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FORESTRY AND ESTATES
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DEPARTMENT OF FORESTRY AND ESTATES OF THE REPUBLIC OF INDONESIA

**DECREE OF THE MINISTER OF FORESTRY AND ESTATES
NUMBER : 313/Kpts-II/1999 ; DATED : MAY 7, 1999**

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BIDDING PROCEDURE IN THE TENDER OF FOREST CONCESSIONS

THE MINISTER OF FORESTRY AND ESTATES

- Considering :**
- a. that on the basis of Article 5 sub-section (1) of Government Regulation No. 6/1999 on the Provisions on forest exploitation and the collection of forest products in production forests, it is stipulated that a forest concession in a production forest may be in the form of a natural forest concession and a timber estate forest concession;
 - b. that pursuant to Article 6 sub-section (1) of the said government regulation, it is mentioned that the forest concession as meant in Article 5 sub-section (1) shall be awarded through bidding in a tender;
 - c. that in connection with the above mentioned matters, it is deemed necessary to stipulate a decree of the Minister of Forestry and Estates on the bidding procedure in the tender of forest concessions.

**Bearing
in mind**

- : 1. Act No. 5/1967 on Basic Provisions on Forestry;
2. Act No. 6/1968 on Domestic Investments, as already amended by Act No. 12/1970;
3. Act No. 25/1992 on Cooperatives;
4. Government Regulation No. 59/1998 on the Tariffs of the Types of non-tax state's receipts prevailing in the Ministry of Forestry and Estates;
5. Government Regulation No. 6/1999 on Forest Exploitation and the collection of forest products in a production forest;
6. Presidential Decree No. 61/1998 jo President Decree No. 192/1998 on the Positions, Tasks, Organizational Structure and Working system of Ministries;
7. Presidential Decree No. 122/M/1998 on the Establishment of the Development Reform Cabinet;
8. Presidential Decree No. 18 on the promotion, fostering and development of cooperatives;

HAS DECIDED :

To stipulate : THE DECREE OF THE MINISTER OF FORESTRY AND ESTATES CONCERNING BIDDING PROCEDURE IN THE TENDER OF FOREST CONCESSIONS.

**CHAPTER I
GENERAL PROVISIONS
Article 1**

Referred to in this decree as :

1. A forest concession shall be the right to exploit a forest in a production forest area with activities comprising planting, maintenance, safeguarding, harvesting of products, processing and marketing of forest products;
2. A production forest shall be a forest area designated for the production of forest products to fulfill the needs of the community in general and for the development of export industries in particular;
3. Bidding in the tender of a forest concession shall be a method to obtain a forest concession in a production forest measuring 50,000 up to 100,000 hectares in area through an open tender, the organization of which shall be widely publicized in the print and electronic mass media so that interested members of broad community/companies may take part in it;
4. Tender participants shall be Indonesian legal entity in the form of state's companies, companies owned by regional administrations, national private companies in the form of

limited-liability companies, cooperatives or foreign private companies in the form of limited-liability companies with the status of Indonesian legal entity;

5. Pre-qualification shall be an assessment of companies with the status of Indonesian legal entities in the form of state-owned companies, companies owned by regional administrations, national private companies in the form of limited-liability companies, cooperatives or foreign private companies in the form of limited-liability companies with the status of Indonesian legal entities interested to become tender participants;
6. Bidding letters shall be written bidding whose entire documents and attachments meet the requirements set for tender documents and which is submitted by tender participants;
7. Technical assessment shall be an assessment of the fulfillment of requirements by tender participants, encompassing technical specifications of bidding in accordance with the technical requirements stipulated;
8. Administrative assessment shall be an assessment of administrative completeness and its validity in accordance with the document requirements stipulated;
9. Price assessment shall be an assessment of the appropriateness of the price submitted by tender participants on the basis of the basic price stipulated;
10. Official report on tender shall be a written document on the implementation of a stage of tender activities which is binding to the tender organizer and participants;
11. The Minister shall be the minister responsible in the forestry area;
12. Tender committee shall be a committee set up and stipulated by the Minister to undertake public tender and headed by the Director General of Production Forest Exploitation with members comprising representatives in the rank of echelon I from the ministry of forestry and estates and forestry agencies in the region.

