

GUIDE TO REQUIREMENTS FOR THE ISSUANCE OF PERMITS TO REPRESENTATIVES OF FOREIGN CONSTRUCTION SERVICE CORPORATE BODIES

(Regulation of the Public Works Minister

No. 10/PRT/M/2014 dated September 22, 2014)

BY THE GRACE OF GOD ALMIGHTY

THE PUBLIC WORKS MINISTER OF

THE REPUBLIC OF INDONESIA,

Considering :

- a. that to protect the interests of the national construction service community against the presence of foreign construction service corporate bodies more effectively, it is necessary to improve guide to requirements for the issuance of permits to representatives of foreign construction service corporate bodies;
- b. that guide to requirements for the issuance of permits to representatives of foreign construction service corporate bodies as provided for in Regulation of the Public Works Minister No. 05/PRT/M/2011 on Guide to Requirements for the Issuance of Permits to Representatives of Foreign Construction Service Corporate Bodies is no longer relevant to the legal developments and public needs so that it needs to be replaced;
- c. that based on the considerations as referred to in letters a and b, it is necessary to stipulate Regulation of the Public Works Minister on Guide to

Requirements for the Issuance of Permits to Representatives of Foreign Construction Service Corporate Bodies;

In view of :

1. Government Regulation No. 28/ 2000 on the Business and Role of the Construction Service Community (Statute Book of 2000 No. 63, Supplement to Statute Book No. 3955), as already amended the latest by Government Regulation No. 92/ 2010;
2. Presidential Regulation No. 47/2009 on the Formation and Organization of State Ministry, as already several times amended the latest by Presidential Regulation No. 13/2014;
3. Presidential Regulation No. 24/2010 on the Position, Task and Function of State Ministry and the Organizational Structure, Task and Function of Echelon I Officials of State Ministry as already several times amended the latest by Presidential Regulation No. 14/2014;
4. Regulation of the Public Works Minister No. 08/PRT/M/2010 on the Organization and Work Mechanism of the Public Works Ministry;

DECIDES :

To stipulate :

MINISTERIAL REGULATION ON GUIDE TO REQUIREMENTS FOR THE ISSUANCE OF PERMITS TO REPRESENTATIVES OF FOREIGN CONSTRUCTION SERVICE CORPORATE BODIES.

CHAPTER I

GENERAL PROVISIONS

Article 1

Referred to in this Ministerial Regulation as :

1. Construction service is consulting service for construction work planning, service for the realization of construction work, and consulting service for the supervision of construction work.
2. Construction service corporate body, hereinafter abbreviated into BUJK, is a corporate body in the form of legal entity engaged in the construction service sector.
3. Foreign construction service corporate body, hereinafter abbreviated into BUJKA, is a corporate body set up according to the law and domiciled abroad, having a representative office in Indonesia, and treated the same as limited liability company engaged in the construction service sector.
4. Permit of representative of foreign construction service corporate body, hereinafter called representative permit, is a permit issued by the government to BUJKA to provide construction services in Indonesia.
5. Head of representative is a person appointed by holding BUJKA and having the authority to represent the interests of BUJKA in Indonesia.
6. Joint operation is temporary business cooperation between one BUJKA and one BUJK or more to handle one or several construction jobs and is not a new legal entity based on the Indonesian law.
7. Technical BUJKA evaluating team, hereinafter called technical team, is a team formed by the Minister to evaluate requirements met and business activities carried out by representative of BUJKA.
8. Certificate of corporate body, hereinafter abbreviated into SBU, is evidence to acknowledge the endorsement of classification and qualification of business capability in the construction service sector in the form of corporate body.
9. Certificate of participation is evidence of participation of BUJKA business capability from a national level institution.
10. Construction service business permit, hereinafter abbreviated into IUJK, is a permit issued by regency/municipal government to carry out business activities in the construction service sector.
11. State-owned company, hereinafter abbreviated into BUMN, is a corporate body whose shares are entirely or mostly owned by the state through direct participation originating from separated property of the state.

