

Regulation of the Minister of Energy and Mineral Resources of the R.I.

Number 28 Year 2013

Concerning

**The Procedure of Auction of Mining Business License Area
and Special Mining Business Area
in Metallic Mineral and Coal Mining Business Activities**

By the Grace of the One God Almighty

The Minister of Energy and Mineral Resources of the R.I.,

Considering: that to implement the provisions of Article 19 and Article 61 of Government Regulation No.23 Year 2010 concerning the Implementation of Mineral and Coal Mining Business Activities as amended with Government Regulation No.24 Year 2012, it is necessary to establish the Regulation of the Minister of Energy and Mineral Resources concerning the Procedure of Auction of Mining Business License Area and Special Mining Business License Area in Metallic Mineral and Coal Mining Business Activities.

In view of: 1. Law No.4 Year 2009 concerning Mineral and Coal Mining (State Gazette of the R.I. of 2009 No.4, State Gazette Supplement of the R.I. No.4959);

2. Law No.32 Year 2009 concerning Environmental Protection and Management (State Gazette of the R.I. of 2009 No.140, State Gazette Supplement of the R.I. No.5059);

3. Government Regulation No.38 Year 2007 concerning the Division of Governance Affairs between the Government, the Provincial Regional Government and the Regency/City Regional Government (State Gazette of the R.I. of 2007 No.82, State Gazette Supplement of the R.I. No.4737);

4. Government Regulation No.15 Year 2010 concerning the Structuring of Spatial Design (State Gazette of the R.I. of 2010 No.21, State Gazette Supplement of the R.I. No.5103);

5. Government Regulation No.22 Year 2010 concerning Mining Area (State Gazette of the R.I. of 2010 No.28, State Gazette Supplement of the R.I. No.5110);

6. Government Regulation No.23 Year 2010 concerning the Implementation of Mineral and Coal Mining (State Gazette of the R.I. of 2010 No.29, State Gazette Supplement of the R.I. No.5111) as amended with Government Regulation No.24 Year 2012 (State Gazette of the R.I. of 2012 No.45, State Gazette Supplement of the R.I. No.5282);

7. Presidential Decree No.59/P Year 2011 dated October 18, 2011;

8. Regulation of the Minister of Energy and Mineral Resources No.18 Year 2010 concerning Organization and Work Arrangement of the Minister of Energy and Mineral Resources (State Bulletin of the R.I. of 2010 No.552) as amended with the Regulation of Minister of Energy and Mineral Resources No.22 Year 2013 (State Bulletin of the R.I of 2013 No.1022);

9. Regulation of the Minister of Energy and Mineral Resources No.12 Year 2011 concerning the Procedure of Determining the Mining Business Area and Information System of Mineral and Coal Mining Area (State Bulletin of the R.I. of 2011 No.487);

Has Decided

To establish : **The Regulation of the Minister of Energy and Mineral Resources concerning the Procedure of Auction of Mining Business License Area and Special Mining Business Area in Metallic Mineral and Coal Mining Business Activities.**

Chapter I

General Provision

Article 1

In this Ministerial Regulation:

1. Mining Business License Area, hereinafter referred to WIUP, refers to an area given to the holder of a Mining Business License.

2. Special Mining Business Area, hereinafter referred to as WIUPK, refers to an area given to the holder of a Special Mining Business License.
3. Mining Business License, hereinafter referred to as IUP, refers to a license to carry out mining business.
4. Exploration IUP refers to a business license given to conduct the stages of general survey, exploration and feasibility study.
5. Special Mining Business License, hereinafter referred to as IUPK, refers to a license to conduct mining business in WIUPK;
6. Exploration IUPK refers to a business license given to conduct the stages of general survey, exploration and feasibility study in WIUPK;
7. Business Entity refers to every legal body engaged in mining established based on Indonesian law and is domiciled in the territory of the Unitary State of the Republic of Indonesia.
8. State-owned Business Entity/Enterprise, hereinafter referred to as BUMN, refers to BUMN which engaged in mining in compliance with the provision of the legislative rules.
9. Region-owned Business Entity/Enterprise, hereinafter referred to as BUMD, refers to BUMD engaged in mining in compliance with the provision in the legislative rules.
10. National Private Business Entity refers to a business entity of a legal body whose capital or share ownership is 100% (one hundred percent) domestic.
11. Auction refers to the system of offering a WIUP or a WIUPK in the framework of giving Exploration IUP or Exploration IUPK of metallic mineral and coal.

