GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA

NUMBER 61 OF 2010

ON

IMPLEMENTATION OF ACT NUMBER 14 OF 2008

ON PUBLIC INFORMATION OPENNESS

BY THE MERCY OF ALMIGHTY GOD

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Whereas: That to implement provisions in Article 20 paragraph (2) and Article 58 of Act Number 14 of 2008 on Public Information Openness, it is necessary to stipulate a government regulation on implementation of Act Number 14 of 2008 on Public Information Openness;

In consideration of: 1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia; 2. Act Number 14 of 2008 on Public Information Openness (State Gazette of the Republic of Indonesia Number 61 of 2008, Supplement to the State Gazette of the Republic of Indonesia Number 4846);

DECIDES:

To Stipulate: GOVERNMENT REGULATION ON IMPLEMENTATION OF ACT NUMBER 14 OF 2008 ON PUBLIC INFORMATION OPENNESS.

CHAPTER I

GENERAL PROVISIONS

Article 1
In this Government Regulation, the following terminologies shall have definitions assigned to them below:

1. Public Information means any information produced, stored, managed, sent and/or received by a public body in relation with governments and governance of state and/or operators and governance of other public bodies pursuant to this Act, and other information concerning public interest.

2. Public Body means executive, legislative, judicial institutions and other bodies which functions and main duties are related to state governance, which all or part of its funding originated from State Revenue and Expenditure Budget and/or the Local Revenue and Expenditure Budget, or non governmental organizations provided that all or part of its funding originated from State Revenue and Expenditure Budget and/or the Local Revenue and Expenditure Budget, public donation, and/or foreign origin.

3. State Public Body means executive, legislative, judicial institutions and other bodies whose functions and duties are primarily related to state governance, which part or all of its funding are originated from State Revenue and Expenditure Budget and/or the Local Revenue and Expenditure Budget.

4. Public Official means a person appointed and assigned to certain position or post in Public Body.

5. Information and Documentation Management Officer, hereinafter referred to as IDMO, means an officer responsible for storage, documentation, provision and/or service of information in Public Body.

6. Public Information Requester means an Indonesian citizen and/or Indonesian legal entity filing a public information request as stipulated in this Act.

7. Exempted information means information inaccessible to Public Information Requester as referred to in Public Information Openness Act.

8. Public Information Classification means the stipulation of information as exempted Information in accordance with Public Information Openness Act.

9. Consequence Test means the test of consequences that will emerge if an information is disclosed to public and after meticulously measured that confining the Public Information
may protect a greater interest compared to disclosing it, or vice versa.

10. Exemption Period means specified period during which Exempted Information is inaccessible by Public Information Requester.

11. Indemnity means payment of a sum of money to a person or a legal entity at the expense of a State Public Body by virtue of a verdict issued by the State Administrative Court due to material loss suffered by the Plaintiff.

12. Minister means the minister carrying out government affairs in communication and information technology sector.

CHAPTER II

WRITTEN CONSIDERATION OF THE POLICIES OF PUBLIC BODY

Article 2

(1) In the event of a Public Information request from a Public Information Requester, a Public Body shall make written consideration on every policy made to fulfill the right of every Public Information Requester.

(2) The written consideration as referred to in paragraph (1) shall be stipulated by IDMO with the prior consent of the head of concerned Public Body.

(3) The written consideration as referred to in paragraph (1) is accessible to every Public Information Requester.

CHAPTER III

INFORMATION CLASSIFICATION AND EXEMPTION PERIOD OF EXEMPTED INFORMATION

Part One

Information Classification

Article 3

(1) Information Classification shall be stipulated by IDMO in every Public Body based on Consequence Test in meticulous
and cautious manner prior to declaring a certain Public Information as exempted from being accessed by any Person.

(2) Stipulation of Information Classification as referred to in paragraph (1) shall be made with prior consent of the head of concerned Public Body.

**Article 4**

(1) Information Classification as referred to in Article 3 shall be established in the form of classification establishment letter.

(2) Classification establishment letter as referred to in paragraph (1) shall at least contain:
   a. Types of classification of Exempted Information;
   b. Identity of concerned IDMO;
   c. Public Body, including the working unit of concerned officers;
   d. Exemption Period;
   e. Grounds of exemption; and
   f. Place and date of stipulation.

**Part Two**

**Period of Exemption for Exempted Information**

**Article 5**

(1) Exemption Period of Public Information that if disclosed and provided to Public Information Requester could obstruct due process of law shall be at maximum of 30 (thirty) years.