12. Regional government-owned company, hereinafter abbreviated into BUMD, is a corporate body whose shares are entirely or mostly owned by regional government through direct participation originating from separated property of the regional government.
13. Privately run company, hereinafter abbreviated into BUMS, is a corporate body whose capital is entirely owned by Indonesian citizen and/or Indonesian corporate body.
14. National Construction Service Development Institution, hereinafter called National Institution, is an organization as referred to in Article 24 paragraph (1) of Government Regulation No. 4/2010 on Amendment to Government Regulation No. 28/2000 on the Business and Role of the Construction Service Community based in the capital of the state.
15. Working unit is a structural unit at the Public Works Ministry which has main tasks and functions related to foreign construction licensing service.
16. Related Ministry/Institution/Regional Apparatus Working Unit/Institution, hereinafter called related K/L/D/I, is an agency carrying out government affairs related to the classification of construction jobs and consulting services.
17. Minister is the minister carrying out government affairs in the public works field

Article 2

This Ministerial Regulation is aimed at serving as guide to issuing permits to representatives in order to protect public interests and develop national construction services.

Article 3

The scope of this Ministerial Regulation covers procedure and requirements of filing application, principle of joint operation, criteria of jobs and procedure of realizing joint operation, rights and obligations, the technical team for permits of BUJKA representatives, and administrative sanctions.

Article 4

- (1) Representative permit is issued by the Public Works Ministry signed on behalf of the Minister by the Head of Working Unit.
- (2) Representative permit is issued to BUJKA with large qualifications.
- (3) Representative permit can be used to carry out construction service business all over Indonesia.
- (4) Representative permit is valid for 3 (three) years and can be extended.

- (5) The extension of representative permit as referred to in paragraph (4) can only be made if the applicant:
- files an application no later than 60 (sixty) calendar days after the validity period of representative permit expires;
 - completes all documents required in the application for extension;
 - does at least 1 (one) construction service job within 3 (three) years;
 - conveys an annual report of activities no later than January after the current year; and
 - secures a recommendation for extension from the technical team.
- (6) The format of annual report of activities as referred to in paragraph (5) letter d is contained in Part A of Attachment IV which is an integral part of this Ministerial Regulation.

CHAPTER II

PROCEDURE OF FILING APPLICATION

AND REQUIREMENTS

Part One

General

Article 5

- (1) BUJKA wishing to secure a representative permit shall file an application to the Minister through the Head of Working Unit.
- (2) The application for a representative permit as referred to in paragraph (1) consists of:
- new representative permit;
 - extended representative permit;
 - change in data of representative permit; and/or
 - termination of representative permit.
- (3) The application for a change in data as referred to in paragraph (2) letter c consist of :
- change in data of corporate body;
 - change in address;
 - change in the type of business; and/or
 - change in data of the Head of BUJKA representative.

Article 6

- (1) Representative permit is issued in the form of certificate containing at least the following data:

- a. name of corporate body;
 - b. name of the head of representative;
 - c. address and phone numbers of BUJKA;
 - d. validity period of representative permit; and
 - e. type of business.
- (2) The format of certificate as referred to in paragraph (1) is contained in Attachment I which is an integral part of this Ministerial Regulation.
- (3) Application for a new representative permit, an extended representative permit and/or a change in type of business as referred to in Article 5 paragraph (2) letter a, Article 5 paragraph (2) letter b and Article 5 paragraph (3) letter c, is subject to administrative fees as follows:
- a. in consulting service for construction planning/supervision at USD5,000 (five thousand United States dollars); and/or
 - b. in construction service at USD 10,000 (ten thousand United States dollars)
- (4) The administrative fees as referred to in paragraph (3) are paid by BUJKA to the state treasury.

Part Two

Procedure

Article 7

- (1) BUJKA that will apply for the licensing services as referred to in Article 5 shall file an application to the Minister in this case the head of working unit.
- (2) The working unit checks application, conducts field verification according to the need, validates documents and/or interviews candidate for the head of representative.
- (3) Representative permit is issued no later than 10 (ten) working days after documents are declared complete.

Article 8

The licensing flow chart of application for a new representative permit, application for extended representative permit, application for a change in data of representative permit, and application for termination of representative permit is contained in Attachment II which is an integral part of this Ministerial Regulation.