12. Prequalification refers to the process of evaluating the business competence and capacity and meeting other certain requirements of auction Participants before submitting the bid.
13. Prequalification Document refers to the document containing information package of requirements, time arrangement and the procedure of auction of prequalification stage prepared by the Auction Committee.
14. Auction Document refers to the document containing information package of requirements, time arrangement and the procedure of auction of qualification stage prepared by the Auction Committee.
15. Foreign Capital refers to capital owned by a foreign country, individuals of foreign nationality, foreign business entity, foreign legal body and/or Indonesian legal body whose part or whole capital is owned by a foreign entity.
16. Minister refers to the Minister who administers governance affairs in mining of mineral and coal.
17. Director general refers to the Director General who executes the tasks and is responsible for the formulation and implementation of policy and technical standardization in mineral and coal.

Chapter II

Determining Mining Business License Area and Special Mining Business License Area

Article 2

- (1) Metallic mineral WIUP and coal WIUP is established by the Minister after having been determined by the governor and regent/mayor based on the criteria in compliance with the provision of the legislative rules.
- (2), Before determining the metallic mineral WIUP and coal WIUP for proposal to the Minister as referred to in sub-article (1), the governor or regent/mayor in accordance with his/her competence should announce openly to the community.

Article 3

(1). Metallic mineral WIUPK and coal WIUPK is established by the Minister after having been determined by the governor based on the criteria in compliance with the provision of the legislative rules.

(2) The Minister, prior to establishing the metallic mineral WIUPK and coal WIUPK as referred to in sub-article (1) should announce openly to the community.

Article 4

(1) In the case metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal Exploration WIUPK are located in forest area, the establishment of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK as referred to in Article 2 and Article 3 are effected after coordination with the Ministry of Forestry.

(2) Coordination as referred to in sub-article (1) is effected in the framework of obtaining the certainty in using forest area for mining activities.

Article 5

(1) The Minister establishes the amount of compensation of information data and/or the total replacement cost of investment for metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK as already established as referred to in Article 2 and Article 3 based on the availability of:

- a. the spread of rock formation carrier of metallic mineralization or coal;
- b. indicated data of metallic mineralization or coal;
- c. data of potential metallic mineralization or coal;
- d. data of metallic mineral or coal reserves; and/or
- e. other supporting means and infrastructure.

(2) Compensation price of information data and/or the total replacement cost of investment as referred to in sub-article (1) constitute a minimum value of the base price of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK.

(2) The amount of compensation price of information data and/or the total cost to replace investment at metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUP as referred to in sub-article (1) is calculated in compliance with the provision of the legislative rules.

(3) The compensation price of information data and/or the total cost to replace investment of the result of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK is deposited as non-tax state revenue.

Article 6

The Director General submits the metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK, as already established by the Minister as referred to in Article 2 and Article 3 to the governor or regent/mayor in accordance with his/her competence.

Article 7

(1) Metallic mineral WIUP and coal WIUP already established as referred to in Article 2 sub-article (1) are given by the Minister, governor or regent/mayor in accordance with his/her competence by way of auction to Business Entity, cooperatives, and individuals.

(2) Metallic mineral WIUPK and coal WIUPK already established as referred to in Article 3 sub-article (1) are given by the Minister by way of priority or auction to BUMN, BUMD or private business entity.

Chapter III

The Provision of Special Mining Business Area by Priority

Article 8

- (1) The Minister offers BUMN and BUMD by priority to obtain metallic mineral WIUPK or coal WIUPK after the metallic mineral WIUPK or coal WIUPK are established as referred to in Article 3 sub-article (1).
- (2) BUMN as referred to in sub-article (1) constitutes a BUMD set up by the provincial government or regency/city government where the metallic mineral WIUPK or coal WIUPK to be offered is located.

Article 9

- (1) In the case the offer of metallic mineral WIUPK or coal WIUPK as referred to in Article 8 sub-article (1) only interest 1 (one) BUMN or BUMD, the metallic mineral WIUPK or coal WIUPK will be immediately given to the BUMN or BUMD by paying the price of information data compensation value and/or the total cost replacing investment.
- (2) The BUMN or BUMD should pay the price of information data compensation value and/or the total cost replacing investment as referred to in sub-article (1) in 30 (thirty) working days at the latest since being established as the recipient of metallic mineral WIUPK or coal WIUPK by way of priority.
- (3) The BUMN or BUMD which had met its obligation as referred to in sub-article (2) should apply for a metallic mineral Exploration IUPK or coal Exploration IUPK to the Minister in 5 (five) working days at the latest since the payment of cost for information data compensation and/or the total cost replacing investment.

Article 10

- (1) In the case the offer of metallic mineral WIUPK or coal WIUPK as referred to in Article 8 sub-article (1) more than 1 (one) BUMN or BUMD is interested, the metallic mineral WIUPK or coal WIUPK will be given by way of auction.

- (2) If toward the offer of metallic mineral WIUPK or coal WIUPK as referred to in sub-article (1) no BUMN and/or BUMD is interested, the metallic mineral WIUPK or coal WIUPK will be offered to the private business entity by way of auction.