(2) Exemption Period as referred to in paragraph (1) is not applicable if the Public Information has been disclosed in an open-to-Public trial.

**Article 6**

Exemption Period of Public Information that if disclosed and provided to Public Information Requester could obstruct
protection of intellectual property rights and protection from unfair competition shall be stipulated under legislations.

**Article 7**

1. Exemption Period of Public Information that if disclosed and provided to Public Information Requester could endanger state defense and security shall be stipulated for period of time required for the protection of state defense and security.

2. Exemption Period of Public Information that if disclosed and provided to Public Information Requester could reveal the natural resources assets of Indonesia shall be stipulated for a period of time required for the protection of the natural resources assets of Indonesia.

3. Exemption Period of Public Information that if disclosed and provided to Public Information Requester could impose harm to national economic resilience shall be stipulated for a period of time required for the protection of national economic resilience.

4. Exemption Period of Public Information that if disclosed and provided to Public Information Requester could impose harm to international relations shall be stipulated for a period of time required for the protection of international relations.

5. Provisions on concerned period as referred to in paragraph (1), paragraph (2), paragraph (3) and paragraph (4) shall be stipulated by the highest leader of the concerned Public Body.

**Article 8**

1. Exemption Period of Public Information that if disclosed could reveal contents of any personal authentic certificate and a person’s last wish or testaments shall be stipulated pursuant to legislations.

2. Exemption Period of Public Information that if disclosed and provided to Public Information Requester could reveal
personal secrecy shall be stipulated for a period of time required for the protection of personal secrecy.

(3) Public Information as referred to in paragraph (1) and paragraph (2) may be disclosed if:
   a. The party whose secrets are disclosed grants written consent; and /or
   b. Disclosure is related to the position of a person at public offices pursuant to legislations.

**Article 9**

Exemption Period of memorandum or letters of Inter-Public Body or Intra-Public Body related to Exempted Information shall be stipulated pursuant to legislations.

**Article 10**

(1) Under the approval of the head of concerned Public Body, IDMO may amend the classification of Exempted Information.

(2) Amendment of the classification of Exempted Information as referred to in paragraph (1) shall only be carried out based on Consequences Test.

**Article 11**

(1) In the event an Exemption Period expired, the concerned Exempted Information shall become Public Information which is accessible to Public Information Requester upon stipulation from IDMO.

(2) Stipulation as referred to in paragraph (1) shall not exceed 30 (thirty) working days prior to expiration of the Exemption Period.

(3) In the event of stipulation as referred to in paragraph (2) has not been carried out, Exempted Information shall become Public Information upon the expiration date of the Exemption Period.
CHAPTER IV

INFORMATION AND DOCUMENTATION MANAGEMENT OFFICERS

Part One

General

Article 12

(1) The officer who may be appointed as IDMO within the State Public Body at the central and local level shall be the officers in charge of Public Information.

(2) IDMO as referred to in paragraph (1) shall be appointed by the head of concerned State Public Body.

(3) IDMO in Public Body other than State Public Body shall be appointed by the head of concerned Public Body.

Article 13

(1) IDMO position shall be held by a person having competency in the field of information and documentation management.

(2) The competence referred to in paragraph (1) shall be stipulated by the head of concerned Public Body.

Part Two

Duties and Responsibilities

Article 14

(1) IDMO shall perform the duties and responsibilities below:
   a. to provide, to store, to document and to secure information;
   b. to provide information services pursuant to the prevailing rules;
   c. to provide fast, accurate, and simple Public Information services;
   d. to stipulate operational procedure of Public Information Dissemination;
e. to conduct Test of Consequences;
f. to carry out Information Classification and/or its changes;
g. to stipulate the Exempted Information of which its Exempted Period has expired as accessible Public Information; and
h. to stipulate written consideration of any policies taken to fulfill the right of any Person to Public Information.

(2) In addition to the provisions as referred to in paragraph (1), IDMO may perform duties and responsibilities pursuant to legislations.

Article 15

In performing its duties, IDMO shall be assisted by functional officers in the concerned Public Body.

CHAPTER V

PROCEDURES FOR PAYMENT OF INDEMNITY BY STATE PUBLIC BODY AND BURDEN OF FINE

Part One

Procedures for Payment of Indemnity by the State Public Body

Article 16

(1) Indemnity for the action of State Public Body resulting in material loss suffered by the Plaintiff shall be paid pursuant to procedure of indemnity payment to the State Administrative Court at maximum amount of Rp. 5,000,000,00 (five million rupiahs).