Part Three

Requirements

Article 9

- (1) Requirements of application for new representative permit as referred to in Article 5 paragraph (2) letter a cover: :
- a. application form;
 - b. a copy of deed of incorporation of parent BUJKA in the country of origin validated by notarial public or the authorized agency in the country of origin;
 - c. general data of BUJKA;
 - d. a recommendation from the embassy of the country of origin in Indonesia stating that the relevant BUJKA is a corporate body which is legally registered and has good reputation;
 - e. a copy of valid construction service permit of the parent BUJKA validated by the issuing agency;
 - f. a copy of equality certificate validated by the National Level Institution;
 - g. a letter of appointment from the head of BUJKA representative issued by the parent BUJKA;
 - h. a copy of the newest financial statement of the parent BUJKA audited by a public accountant;
 - i. a copy of passport or residence identification card of the candidate for the head of representative;
 - j. a curriculum vitae of the candidate for the head of BUJKA representative;
 - k. a copy of certificate of domicile of the BUJKA representative office in Indonesia issued by the relevant village administration office;
 - l. a written statement of the truth and original of documents; and
 - m. a written statement that the board of directors or commissioners of the parent BUJKA do not currently hold the post of director or commissioner of other BUJK.
- (2) Requirements of application for extended representative permit as referred to in Article 5 paragraph (2) letter b cover:
- a. application form;
 - b. general data of BUJKA;
 - c. original representative permit that will expire/has expired;
 - d. equality certificate validated by the National Level Institution;
 - e. a recommendation renewed by the embassy of the country of origin in Indonesia stating that the relevant BUJKA is a corporate body which is legally registered and has good reputation;
 - f. a copy of valid construction service permit of the parent BUJKA ;

- g. a receipt of submitting an annual report of activities using the format as contained in Part B Attachment IV which is an integral part of this Ministerial Regulation;
 - h. a copy of NPWP of the relevant BUJKA representative;
 - i. a copy of passport or citizen identification card of the head of representative;
 - j. a copy of certificate of domicile of the BUJKA representative office in Indonesia issued by the relevant village administration office;
 - k. a copy of payment for manpower social security for each realized construction project validated by the relevant manpower social security agency; and
 - l. a written statement of the truth and original of documents.
- (3) Requirements of application for a change in data of corporate body as referred to in Article 5 paragraph (3) letter a cover :
- a. application form ;
 - b. valid original representative permit;
 - c. a copy of deed of a change in the name of company validated by notarial public in the country of origin;
 - d. a recommendation from the embassy of the country of origin in Indonesia that the relevant BUJKA has changed its name;
 - e. a copy of certificate of domicile of the BUJKA representative office in Indonesia issued by the relevant village administration office; and
 - f. a written statement of the truth and original of documents.
- (4) Requirements of application for a change in address as referred to in Article 5 paragraph (3) letter b cover :
- a. application form;
 - b. valid original representative permit;
 - c. a validated copy of deed of a change in company address;
 - d. a recommendation from the embassy of the country of origin in Indonesia that the relevant BUJKA has changed its address;
 - e. a copy of certificate of domicile of the BUJKA representative office in Indonesia issued by the relevant village administration office; and
 - f. a written statement of the truth and original of documents.
- (5) Requirements of application for a change in the types of business as referred to in Article 5 paragraph (3) letter c cover at least:

- a. application form;
 - b. valid original representative permit;
 - c. a copy of equality certificate validated by the National Level Institution; and
 - d. a written statement of the truth and original of documents.
- (6) Requirements of application for a change in data of the head of BUJKA representative as referred to in Article 5 paragraph (3) letter d cover at least:
- a. application form;
 - b. valid original representative permit
 - c. a letter of appointment of the new head of BUJKA representative by the parent BUJKA;
 - d. a curriculum vitae of the new head of BUJKA representative;
 - e. exit permit only (EPO) of the old head of the BUJKA representative;
 - f. a copy of new passport or residence identification card of the head of representative;
 - g. a written statement of the truth and original of documents; and
 - h. a written statement that the board of directors or commissioners of the parent BUJKA do not currently hold the post of director or commissioner of other BUJK.
- (7) The change in data as referred to in Article 5 paragraph (2) letter c does not alter the validity period of representative permit.
- (8) Requirements of application for termination of representative permit as referred to in Article 5 paragraph (2) letter d cover at least:
- a. application form ;
 - b. original representative permit; and
 - c. a statement of zero tax.