Chapter IV

The Procedures of Auction of Mining Business License Area or Special Mining Business License Area of Metallic Mineral and Coal

First Part

Preparation for Auction

Article 11

- (1) The Minister, governor or regent/mayor in accordance with his/her competence should announce the plan to hold the Auction of metallic mineral WIUP or coal WIUP already established by the Minister as referred to in Article 2 sub-article (1).
- (2) The Minister should announce the plan to hold the Auction of metallic mineral WIUP or coal WIUP already established as referred to in Article 3 sub-article (1).
- (3) The announcement of the plan to hold the auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in sub-article (1) and sub-article (2) is effected in 3 (three) months at the latest prior to the holding of auction.

Article 12

The announcement of the plan to hold the auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 11 is done openly:

- a. at least it is placed in 1 (one) local print media and/or 1 (one) national print media;

- b. at the office of a ministry administering government affairs in the field of mineral and coal or through website; and
- c. at the office of the provincial government and regency/city government administering governance affairs in the field of mineral and coal or through website.

Article 13

- (1) The auction of metallic mineral WIUPK and coal WIUPK is conducted by the Minister.
- (2) The auction of metallic mineral WIUP and coal WIUP is conducted by:
 - a. the Minister if the metallic mineral WIUP and coal WIUP is located in cross provincial area or in sea area of more than 12 (twelve) miles from the coastline after obtaining recommendation from the local governor or regent/mayor.
 - b. the governor if the metallic mineral WIUP and coal WIUP is located in cross regency/city area in 1 (one) province or in sea area of 4 (four) up to 12 (twelve) miles from the coastline after obtaining recommendation from the local regent/mayor; and
 - c. regent/mayor if the metallic mineral WIUP and coal WIUP is located in 1 (one) regency/city area or in sea area of up to 4 (four) miles from the coastline.
- (3) Recommendation as referred to in sub-article (2) letter a and letter b is in the form of consideration containing information concerning the utilization of land in metallic mineral WIUP and coal WIUP and the cultural characteristics of the community based on local wisdom in the framework of auctioning the metallic mineral WIUP and coal WIUP.
- (4) The governor or regent/mayor should give the recommendation as referred to in sub-article (2) and sub-article (3) in 5 (five) working days at the latest since the receipt of request for recommendation.
- (5) If within 5 (five) working days at the latest the governor or regent/mayor does not give the recommendation as referred to in sub-article (4) he/she is considered to have approved the Auction of metallic mineral WIUP and coal WIUP.

Second part
The Forming of Auction Committee

Article 14

- (1) In the framework of holding the auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK, an Auction Committee is formed by:
- a. the Minister, for the Auction Committee of metallic mineral WIUP and coal WIUP located in cross province and/or in sea area of more than 12 (twelve) miles from the coastline and the auction committee of metallic mineral WIUPK and coal WIUPK;
 - b. the governor, for the Auction Committee of metallic mineral WIUP and coal WIUP located in cross regency/city within 1 (one) province and/or in sea area of 4(four) up to 12 (twelve) miles from the coastline; and
 - c. the regent/mayor, for the Auction Committee of metallic mineral WIUP and coal WIUP located within 1 (one) regency/city area and/or in sea area of up to 4 (four) miles from the coastline.
- (2) The Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK formed by the Minister as referred to in sub-article (1) letter a is in odd number and at least comprised of 7 (seven) members who are competent in the field of mineral and coal mining, consisting of representatives from:
- a. the Secretariat General of a Ministry which administers governance affairs in the field of mineral and coal mining;
 - b. the Directorate General;
 - c. the Geology Body;
 - d. the local provincial government; and
 - e. the local regency/city government.

(3) The Auction Committee of metallic mineral WIUP and coal WIUP formed by the governor as referred to in sub-article (1) letter b is in odd number at least comprised of 5 (five) members who are competent in the field of mineral or coal mining, consisting representatives from:

- a. the provincial government;
- b. the Ministry which administers governance affairs in the field of mineral and coal mining at least 1 (one) person; and
- c. the local regency/city government.

(4) The Auction Committee of metallic mineral WIUP and coal WIUP formed by the regent/mayor as referred to in sub-article (1) letter c is in odd number at least comprised of 5 (five) members who are competent in the field of mineral or coal mining, consisting representatives from:

- a. the regency/city government;
- b. the Ministry which administers governance affairs in the field of mineral and coal mining at least 1 (one) person; and
- c. the local provincial government.