(2) The indemnity as referred to in paragraph (1) shall be stipulated by virtue of a verdict of the State Administrative Court if a material loss due to any unlawful act committed by a State Public body is proven.

(3) The amount of indemnity which has been decided by the State Administrative Court shall be fixed and shall not be
changed despite a grace period between the date of decision and the date of indemnity payment.

**Article 17**

(1) Indemnity to which Public Body is liable shall be burdened to the finance of the concerned Public Body.

(2) Provisions on indemnity payment as referred to in paragraph (1) shall be implemented pursuant to legislations.

**Article 18**

In the event a State Public Body fails to pay indemnity during the current fiscal year, the indemnity payment shall be made in the next fiscal year.

**Part Two**

**Burden of Fines**

**Article 19**

(1) Payment of fine by a Public Body shall be burdened to the finance of the concerned Public Body pursuant to legislations.

(2) Fine as referred to in paragraph (1) shall become the responsibility of Public Officer and not the burden of Public Body’s finance if it is proven that the officer’s acts are beyond his/her main duties, functions, and authorities pursuant to legislations and provisions of the concerned Public Body.

**Article 20**

A court verdict which burden fine to the Public Body as State Administrative Body shall not prejudice the right of the state to charge administrative penalty against Public Officers pursuant to legislations.
CHAPTER VI
CLOSING PROVISIONS

Article 21

(1) IDMO should have been appointed no later than 1 (one) year after this Government Regulation is promulgated.

(2) In the event of IDMO has not been appointed, the duties and responsibilities of IDMO shall be performed by a unit or an office in the field of information, communication, and/or public relations.

Article 22

This Government Regulation shall come into force on the date of its promulgation.

So that every person has knowledge of, ordering the enactment of this Government Regulation with its placement in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

on August 20, 2010

PRESIDENT OF THE REPUBLIC OF INDONESIA,

(signed)

DR.H. SUSILLO BAMBANG YUDHOYONO

Enacted in Jakarta

On August 23, 2010

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

(signed)

PATRILAS AKBAR

STATE GAZETTE OF REPUBLIC OF INDONESIA NUMBER 99 OF 2010
I. GENERAL

Act Number 14 of 2008 on Public Information Openness is a new law regime upholding the transparency principle of the country. The act regulates information openness not only in state institutions but also in nongovernmental organizations whose all or part of their funds come from the public, including the State Revenue and Expenditure Budget and/or the Local Revenue and Expenditure Budget, public donation, and/or foreign origin.

For further regulation, Act Number 14 of 2008 on Public Information Openness mandates issuance of a government regulation on Period of Exemption for Exempted Information and Procedure for Indemnity Payment by State Public Body. However, this Government Regulation concerns not only the two matters mentioned above but also written considerations on policies issued by a Public Body, Classification of Exempted Information, Duties and Functions of Information and Documentation Management Officer, and burden of fines.

Such regulation is required so that Act Number 14 of 2008 on Public Information Openness can be implemented accordingly. It is actually in accordance with Act Number 10 of 2004 on Issuance of legislations providing legal bases for authority delegation to the Government to regulate matters required in carrying out governmental businesses.
In the implementation of public information openness, all public officials should be more transparent, responsible, and oriented on providing good services to people, since implementation of public information openness is the duty of not only Information and Documentation Management Officers but also of public bodies and all of their human resources.

Therefore, implementation of public information openness is expected to encourage more democratic nationhood and statehood.

II. ARTICLE BY ARTICLE

Article 1
Self-explanatory.

Article 2
Self-explanatory.

Article 3
Paragraph (1)
“Classification of information” refers to Exempted Public Information including those related to law enforcement, state defense and security and national economic resilience.

Paragraph (2)
Self-explanatory.

Article 4
Self-explanatory.

Article 5
Paragraph (1)
“Public Information that if disclosed and provided to Public Information Requester could obstruct due process of law” is information that can:
1. obstruct the observation and investigation process of a criminal act;
2. reveal the identity of informants, reporters, witnesses and/or victims having knowledge of a criminal act;
3. reveal criminal intelligence data and plans related to prevention and treatment of any forms of transnational crime;
4. endanger the safety and lives of law enforcement personnels and/or their families; and/or
5. endanger the security of equipments, facilities and/or infrastructures of law enforcement personnels.

Paragraph (2)
Self-explanatory.

Article 6
“Legislations” refers to legislations on trade secrets, legislations on patent, legislations on prohibition of monopoly and unsound business competition, and legislations on corporation documents.

