

A timely boost for infrastructure development

By **Adhiningtyas S. Djatmiko**



Even as Indonesia has enjoyed record levels of foreign direct investment and steady economic growth, there has been near unanimous agreement among Indonesian and foreign businesspeople and observers that the country will never reach its full economic potential without a major upgrade of its infrastructure.

To that end, new laws and regulations have been passed with the goal of accelerating the pace of infrastructure development by expediting the land acquisition process and thus avoiding the kind of bottlenecks that have seen some projects stuck in limbo.

On August 7th, 2012, Presidential Regulation No. 71 of 2012 regarding the Execution of Land Procurement for Public Interest Development (the Regulation) was issued to implement Law No. 2 of 2012 regarding Land Procurement for Public Interest Development (the Land Procurement Law), which came into effect on January 14th, 2012. The Regulation is intended to accelerate the land procurement process for infrastructure projects, in particular when those projects are deemed by the government to be in the public interest.

Overview

Compared to previous regulations on the same subject (Presidential Regulation No. 36 of 2005 regarding Land Procurement for Public Interest Development, as amended by Presidential Regulation No. 65 of 2006 (PR No. 36/2005)), the new Regulation provides more detailed and definite procedures for state institutions to procure land from entitled parties in the pursuit of building/infrastructure construction. The notable provisions are as follows:

- a. The scope of land procurement under the Regulation is limited to the procurement of land for the public interest. The Regulation, unlike PR No. 36/2005, does not mention the procurement of land for non-public interests.
- b. There are four main stages involved in the land procurement process. These are the planning stage, the preparation stage, the implementation stage and finally the transfer or result stage:
 - (i) **Planning stage:** During this stage the state institution that will carry out the land procurement must draft a land procurement planning document and submit it to the relevant provincial governor.
 - (ii) **Preparation stage:** This stage includes publicly announcing the development plan to the entitled party, which is the party

that owns or controls the land, conducting a public consultation on the land procurement plan and stipulating the location of the development.

(iii) **Implementation stage:** During this stage, discussions are held on the amount and/or form of compensation for the procurement of the land. Once the discussions are successfully concluded, compensation is given to the entitled party and the entitled party relinquishes the land.

(iv) **Transfer or result stage:** In this final stage, the land and the land procurement documents are handed over to the state institution that initiated the land procurement process. Subsequent to this, work can begin on the infrastructure project.

- c. Definite time limits are placed on each stage or step within each stage to ensure the entire process is completed in a timely manner. The maximum time period for land procurement under the Regulation is 583 days in total.
- d. Objections to the land procurement plan can be submitted to the relevant provincial governor, who will then establish an Objection Review Team. Objections to the amount and/or form of compensation can be submitted to the local district court. However, if the objections are rejected, the land procurement plan and the amount/form of compensation will be carried out accordingly.

Outlook

The Regulation has generally been welcomed as a positive step in speeding up infrastructure development, though there have been concerns among the business community that the land acquisition process is still too lengthy. And there is still legislative work to be done on the part of the government. To ensure the effectiveness of this new Regulation, three derivative regulations will have to be passed. These regulations are technical implementation guidance from the National Land Agency, a financial governance regulation from the Ministry of Finance and a financial governance regulation from the Ministry of Domestic Affairs. These three regulations are projected to be completed by the end of 2012.

Soewito Suhardiman Eddymurthy Kardono (SSEK)

14th Floor Mayapada Tower
 Jl. Jend. Sudirman Kav.28
 Jakarta 12920, Indonesia
 Tel: (62) 21 304 16700 / 521 2038
 Fax: (62) 21 521 2039
 Email: adhiningtyasdjatmiko@ssek.com
www.ssek.com