CHAPTER II

CRITERIA AND STATUS OF PRODUCTION FOREST AND REQUIREMENTS FOR TENDER PARTICIPANTS

Article 2

- (1) The criteria of a production forest which can be placed in a tender for the natural forest concession shall be as follows :
 - a. the forest shall be 50,000 up to 100,000 hectares in area;
 - b. no right is conveyed on the forest;
 - c. an aerial photograph with the scale of 1 : 20.000 and or TM5 band 542 Landsat Imaging with the scale of 1 : 100,000 shall be available, both being less then 2 (two) years at the time of the tender;
 - d. the accessibility feasible for exploitation;
 - e. potentially feasible for exploitation.
- (2) The status of a participant shall be :
 - a. a state-owned company, or
 - b. a company owned by a regional administration; or
 - c. a national private company in the form of a limited liability company;
 - d. a small-or-medium scale enterprise and a cooperative.

Article 3

- (1) The criteria and status of a production forest which can be put in a tender for a timber estate concession shall be as follows :
 - a. the forest shall be 50,000 up to 100,000 hectares in area;
 - b. no right is conveyed on the forest;
 - c. a non productive permanent production forest area;
 - d. an aerial photography with the scale of 1 : 100,000 shall be available and shall be less than 2 (two) years at the time of the tender;
 - e. its accessibility can be developed.
- (2) The status of a participant shall be :
 - a. a state-owned company, or
 - b. a company owned by a regional administration; or
 - c. a national private company in the form of a limited-liability company;
 - d. a cooperative dealing in the forest exploitation filed;
 - e. a foreign private company in the form of a limited-liability with the status of an Indonesian legal entity.

Article 4

The requirements set for the tender shall be as follows :

- a. having an executive board structure and an act on the establishment of the company/legal entity/cooperative;
- b. domiciled or being prepared to open a branch office in the local province/first-level region;
- c. possessing a business permit from an authorized agency;
- d. dealing in the agricultural, estate and forestry businesses (agro/silvo businesses);
- e. possessing a taxpayer's code number;
- f. not in a bankruptcy condition as stipulated by an authorized government agency;
- g. having a bank reference in Indonesia regarding its capacity in the financial area;
- h. having experts and technical personnel in the forestry area;
- i. submitting a bank guarantee.

CHAPTER III TENDER PROCEDURE

Article 5

- (1) Tender shall be announced by the Ministry of Forestry and estates widely and openly through the print and electronic national and/or provincial (local) mass media.
- (2) A party interested in the tender shall submit to the tender committee a letter of application in Indonesian to become a tender participant.
- (3) A tender committee shall undertake a pre-qualification encompassing the technical and financial aspects if there are 5 (five) or more interested parties. If those interested in the tender are fewer than 5 (five) in number, the tender shall be announced again through the national and provincial (local) electronic and print mass media for as many as 2 (two) times with an interval of 7 (seven) working days.
- (4) A tender committee shall explain the documents set as tender requirements (annwijzing) and the frame of reference to tender participats.

- (5) Tender participants shall be allowed to observe the production forest are to be put in the tender directly on site and or on the basis of a thematic, aerial photograph 1: 20,000 and or landsat and or landsat image with a scale of 1 : 100,000, with all the charges to be borne by tender participants.
- (6) Tender participants shall file a bidding letter along with the documents set as tender requirements as attachment to the Director General of Production Forest Exploitation, in this case, the tender committee and the bid shall be opened in front of tender participants.
- (7) The tender committee shall determine 3 (three) candidate 3 winners of the tender and submit the proposal on the tender winners to the Minister through the Director General of Production Forest Exploitation along with the consideration for this determination.
- (8) The Minister shall determine the winner of the tender.