Article 7
Paragraph (1)
“Public Information that if disclosed and provided to Public Information Requester could endanger state defense and security”, refers to:
a. any information concerning strategy, intelligence, operation, tactic and technique related to the operation of state defense and security system, which covers the stages of planning, implementation, and accomplishment or evaluation in relation to domestic or foreign threats;

b. any document containing strategy, intelligence, operation, technique and tactic related to the operation of state defense and security system, which cover the stages of planning, implementation, and accomplishment or evaluation;

c. any figure, composition, disposition or dislocation of strength and ability in the implementation of state defense and security system and its development plan;

d. any image and data regarding military base and/or military installation situation and condition;

e. any estimation data of foreign countries military and defense capacity in relation to all actions and/or indications of such countries that may endanger the sovereignty of the Republic of Indonesia and/or data related to military cooperation with other countries that have been agreed in the agreement as confidential or top secret;

f. state encoding system; and/or
g. state intelligence system.

Paragraph (2)
Self-explanatory.

Paragraph (3)
“Public Information that if disclosed and provided to Public Information Requester could impose harm to national economic resilience” refers to:
1. any initial plan of sales or purchase of national or foreign currency, shares and vital assets of the state;
2. any initial plan of exchange rate adjustments, credit interest rates, and financial institution operation model;
3. any initial plan of bank credit interest rate adjustments, government loans, tax reform, tariff, or other state/local revenues;
4. any initial plan of sales or purchase of land or property;
5. any initial plan of foreign investment;
6. any process and result of supervisions concerning banks, insurance companies, or other financial institutions; and/or
7. other matters related to money printing process.

Paragraph (4)
“Public Information that if disclosed and provided to Public Information Requester could impose harm to international relations” refers to:
1. any position, bargaining power and strategy that will be and has been taken by the state in relation to international negotiation;
2. any international diplomatic correspondence;
3. any communication and encoding system used in carrying out international relations; and/or
4. any protection and security of Indonesia’s overseas strategic infrastructure.

Paragraph (5)
Self-Explanatory.

Article 8
Paragraph (1)
“Legislations” includes legislations on archiving.

Paragraph (2)
“Public Information that if disclosed and provided to Public Information Requester could reveal personal secrecy” refers to:
1. any history and condition of family members;
2. any history, condition and treatment, physical and psychological medication of a person;
3. any financial condition, asset, income and bank account of a person;
4. any evaluation result concerning capability, intellectuality and recommendation of a person’s capacity; and/or
5. any note concerning a person’s formal and non-formal educational activities.

Paragraph (3)
Letter a
Self-Explanatory.

Letter b
“Legislations” refer to legislations on corruption eradication and on corruption eradication commission.

Article 9
“Legislations” refers to legislations on archiving and legislations on company documents.

Article 10
Paragraph (1)
“amend the classification of the Exempted Information” refers to a change of, for example, Public Information which was initially classified as Exempted Information related to law enforcement process into Exempted Information related to state defense and security.

Paragraph (2)
Self-Explanatory.

Article 11
Paragraph (1)
Stipulation in this provision is made in the form of information lists accessible upon requests.

Paragraph (2)
Self-Explanatory.

Paragraph (3)
Self-Explanatory.

Article 12
Self-Explanatory.

Article 13
Self-Explanatory.
Article 14

Paragraph (1)
Self-Explanatory.

Paragraph (2)
“Legislations” refers to legislations on employment affairs.

Article 15
Self-Explanatory.

Article 16

Paragraph (1)
Self-Explanatory.

Paragraph (2)
Self-Explanatory.

Paragraph (3)
“The amount of indemnity which has been decided by the State Administrative Court shall be fixed and shall not be changed” refers to that a grace period between the stipulation date of a verdict of the State Administrative court and the indemnity payment data will not affect the amount of the indemnity which has been decided by State Administrative Judge. Therefore, upon the amount of the indemnity, no interest can be requested in addition to the amount of the indemnity.

Article 17

Paragraph (1)
Self-Explanatory.
Paragraph (2)
“Legislations” refers to laws and regulations on indemnity payment and its implementation in the State Administrative Court.

Article 18
If possible for a State Public Body, indemnity payment can be carried out promptly after a request for execution of the verdict of the State Administrative Court is submitted by the concerned party.

Article 19
Paragraph (1)
“Legislations” refers to legislations on state finance and legislations on indemnity payment and its implementation procedure in the State Administrative Court.

Paragraph (2)
“Legislations” refers to legislations on employment affairs.

Article 20
“Legislations” refers to legislations on employment affairs.

Article 21
Self-Explanatory.

Article 22
Self-Explanatory.