister Regulation.
- b. KPBU that has completed the initial study preparation activities of Pre-Feasibility Study in the preparation stage of Pre-Feasibility Study by virtue of Minister Regulation prior to the promulgation of this Minister Regulation, activities in the final review of Pre-Feasibility Study and activities in the next stages must be adjusted and comply with the provisions as set forth in this Minister Regulation.

CHAPTER XII MISCELLANEOUS PROVISION

Article 43

Further provisions regarding Implementation of KPBU in the Provision of Infrastructure shall be set forth in the Attachment that constitutes an inseparable part of this Minister Regulation.

CHAPTER XIII CLOSING PROVISIONS

Article 44

With the entry into force of this Minister Regulation:

- a. Regulation of Minister for National Development Planning/Chairperson of National Development Planning Board Number 3 Year 2012 regarding General Guidelines on the Implementation of Cooperation Between Government and Business Entity in the Provision of Infrastructure; and
- b. Regulation of Minister for National Development Planning/Chairperson of National Development Planning Board Number 6 Year 2012 regarding Procedures for Preparation of List of Infrastructure Project Plans,

shall be revoked and declared null and void.

Article 45

This Minister Regulation shall come into effect as from the date of its promulgation.

For public cognizance, ordering that the promulgation of this Minister Regulation is published in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on May 29, 2015

MINISTER FOR NATIONAL DEVELOPMENT PLANNING/
CHAIRPERSON OF NATIONAL DEVELOPMENT PLANNING
BOARD OF THE REPUBLIC OF INDONESIA,

Signed
ANDRINOF A. CHANIAGO

Promulgated in Jakarta
on June 4, 2015

MINISTER OF LAW AND HUMAN RIGHTS
REPUBLIC OF INDONESIA,

Signed
YASONNA H. LAOLY

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 829

Issued as a true copy
Head of Legal Bureau,

Signed
Emmy Suparmiatun

NOTE

Source: LOOSE LEAF REGULATION OF MINISTER FOR NATIONAL
DEVELOPMENT PLANNING/CHAIRPERSON OF NATIONAL
DEVELOPMENT PLANNING BOARD YEAR 2015