Article 10

- (1) The format of the application form as referred to in Article 9 paragraph (1) letter a, Article 9 paragraph (2) letter a, Article 9 paragraph (3) letter a, Article 9 paragraph (4) letter a, Article 9 paragraph (5) letter a, Article 9 paragraph (6) letter a and Article 9 paragraph (8) letter a is contained in Part A Attachment III which is an integral part of this Ministerial Regulation.
- (2) The format of general data of BUJKA as referred to in Article 9 paragraph (1) letter c and Article 9 paragraph (2) letter b, is contained in Part B Attachment III which is an integral part of this Ministerial Regulation.

- (3) The format of the written statement of the truth and original of documents as referred to in Article 9 paragraph (1) letter l, Article 9 paragraph (2) letter l, Article 9 paragraph (3) letter f, Article 9 paragraph (4) letter f, Article 9 paragraph (5) letter d and Article 9 paragraph (6) letter g is contained in Part C Attachment III which is an integral part of this Ministerial Regulation.
- (4) The format of written statement that director or commissioner of the parent BUJKA does not hold the post of director or commissioner of other BUJK as referred to in Article 9 paragraph (1) letter m and Article 9 paragraph (6) letter h is contained in Part D Attachment III which is an integral part of this Ministerial Regulation.

CHAPTER III

PRINCIPLES OF JOINT OPERATION, CRITERIA OF JOBS AND PROCEDURE OF JOINT OPERATION

Part One

Joint Operation

Article 11

- (1) BUJKA shall sign a joint operation contract with BUJK based on the principles of similar construction services and equal construction service qualifications.
- (2) The joint operation contract as referred to in paragraph (1) starts at the time of participating in procurement, realization up to the completion of construction jobs.
- (3) Parties in the joint operation contract as referred to in paragraph (1) shall jointly and individually take the same responsibilities to service users.
- (4) BUJK as referred to in paragraph (1) shall:
 - a. come in the form of limited liability company;
 - b. have 100% (a hundred percent) of its shares owned by Indonesian citizens, the state of the Republic of Indonesia, regional government, BUMS, BUMN, and/or BUMD;
 - c. have i SBU with large business qualification; and
 - d. hold IUJK.
- (5) If the condition as referred to in paragraph (4) letter b cannot be met, BUJK as a would-be partner of joint operation shall file an application for approval to the Minister in this case the head of the working unit according to the format as contained in Attachment V which is an integral part of this Ministerial Regulation.

- (6) The Minister or the official appointed by the Minister can issue a letter of approval as referred to in paragraph (5) to BUJK that meets the following provisions:
- at least 65% (sixty five percent) of BUJK's shares is owned and controlled by Indonesian citizens, the state of the Republic of Indonesia, regional government, foundation, BUMS, BUMN, and/or BUMD;
 - the posts of president director, finance director and human resources director in BUJK are held by Indonesian citizens; and
 - BUJK proves to have carried out activities that encourage the production supply chain of the domestic construction industry.
- (7) If BUJK that does not meet the condition as referred to in paragraphs (4) and (6) signs a joint operation contract with BUJKA, the Minister or the official appointed by the Minister shall issue written warning to BUJK.

Part Two

Criteria of Jobs

Article 12

- (1) BUJKA that has signed a joint operation contract as referred to in Article 11 paragraph (1) can carry out construction jobs financed by :
- the state budget or regional budget;
 - loans;
 - foreign grants;
 - foreign and domestic investment; and/or
 - private funds according to the law and regulation.
- (2) BUJKA is only allowed to carry out construction jobs which have high risks, involve high technology and need high costs.
- (3) The construction jobs with high risks as referred to in paragraph (2) are construction jobs whose realization and use of construction buildings endanger public safety, property, human lives and the environment.
- (4) The construction jobs with high technology as referred to in paragraph (2) are construction jobs realized using special construction method , high technology equipment, special construction equipment and requiring many professional workers.
- (5) The construction jobs with high costs as referred to in paragraph (2) are construction jobs with a construction value of at least Rp100,000,000,000,- (a hundred billion rupiahs) and construction planning and/or

supervision jobs with a value of at least Rp10,000,000,000,- (ten billion rupiah).