Article 15

(1) Competence in the field of mineral or coal mining as referred to in Article 14 sub-article (2), sub-article (3) and sub-article (4) encompasses knowledge, expertise, and/or experience in the field of mineral and/or coal, i.a.:

- a. mining technique;
- b. law in the field of mining;
- c. finance in the field of mining; and/or
- d. has a working experience of at least 3 (three) years at the Ministry which administers governance affairs in the field of mineral and coal mining or at a technical service of a province and/or the technical service of a regency/city whose task is in the field of mineral or coal mining.

(2) The task and competence of an Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK as referred to in Article 14 encompass:

- a. preparing the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- b. preparing Prequalification Documents and Documents of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- c. compiling the schedule for the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- d. announcing the time of holding the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- e. repeating the announcement 2 (two) times at the most, if the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK has only 1 (one) participant;
- f. evaluating the prequalification and qualification of participants in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- g. holding the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK;
- h. evaluating incoming bid prices; and
- i. making official report on the result of Auction and proposes the winner of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.

Third Part

Requirements of Auction Participants

Article 16

(1) Participants in the Auction of metallic mineral WIUP or coal WIUP of smaller or equal with 1,000 (one thousand) hectares may include:

- a. Business Entity, as follows:

- 1) the local BUMD;
- 2) the local National Private Business Entity;

b. cooperatives; and

c. individuals, comprising of:

- 1) an individual person;
- 2) a limited partnership company; and
- 3) a firm.

(3) Participants in the Auction of metallic mineral WIUP or coal WIUP with size of more than 1,000 (one thousand) hectares up to 5,000 (five thousand) hectares may include:

a. Business Entity, as follows:

- 1) BUMN;
- 2) BUMD; and
- 3) National Private Business Entity;

b. cooperatives.

(4) Participants in the Auction of metallic mineral WIUP of coal WIUP with size of more than 5,000 (five thousand) hectares may include:

- a. BUMN;
- b. BUMD; and

c. National Private Business Entity or private business entity in the framework of foreign capital investment.

Article 17

(1) Participants in the Auction as referred to in Article 16 in order to participate in the process of Auction of metallic mineral WIUP or coal WIUP should meet the following requirements:

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

(2) The administrative requirements as referred to in sub-article (1) letter a is for:

- a. Business entity, to submit at least:
 1. filled in form prepared by the Auction Committee;
 2. deed of establishment of Business Entity particularly engaged in the field of mining legalized by a competent official;
 3. profile of Business Entity;
 4. declaration of not in possession yet of IUP or IUPK for Business Entity which has not go public;
 5. integrity pact containing declaration of not being under court surveillance, not bankrupt, its business activities not being halted, and the management acting for and on behalf of the company is not undergoing a criminal sanction;
 6. a declaration of not included in the list of problematic Business Entities;
 7. permanent and clear address and reachable by post; and
 8. tax payer's identification number.
- b. Cooperatives, to submit at least:
 - 1) filled in form prepared by the Auction Committee;
 - 2) deed of establishment of the cooperatives engaged especially in the business of mining legalized by a competent official;
 - 3) profile of the cooperatives;
 - 4) declaration of not yet in possession of IUP;

- 5) integrity pact containing declaration of not being under court surveillance, not bankrupt, its business activities is not being halted, and the management acting for and on behalf of the company is not undergoing a criminal sanction;
 5. a declaration of not included in the list of problematic Business Entities;
 6. permanent and clear address and reachable by post; and
 7. taxpayer's identification number.

c. An individual person, to submit at least:

- 6) filled in form prepared by the Auction Committee;
- 7) declaration of not yet in possession of IUP;
- 8) integrity pact containing declaration of not being under court surveillance, not bankrupt, his/her business activities is not being halted, and the management acting for and on behalf of the company is not undergoing a criminal sanction;
4. a declaration of not included in the list of problematic individual persons;
 5. permanent and clear address and reachable by post; and
 6. identity card; and
 7. taxpayer's identification number.

d. A Firm and Limited Partnership company to submit at least:

1. filled in form prepared by the Auction committee;
2. deed of establishment of the company especially engaged in the business of mining;
3. company profile;
4. a declaration of not yet in possession of IUP;
5. integrity pact containing a declaration of not being under court surveillance, not bankrupt; its business activities not being halted, and/or the board member acting for and on behalf of the company is not undergoing a criminal sanction;
6. a declaration of not being included in the list of problematic companies;
7. permanent and clear address reachable by post; and
8. taxpayer's identification number.

(3) Technical requirements as referred to in sub-article (1) letter b, is at least:

- a. technical and managerial experience in the field of mineral or coal mining of at least 3 (three) years, or for a new company it should obtain support from the holding company, working partner or its affiliate engaged in the field of mining;
- b. the availability of human resources at least 1 (one) is an expert in the field of mining and/or geology with at least 3 (three) years experience;
- c. work plan encompasses:
 - 1) work plan and budget of metallic mineral WIUP and coal WIUP for 4(four) years of exploration activities; and
 - 2) procurement of equipment and other facilities needed in metallic mineral and coal mining exploration activities.