CHAPTER IV IMPLEMENTATION OF TENDER Article 6

- (1) The tender committee shall announce the implementation of the tender.
- (2) Parties interested in the tender shall apply an application to become tender participants.
- (3) Within a maximum of 7 (seven) working days, the tender committee shall undertake pre-qualification and announce the result of the said pre-qualification.
- (4) Within 7 (seven) working days as from the result of the pre-qualification, the tender committee shall invite tender participants to explain to them the tender documents. (annwijzing)
- (5) Tender participants shall submit a bidding letter with a technical a proposal as its attachment (in a sealed envelope) and a financial and economic proposal (in envelope 2 - sealed) to the tender committee and the bidding letter must already be received by the committee at the latest the at 4.00 p.m. (Western Indonesian Standard Time) on the sixtieth day at, as from the annwijzing.
- (6) The bidding letter must fulfill the following provisions :
 - a) having a sufficient duty stamp and a date and signed by the president Director/chairman of cooperative and submitted in a closed envelope;
 - b) the bidding letter to which envelope 1 and envelope 2 are attached shall be put into a covering envelope to which the address of the Committee for Public Tender of Tender of Timber Estate Concession is given, care of the Directorate General of Production Forest Exploitation, Ministry of Forestry and Estates.
- (7) Every tender participant shall be justified to submit only one bidding letter.
- (8) Bidding letters received by the tender committee shall be entered into the agenda and shall be put into a locked and sealed box.
- (9) Bidding letters shall be disqualified if the provisions in points 5 and 6 fail to be met.
- (10) The opening of a bidding letter :

- a. The committee shall open the box and the envelope of a letter of bid before tender participants.
 - b. The letter of bid and some information shall be read out and then examined by the tender committee and declared either valid or otherwise.
 - c. All letters of bid, either valid or otherwise, shall be entered into the official report on the opening of letters of bid letter.
 - d. Attending participants shall be given a chance to see the letters of bid submitted to the tender committee.
 - e. Irregularities and shortcomings in each letter of bid shall also be stated in the official report on the opening of letters of bid.
 - f. After being clearly read out, the official report on the opening of letters of bid shall be signed by the attending tender committee and a minimum of 2 (two) representatives of tender participants.
 - g. All letters of bid, their attachments and envelopes shall be included in the official report on the opening of letters of bid.
- (11) Within a maximum of 30 (thirty) working days, the tender committee shall assess the bidding.

CHAPTER V

DETERMINATION OF THE WINNER OF NATURAL FOREST CONCESSION

Article 7

1. The tender committee shall assess the technical proposal submitted by tender participants, comprising :
 - A. **Assessment of technical proposals, encompassing :**
 1. Forest Exploitation Plan.
 - a. Forest Arrangement
 - forest condition;
 - arrangement of borders of a forest area;
 - identification of the site and potential of plants;
 - area arrangement;
 - opening up of an area.
 - b. Forest utilization and fostering :
 - the system silviculture;
 - the extent of felling and timber production;
 - Timber utilization;
 - fostering/maintenance of plants remaining after selective felling (LOA);
 - planting of emptyland.
 2. Environmental Management Plan (RKL) and Environmental Monitoring Plan (RPL).
 3. Economic Fostering Plan;
 - employment opportunities;
 - partnership with small and medium scale enterprises and cooperatives
 - transfer of shares to cooperatives
 4. Social Fostering Plan : development of infrastructures and facilities.
 5. Institutionalization (organization and personnel)

6. Investment plan, pursuant to PSAK 32.

B. Economic and Financial Analysis containing :

1. forest exploitation costs;
2. sources of capitalization;
3. cash-flow projection;
4. profit-and-loss projection;
5. economic and financial feasibility analysis;
6. analysis of project sensitivity;
7. contribution of the project to regional economy.

2. Within a maximum period of 30 (thirty) working days, the tender committee shall determine 3 (three) candidate tender winners on the basis of the result of the assessment of the technical proposal and that of the Cost Proposal.

The assessment of the cost proposal shall be conducted on the basis of the cost of the tender stipulated by the Director General of Production Forest Exploitation and the method of calculation shall be as follows :

- a. the tender costs (BL) shall be 10% of the estimated net profit put forward by a tender participant, and this shall constitute the state's receipt to be calculated for the entire period of the forest concession and to be paid at the beginning of every year (when RKTPH is issued) while for the first time the tender costs shall be paid along with the payment of IHPH prior to the issuance of the decree on the forest concession.
- b. Net profit (LB) shall be calculated on the basis of the following formula :
Net profit : the selling price of forest product/timber - (production costs + general costs + marketing costs + obligations and taxes + other costs).
- c. $BL = 10\%$ of the net profit (LB) for the entire period of forest exploitation.
- d. The payment of tender costs (BL) shall be made at the time of the process of validating the annual working plan.
3. The tender committee shall submit a proposal of the winner of the tender to the Minister through the Director General of Production Forest Exploitation.
4. The Minister shall determine the tender winner and instruct the Director General of Production Forest Exploitation to announce this at the latest within 7 (seven) working days.
5. 7 (seven) working days after the absence of any denial/objection to the announcement of the tender winner, the Director General of Production Forest Exploitation shall issue a letter of instruction of pay (SPP) of Natural Forest Concession Fees.
6. Within a maximum of 7 (seven) days after the announcement of the determination of the winner of the tender, tender participants can make a denial/raise an objection to the said determination to the Minister.
7. At the latest 7 (seven) working days as from the receipt of the letter of denial/objection, the Minister of Forestry and Estates shall answer the said letter of denial/objection.