- (6) The leadership of K/L/D/I concerned or official appointed by the leadership of K/L/D/I concerned decides construction jobs with high risks and high technology.

Part Three

Procedure of Joint Operation

Article 13

- (1) Joint operation for construction jobs is realized by fulfilling the following provisions:
- at least 50% (fifty percent) of construction job value is done at home; and
 - at least 30% (thirty percent) of construction job value is done by BUJK.
- (2) The leadership of K/L/D/I concerned or official appointed by the leadership of K/L/D/I concerned decides more than 50% (fifty percent) of construction jobs that can be done abroad and more than 30% (thirty percent) of the construction job value done by BUJK.
- (3) Joint operation for construction planning jobs is realized by fulfilling the following provisions:
- all technical planning jobs are done at home; and
 - at least 50% (fifty percent) of the construction planning job value is done by BUJK.

CHAPTER IV

RIGHTS AND OBLIGATIONS

Article 14

- (1) BUJKA has the right to :
- contact individuals, corporate bodies, national government and/private institutions to find information on construction service market;
 - take part in the procurement of construction jobs; and
 - recruit and decide Indonesian workers or expatriates according to the law and regulation.
- (2) BUJKA has the obligation to :
- comply with the law and regulation;
 - sign a joint operation contract to carry out construction service jobs based on the principles of joint operation as referred to in Article 11 and according to the procedure of joint operation as referred to in Article 13;
 - only do construction service jobs that meet the criteria of jobs with high technology, high risks and high

costs as referred to in Article 12;

- d. employ expatriates only for the posts that can be held by expatriates according to the law and regulation in the manpower sector and employ Indonesian workers of the same level for the management and technical level as counterparts;
- e. conduct transfer of knowledge;
- f. submit a change in data no later than 10 (ten) working days after the change;
- g. file an application for the extension of representative permit no later than 60 (sixty) calendar days after the expiry of representative permit; and
- h. submit an annual report of business activities covering :
 - 1) data of BUJKA;
 - 2) data of BUJK as joint operation partner;
 - 3) data of projects handled;
 - 4) joint operation contract;
 - 5) data of the use of expatriates and Indonesian workers along with complete curriculum vitae;
 - 6) a copy of Memorandum of Agreement (MoA) from cooperation contract; and
 - 7) data of the transfer of knowledge including a report on transfer of knowledge to Indonesian professional workers employed as counterparts.

(3) In submitting an annual report of activities as referred to in paragraph (2) letter h, BUJKA can submit data requested in the form of printout or by filling the format of annual report itself in the information system managed by working unit.

Article 15

- (1) The transfer of knowledge as referred to in Article 14 paragraph (2) letter e is done by fulfilling the following provisions:
- a. BUJKA makes a plan for the transfer of knowledge to Indonesian counterpart workers for each job according to the format as contained in Part A Attachment VI which is an integral part of this Ministerial Regulation;
 - b. Indonesian workers employed as counterparts of expatriates make a written statement about the result of transfer of knowledge according to the format as contained in Part B Attachment VI which is an integral part of this Ministerial Regulation;
 - c. BUJKA organizes a skill and/or managerial training for Indonesian professional workers as well as skill

- training for Indonesian skilled workers at least once for each job project;
- d. BUJKA facilitates Indonesian citizens recommended by the Minister or official appointed by the Minister to conduct on- the-job training and/or an academic research on the job project being carried out by BUJKA; and
 - e. BUJKA carries out Corporate Social Responsibility (CSR) activities for the public at least once during the validity period of representative permit.
- (2) BUJKA conveys the plan for transfer of knowledge and the written statement about the result of transfer of knowledge as referred to in paragraph (1) letter a to the Minister in this case the working unit at the same time of submitting an annual report of activities.