(5) Financial requirements as referred to in sub-article (1) letter c, encompass:

- a. financial report of the final year audited by a public accountant, except for a new company, by enclosing the financial report;
- b. a deposit to guarantee the seriousness to participate in the Auction in the form of cash in a Government Bank 10% (ten percent) of the base value of compensation of information data; and
- c. a declaration of readiness to pay the price of compensation value of information data in accordance with the offer of Auction of metallic mineral WIUP and/or coal WIUP in 5 (five) working days at the latest after the announcement of the Auction winner.

Article 18

- (1) Participants in the Auction of metallic mineral WIUPK or coal WIUPK may include Business Entity, as follows:

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

(2) Participants in the Auction as referred to in sub-article (1) in order to follow the process of Auction of metallic mineral WIUPK or coal WIUPK should meet the following requirements:

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

(3) The administrative requirements as referred to in sub-article (2) letter a is to submit at least:

- a. filled in form prepared by the Auction Committee;
- b. deed of establishment of the Business Entity especially engaged in mining business legalized by a competent official;
- c. profile of Business Entity;
- d. integrity pact containing a declaration of not being under court surveillance, not bankrupt, its business activities are not being halted, and the management acting for and on behalf of the company is not undergoing a criminal sanction;
- e. a declaration of not included in the list of problematic Business Entities;
- f. permanent and clear address and is reachable by post; and
- g. taxpayer's identification number.

(4) Technical requirements as referred to in sub-article (2) letter b encompass:

- a. technical and managerial experience in the field of mineral or coal mining of at least 3 (three) years, or for a new company it should obtain support from the holding company, working partner, or its affiliate engaged in the field of mining;

- b. the availability of human resources of at least 1 (one) is an expert in the field of mining or geology with at least 3 (three) years experience;
- c. work plan encompasses:
 - 1. RKAB (work plan and budget) for metallic mineral WIUPK and/or coal WIUPK for 1 (One) year of exploration activities.
 - 2. procurement of equipment and other facilities needed in exploration activities of metallic mineral and coal mining.

(5) Financial requirements as referred to in sub-article (2) letter c encompass:

- a. financial report of the final year audited by a public accountant, except for a new company, by enclosing the financial report;
- b. depositing a guarantee of seriousness to participate in the Auction in the form of cash in a Government Bank 10% (ten percent) of the compensation value of information data and/or the total cost for replacing investment for the Auction of metallic mineral WIUPK and/or coal WIUPK; and
- c. a declaration of readiness to pay the price of compensation value of information data and/or the total cost for replacing investment in compliance with the Auction of metallic mineral WIUPK and/or coal WIUPK in 5 (five) working days at the latest after the announcement of the Auction winner.

Fourth Part

Procedures of Auction

Article 19

(1) The procedures of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK is effected in 2 (two) stages, namely:

- a. Prequalification stage; and
- b. Qualification stage.

(2) The procedures of Auction for Prequalification stage encompass:

- a. announcement of Prequalification;
- b. collecting Prequalification document;
- c. submission of Prequalification document;
- d. evaluation of Prequalification;
- e. clarification and confirmation of Prequalification document;
- f. determining the result of Prequalification;
- g. announcing the result of Prequalification; and
- h. invitation to participants who passed Prequalification.

(3) The procedures of Auction for Qualification stage encompass:

- a. collecting of Document of Auction;
- b. clarification of Auction;
- c. submission of bid price;
- d. opening of envelope;
- e. determining of rating;
- f. determining/announcing the winner of Auction by the Minister, governor or regent/mayor in accordance with his/her competence based on evaluation of bid price and technical consideration; and
- g. giving opportunity should there be protests over the decision of Auction.

(4) The Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK should carry out the procedures of Auction as referred to in sub-article (1), sub-article (2) and sub-article (3) fairly, transparent, and encourages the creation of a sound competition.

Fifth Part
Prequalification Document

Article 20

The Prequalification Document of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 9 sub-article (2) at least encompasses:

- a. administrative, technical and financial requirements as referred to in Article 17 and Article 18;
- b. fill-in form of Prequalification document prepared by the Auction Committee.

Sixth Part Document of Auction

Article 21

The document of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 19 sub-article (3) at least encompasses:

- a. map, coordinate, location and the size of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK for Auction.
- b. compensation base price of data and information and/or the total cost of replacing investment whose amount is determined based on the provision as referred to in Article 5;
- c. the status of the land i.a. is located in forest area or area for other use; and
- d. qualification form to fill out prepared by the Auction Committee.

