



Regulation Reform on Land Procurement for the Development of Public Interest (Law no. 2 Year 2012 and Other Supporting Regulations)

The Directorate of Land Regulation and Procurement

Current Issues in Land Procurement

- 1. Limited availability of land**
- 2. Lack community participation**
- 3. The country potential loss**
- 4. Legal problem on land procurement**
- 5. Regulation reform on land procurement**
- 6. Basic principles on land procurement**
- 7. Fundamental changes on land procurement**
- 8. Four stages in land procurement activities**



Regulation Reform on Land Procurement for the Development of Public Interest

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1. Land procurement is an activity that is conducted by the GoI to ensure land availability to be used for public interest and development. Basic principles on land procurement are: democratic; fair; transparent; uphold human rights and forward discussion. Court is the last option to resolve the discussion deadlock between the government as the party that needs land and people who own the land.
2. Development for public interest is one of reasons why the GoI legitimizing land procurement. Limited supply of land has caused its procurement gets hampered, thus physical development of projects cannot be started as it is planned. As a result, the GoI experience losses due to the delay in projects' operational commence.

3. Limited land supply does not mean there is no more land available, instead of the land has been owned by individuals and institutions either public or private.
4. In addition, land is viewed by the Indonesian people as the most important thing and as the source for living. Hence, when the land is needed for development and the force of law is used, there will be rejection from the people that often turns into violence. The GoI realizes this problem, however on the other hand the land is urgently needed to develop for the welfare of Indonesian people.

5. Lack of good relationship between the GoI as the party that needs land and the people who own the land are caused by factors such as:
 - 1) Land procurement is always associated with eviction.
 - 2) Current Regulations are not sufficient enough to be used to face challenges found on the field.
 - 3) Community was not involved from the beginning in land procurement activities.
 - 4) Development plan locations are not well communicated to the owners.
 - 5) Compensation amount are felt not benefiting land owners.
 - 6) Land procurement activities are not transparently done.
 - 7) Compensation paid to the land owner cannot be used as source of living income.
 - 8) Compensation paid is not done in time, which affects land market value.

9) Strong believe in the community that land rights are eternal and they are free to do whatever they want to do with the land without having to think about others. Lack communication between the GoI and community has made the later does not realise that land has its social function, which is the GoI can take the land to be used for public interest. However, this social function cannot be justified as the right to evict or take the right of the land owner.

6. No up to date regulations that are able to accommodate and solve complex problems in current land acquisition have caused delayed in land procurement activity. Often, these activities create conflict between the GoI and community and end up in court. To overcome problems and to level perceptions toward land and its function, the GoI must formulate land procurement policies with end results are to minimize resistance and negative effects from land owners.

7. Constitutional basis for land procurement for public interest can be found on the Constitution of Republic of Indonesia of 1945, article 33:

- 1) The Economy is structured as a common endeavor based on familial principles
- 2) Production sectors that are vital to the state and that affect the livelihood of a considerable part of the population are to be controlled by the state.
- 3) The land and the waters as well as the natural riches therein are to be controlled by the state to be exploited to the greatest benefit of the people.
- 4) The organization of the national economy shall be based on economic democracy that upholds the principles of solidarity, efficiency along with fairness, sustainability, keeping the environment in perspective, self-sufficiency, and that is concerned as well with balanced progress and with the unity of the national economy.
- 5) Further provisions regarding the implementation of this article are to be regulated by law.

8. To have land's social function worked, the GoI forms several public institutions and various regulations. Currently, the GoI has improved law that associate with land procurement, which is Law No. 2 / 2012 in regard to land procurement for the development of public interest and its supporting regulations :

1) Presidential Regulation No. 71 / 2012;

2) Regulation of the Chief of the National Land Agency of the Republic of Indonesia No. 5 / 2012;

3) Regulation of the Interior Minister No. 72 / 2012;

4) Regulation of the Finance Minister No. 13 / PMK.02 / 2013.

High expectations are laid upon these law and regulations to overcome land procurement problems. At the end, community participation in development for public interest is increased.

9. According to the Law No. 12 / 2012 there are 4 stages in land procurement for public interest that are not found in previous regulations, there are :

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|-----------------|------------------------|
| 1) Planning; | 3) Implementation; and |
| 2) Preparation; | 4) Result Delivery. |

10. In addition, other substantial differences between this new law are :

- 1) Four stages in land procurement activities. The stages give clear picture on who are responsible in each stage, the expected outcomes and land acquisition duration.
- 2) Basic principle in land procurement is deliberation.
- 3) Community is guaranteed to be involved in each stage of land procurement.
- 4) Community is guaranteed to be able to receive information on the development.
- 5) There will be equality in the eye of law for land owners.

- 6) Development location is plotted based on consensus between GoI and land owner.
- 7) Legal certainty and measurable output in land procurement objects.
- 8) The GoI will not interfere in land compensation value (market value).
- 9) Rights to object land plotting and compensation value are protected by law.
- 10) Final decision on land development location and compensation value is decided in court.
- 11) Although the acquisition are conducted and owned by the GoI, the development can be given to private sector (PPP).

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Thank You