CHAPTER V

BUJKA TECHNICAL TEAM

Article 16

- (1) To monitor and evaluate BUJKA, a technical team of BUJKA is formed by virtue of decision of the head of working unit.
- (2) The technical team as referred to in paragraph (1) is made up of representatives from :
 - a. the working unit;
 - b. the organizational unit at the Public Works Ministry whose main tasks and functions are related to supervision; and
 - c. the National Level Institution.
- (3) The technical team is tasked with :
 - a. monitoring the business activities of BUJKA;
 - b. evaluating the business activities of BUJKA;
 - c. issuing a recommendation on the extension of representative permit to the working unit; and
 - d. issuing a recommendation on the imposition of administrative sanctions.
- (4) All operating expenses incurred by the technical team are borne by the state budget (APBN).

CHAPTER VI

ADMINISTRATIVE SANCTIONS

Article 17

- (1) BUJKA may be subjected to administrative sanctions for violating this Ministerial Regulation.

- (2) The administrative sanctions as referred to in paragraph (1) come in the form of :
- written warning;
 - freezing of representative permit; or
 - revocation of representative permit.
- (3) The administrative sanction in the form of written warning is imposed on BUJKA violating the obligations as referred to in Article 14 paragraph (2) letter b, Article 14 paragraph (2) letter c, Article 14 paragraph (2) letter d, Article 14 paragraph (2) letter e, Article 14 paragraph (2) letter f, Article 14 paragraph (2) letter g and/or Article 14 paragraph (2) letter h.
- (4) The administrative sanction in the form of the freezing of representative permit will be imposed on BUJKA if :
- it receives at least 2 (two) written warnings within a period of 3 (three) years;
 - the director, commissioner or head of BUJKA representative office is found holding the post of director or commissioner of other BUJK;
 - it does not meet the obligation to provide manpower social security as recommended by the related manpower social security agency;
 - it is found submitting a wrong annual report of activities, and/or
 - it is put on the blacklist issued by service user and announced by the institution responsible for policies on the procurement of goods or services.
- (5) The period of time to freeze representative permit as referred to in paragraph (4) and the requirements to lift the freezing of representative permit are set by the Minister or the official appointed by the Minister.
- (6) Administrative sanction in the form of revocation of representative permit will be imposed on BUJKA if
- its representative permit was once frozen and it repeats the same violation;
 - it is found submitting false supporting documents at the time of applying for a new permit, extended permit, change of data and/or at the time of submitting an annual report of activities;
 - it is found carrying jobs which are not relevant to the business field contained in the representative permit; and/or
 - it does not file an application for extended representative permit within a maximum period of 60 (sixty) calendar days after the validity period of representative permit has expired.
- (7) BUJKA that receives administrative sanction in the form of the revocation of representative permit can only apply for a new representative permit no later than 3 (three) years after its representative permit has been revoked.

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 18

- (1) National Level Institution shall issue certificates of equality no later than 6 (six) months after this Ministerial Regulation took effect.
- (2) Representative permit issued before the coming into force of this Ministerial Regulation shall remain valid until its validity period expires.

CHAPTER VIII

CONCLUSION

Article 19

When this Ministerial Regulation began to take effect, Regulation of the Public Works Minister No. 05/PRT/M/2011 on Guide to Requirements for the Issuance of Permits to Representatives of Foreign Construction Service Corporate Bodies is revoked and declared null and void.

Article 20

This Ministerial Regulation shall come into force as from the date of promulgation.

For public cognizance, this Ministerial Regulation shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On September 22, 2014

THE PUBLIC WORKS MINISTER OF

THE REPUBLIC OF INDONESIA,

sgd.

DJOKO KIRMANTO

Promulgated in Jakarta

On October 8, 2014

THE LAW AND HUMAN RIGHTS MINISTER OF

THE REPUBLIC OF INDONESIA,

sgd.

AMIR SYAMSUDIN

STATE GAZETTE OF THE REPUBLIC OF INDONESIA

OF 2014 NO.1505

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