Seventh Part Realization of Auction of Mining Business License Area and Special Mining Business License Area of Exploration

Paragraph 1 Realization of Auction of Mining Business License Area

And Special Mining Business License Are of Prequalification stage

Article 22

- (1) The Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK, should make Prequalification announcement openly at the time the announcement of the plan to realize the Auction by the Minister, governor or regent/mayor in accordance with his/her competence as referred to in Article 11 ends.
- (2) The announcement of Prequalification stage for the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK and coal WIUPK is made openly:
 - a. at least it is placed in 1 (one) local print media and/or in 1(one) national print media;
 - b. at the office of the ministry which administers governance affairs in the field of mineral and coal or through website; and
 - c. at the office of the provincial government and regency/city government which administers affairs in the field of mineral and coal or through website
- (3) Collection of Prequalification document is done in 7 (seven) working days at the latest since the announcement of Prequalification.
- (4) Collection of Prequalification document is made at the office which realizes the Auction in accordance with its competence.

Article 23

- (1) Submission of Prequalification document is made in 30 (thirty) working days at the latest since the announcement of Prequalification.
- (2) Auction participant submits the Prequalification document of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK in 1 (one) envelop at the office

which organizes the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK with the provision that the address of the Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK is included on the envelop with the phrase “Prequalification Document of metallic mineral WIUP or coal WIUP” or “Prequalification Document of metallic mineral WIUPK or coal WIUPK”.

- (3) On the outside envelop of the Prequalification document of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK received by the Auction Committee the date, the hour of receipt and registered number are noted.
- (4) Prequalification document of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK submitted passed the deadline as referred to in sub-article (1) is unaccepted by the Auction Committee.

Article 24

- (1) The Auction Committee evaluates the Prequalification Document of metallic mineral WIUP, the Prequalification Document of coal WIUP, the Prequalification Document of metallic mineral WIUPK or the Prequalification Document of coal WIUPK which already obtained the registered number based on administrative, technical and financial requirements.
- (2) Evaluation of the Prequalification Document as referred to in sub-article (1) is made by:
 - a. examining carefully the completion of administrative, technical, and financial requirements which should absolutely be met by Auction participants; and
 - b. evaluates the technical requirements which encompass the completion of data, fittingness and the quality of data as follows:
 1. experience in the field of mining has a value of 20% (twenty percent) of the total value of the weight of technical requirements;

2. the availability of human resources has a value of 35% (thirty-five percent) of the total value of the weight of technical requirements.
3. work plan has a value of 45% (forty-five percent) of the total value of the weight of technical requirements.

(3) In evaluating the Prequalification Document as referred to in sub-article (2) the Auction Committee may clarify and confirm the Prequalification Document of metallic mineral WIUP, the Prequalification Document of coal WIUP, the Prequalification Document of metallic mineral WIUPK or the Prequalification Document of coal WIUPK which are not quite clear without changing the substance.

Article 25

(1) Determining the Participants of Auction who passed the Prequalification is based on:

- a. evaluation of the completion of administrative, technical and financial requirements; and
- b. technical evaluation with a minimum standard of evaluation determined by the Auction Committee.

(2) Determining and announcing the Auction participants who passed the Prequalification and have the right to advance to the process of qualification is done in 7 (seven) working days at the latest since the closing date of the submission of the Prequalification document.

(3) Determining and Announcing the result of Prequalification as referred to in sub-article (2) and the invitation to collect the Auction Document for Auction participants who passed the Prequalification, is made at the office which organizes the auction or through website.

Article 26

- (1) If the number of participants in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK who submit the Prequalification Document is found only 1 (one) Auction participant, the Auction committee should carry out the process of announcing a repeated Prequalification in 5 (five) working days at the latest since the final limit of submitting the Prequalification Document.

- (2) If after the process of announcing the repeated Prequalification as referred to in sub-article (1), only 1 (one) participant is found in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK, thus:
 - a. the process of announcing a repeated Prequalification may be done for the second time; or
 - b. the Auction participant may be proposed as the winner of Auction with the provision that
 1. the Prequalification Document has met the requirement already determined;
 2. the bid price had been submitted;

- (4) The bid price as referred to in sub-article (2) letter b figure 2 should be the same with or higher than the Auction base price already determined.

Paragraph 2

The realization of Auction of Mining Business License Area and Special Mining Business License Area of Qualification Stage.

Article 27

- (1) Collecting of Auction Document is made at the office which organizes the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK in 7 (seven) working days at the latest since the date of announcement for collecting the Auction Document.

(2) In 3 (three) working days at the latest after the closing date of collecting the Auction Document, the Auction Committee should make a clarification of the Auction to Auction Participants.