8. If within a period of 60 (sixty) working days as from the issuance of the letter of instruction to pay the natural forest concession contribution fee the company winning the tender fails to settle the payment, the said winner of the tender shall be disqualified and the winner of the tender shall be the company placed next in the ranking.

CHAPTER VI
DETERMINATION OF WINNER OF A TENDER FOR TIMBER ESTATE CONCESSION
Article 8

1. The tender committee shall assess the Technical Proposal and the financial and economic proposal presented by a tender participants as follows :

A. Assessment of a technical proposal shall encompass :

1. Prospect of Timber Estate Exploitation :
 - a. prospect of demand and supply;
 - b. prospect of choice of corporate class;
 - c. prospect of timber exploitation.
2. Timber Estate Exploitation Plan shall encompass :
 - a. Forest arrangement :
 - arrangement of area boundaries;
 - arrangement of the area (compartmentalization);
 - plan to open up forest area (PWH).
 - b. Planting and Utilization :
 - the system of silviculture;
 - plan for plant nursery and seedling;
 - plan for planting;
 - plan for maintenance;
 - plan for production arrangement;
 - plan for utilization of forest products;.
 - c. Plan for Forest Protection and Safeguarding.
 - d. Plan for Research and Development.
3. Plan for Economic Fostering :
 - a. Employment opportunities;
 - b. Partnership with cooperatives;
 - c. Transfer of shares to cooperatives.
4. Plan for Social Fostering :
 - a. Development of infrastructures and facilities;
 - b. Development of human resources.
5. Institutionalization (organization and personnel).
6. Cost plan in accordance with the PSAK 32 component.

- B. Financial and Economic Assessment shall contain :
1. forest exploitation costs;

2. sources of capitalization;
 3. cash flow projection;
 4. profit-and-loss projection;
 5. economic and financial feasibility analysis;
 6. analysis of project sensitivity;
 7. contribution of the project to regional economy.
2. Within a maximum period of 30 (thirty) working days the tender committee shall determine 3 (three) candidate winners of the tender on the basis of the result of the assessment of the technical proposal and the financial and economic proposal.
 3. The tender committee shall put forward a proposal on the winner of the tender to the Minister through the Director General of Production Forest Exploitation.
 4. The Minister shall determine the tender winner and instruct the Director General of Production Forest Exploitation to announce this at the latest within 7 (seven) working days.
 5. 7 (seven) working days after the absence of any denial/objection to the announcement of the tender winner, the Director General of Production Forest Exploitation shall issue a letter of instruction to pay (SPP) of timber estate concession fees.
 6. Within a maximum of 7 (seven) days after the announcement of the determination of the winner of the tender, tender participants can make a denial/raise an objection to the said determination to the Minister.
 7. At the latest 7 (seven) working days as from the receipt of the letter of denial/objection, the Minister of Forestry and Estates shall answer the said letter of denial/objection.
 8. If within a period of 60 (sixty) working days as from the issuance of the letter of instruction to pay the timber estate concession contribution fee the company winning the tender fails to settle the payment, the said winner of the tender shall be disqualified and the winner of the tender shall be the company placed next in the ranking.

CHAPTER VII

FOSTERING AND SUPERVISION

Article 9

- (1) The Director General of Production Forest Exploitation shall undertake technical fostering of and supervision over the implementation of forest exploitation.
- (2) The head of a provincial office of the ministry of forestry and estates shall undertake fostering of and supervision over the implementation of forest concessions in his territory.
- (3) The head of a provincial/first-level region's forestry service shall undertake technical supervision and control over the implementation of forest concessions in his territory.

CHAPTER VIII

CLOSING PROVISIONS

Article 10

With the stipulation of this decree, Decree of the Minister of Forestry and Estate No. 731/Kpts-II/1998 dated November 10, 1998 on the procedure for the tender of forest concessions