(3) The clarification of Auction as referred to in sub-article (2) encompasses:

- a. the procedure of filling out the Auction Document form.
- b. detailed clarification on data of potential condition of mineral and/or coal at the metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK being auctioned, which comprised of:
 1. location;
 2. coordinate;
 3. type of mineral, including associate minerals and coal;
 4. summary of the result of research and survey;
 5. summary of the result of preliminary Exploration if any;
 6. other supporting means and infrastructure if any; and
 7. land status.
- c. the method of evaluating the Auction Document and calculation of rating of the Auction winner.

(4) The Auction Committee makes an official report of clarification signed by the Auction Committee and at least 2 (two) witnesses.

Article 28

(1) The Auction Committee in accordance with its competence given by the Minister, governor or regent/mayor may give the opportunity to the participant of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK who passed the Prequalification to make field visit within a period adjusted to the distance of the location for auction after obtaining clarifications concerning the Auction as referred to in Article 27.

(2) In the case the participant of Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK who is to make a field visit bringing along a foreign national should meet the requirements in compliance with the provision of the legislative rules.

(3) The cost needed to make a field visit as referred to in sub-article (1) and sub-article (2) is borne by the participant of Auction of metallic mineral WIUP, coal WIUPK, metallic mineral WIUPK or coal WIUPK.

Article 29

(1) The participant who passed the Prequalification is given time to prepare the bid price document in 5 (five) working days at the latest after the official report on the clarification of Auction is signed or after the field visit had been made when necessary.

(2) The submission of the bid price document is only given time of 2 (two) hours before the opening of the envelope of the bid price document.

(3) The submission of the bid price document as referred to in sub-article (1) is made at the office competent in organizing the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK concerned.

(4) In the bid price document as referred to in sub-article (1) should include the bid price of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK in 1 (one) envelope with the provision that the address of the Auction Committee of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK is written on the envelope with the phrase “bid price document of metallic mineral WIUP or coal WIUP” or “bid price document of metallic mineral WIUPK or coal WIUPK”.

(5) On the outside envelope of the bid price document received by the Auction Committee is given notes on the date, hour of receipt and the registered number.

Article 30

- (1) The Auction Committee opens the envelope of bid price document on a determined time to carry out evaluation to determine the rating of the bid price of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.
- (2) The participant in the Auction who is hindered from attending at the opening of the envelope and determining the rating as referred to in sub-article (1) should send a representative with a letter of attorney.
- (3) If the participant of the Auction does not send a representative as referred to in sub-article (2) he/she is considered to have accepted the result of determining the rating of the bid price document of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.

Paragraph 3

Evaluation and Determining The Winner of Auction

Article 31

- (1) The Auction Committee determines the rating of the winner candidate of the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK based on the totaling of:
 - a. weight value of the result of evaluating Prequalification; and
 - b. weight value of the bid price in accordance with the rating,
- (2) The weight of the result of evaluating Prequalification as referred to in sub-article (1) letter a, has a value of 45% (forty-five percent)
- (3) The weight of bid price in accordance with the rating as referred to in sub-article (1) letter b, has a value of 60% (sixty percent).

- (4) In evaluating the Bid Price Document, the Action Committee is prohibited from altering, adding and reducing the Bid Price Document on whatever the reason is.
- (5) The Auction Committee determines the rating of the Auction winner candidate in accordance with the result of evaluation as referred to in sub-article (1), sub-article (2) and sub-article (3) embodied in the auction official report.

Article 32

- (1) The Auction Committee reports the result of determining the rating of the winner candidate in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK to the Minister, governor or regent/mayor in accordance with his/her competence to be established as the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK and to enclose the official report of the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.
- (2) The Minister, governor, or regent/mayor in accordance with his/her competence in 5 (five) working days at the latest after receiving the report on the result of determining the rating of the winner candidate in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.
- (3) The Minister, governor or regent/mayor in accordance with his/her competence announces and notifies in writing the determining of the Auction winner to the winner in the Auction winner of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK.

Article 33

(1) If the participant in the Auction who submits the bid price document as referred to in Article 28 is only 1 (one) a repeat auction is held by inviting the participants in the auction who have passed the Prequalification to re-submit their bid price documents in 3 (three) working days at the latest since the invitation for Repeat Auction.

(1) In the case the participant in the Auction as referred to in sub-article (1) remains only 1 (one), said participant will be determined as the winner with the provision that the bid price should be the same or higher than the base price of Auction as already determined.

Paragraph 4

P r o t e s t

Article 34

(1) The participants in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK who feels disadvantaged, either individually or jointly with other participants, may raise a protest to the Minister, governor or regent/mayor in accordance with his/her competence in 3 (three) working days at the latest after the determining and announcing of the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK if there is:

- a. deviation from the provision and procedure already determined in the Document of Auction;
- b. certain manipulation thereby impeding the creating of a sound competition;
- c. misuse of authority by the Auction Committee or other competent officials;
- d. any element of Corruptive, Collusive and Nepotistic practices among the participants in the Auction; and/or
- e. any element of Corruptive, Collusive or Nepotistic practices between the participants in the Auction and the Auction Committee or with other competent officials.

(2) In the case the participant in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK in raising their protest to the Minister, governor or

regent/mayor in accordance with his/her competence pass the time limit as referred to in sub-article (1) the protest will not be processed.

- (3) The Minister, governor or regent/mayor in accordance with his/her competence should give a reply in 5 (five) working days at the latest since the receipt of the protest.
- (4) If the protest is correct, a repeat Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK will be held.
- (5) When the period for protest has ended and there is no protest or that the process of settling the protest is decided that the realization of Auction and the determining of the rating of the winner in the Auction is correct, the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 32 should apply for Exploration IUP or Exploration IUPK in 5 (five) working days at the latest to the Minister, governor or regent/mayor in accordance with his/her competence.

Article 35

The application for obtaining the Exploration IUP or Exploration IUPK by the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 34 sub-article (5) is submitted to the Minister, governor or regent/mayor in accordance with his/her competence based on the requirements and procedures regulated in a separate Ministerial Regulation.

Eighth Part

Guarantee of Seriousness in the Auction

Article 36

- (1) The placing of guarantee of seriousness in the Auction of metallic mineral WIUP, or coal WIUP as referred to in Article 17 sub-article (4) letter b is made at the same time with the submission of Prequalification document as referred to in Article 23.

- (2) The guarantee of seriousness in the Auction of metallic mineral WIUP or coal WIUP as referred to in sub-article (1) is placed in the form of time deposit in Government Bank on behalf of the Minister, governor or regent/mayor in accordance with his/her competence q.q. Business Entity, Cooperatives or an individual auction participant.

Article 37

- (1) The placing of guarantee of seriousness in the Auction of metallic mineral WIUP, or coal WIUP as referred to in Article 18 sub-article (5) letter b is made at the same time with the submission of Prequalification document as referred to in Article 23.
- (2) The guarantee of seriousness in the Auction of metallic mineral WIUP or coal WIUP as referred to in sub-article (1) is placed in the form of time deposit in Government Bank on behalf of the Minister, q.q. BUMN, BUMD, or Private Business Entity participant in the auction.

Article 38

- (1) The guarantee of seriousness in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in Article 36 sub-article (2) and Article 37 sub-article (2) is reimbursed in full to the participant in the auction in accordance with the deposited nominal amount including interest.
- (2) The reimbursement of the guarantee of seriousness in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK as referred to in sub-article (1) is effected;
 - a. 5 (five) working days after the announcement of the result of Prequalification of the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK for participants of auction who did not pass Prequalification.
 - b. 14 (fourteen) working days after the determining of the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK

for participants in the Auction in the fourth sequence or more in the rating sequence of the winner in the auction; or

- c. 5 (five) working days after the issue of Exploration IUP or Exploration IUPK, for the winner in the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK and participants in the auction in the second and third sequence in the rating sequence of the winner of auction.

Article 39

The guarantee of seriousness in the Auction will become State property as non-tax state income or the property of the Regional Government if:

- a. the participant in the auction who had passed Prequalification does not submit the bid price document as long as there had been the determining of the winner of auction;
- b. the participant in the auction who had been determined as the winner of auction does not submit the application for Exploration IUP or Exploration IUPK.

Chapter V

Transitional Provision

Article 40

The Minister, governor or regent/mayor who had realized the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK and has determined the metallic mineral Exploration IUP, coal Exploration IUP, metallic mineral Exploration IUPK or coal Exploration IUPK prior to this Ministerial Regulation becomes effective, is considered to have met the provision of the Auction of metallic mineral WIUP, coal WIUP, metallic mineral WIUPK or coal WIUPK in this Ministerial Regulation and metallic mineral Exploration IUP, coal Exploration IUP, metallic mineral Exploration IUPK or coal Exploration IUPK are declared to remain valid until the license period terminates.

Chapter VI

Concluding Provision

Article 41

This Ministerial Regulation becomes effective on the date of its promulgation.

In order that it may be known to all, this Ministerial Regulation is ordered to be published in the State Bulletin of the R.I.

Established in Jakarta

On September 13, 2013

The Minister of Energy and Mineral Resources of the R.I.

Signed

Jero Wacik

Promulgated in Jakarta

On September 13, 2013

The Minister of Justice and Human Rights of the R.I.

Signed

Amir Syamsudin

State Bulletin of the R.I. Year 2013 No.1123

For copy conform

The Ministry of Energy and Mineral Resources

Head of Legal Affairs Bureau

Signed

Susyanto