

Presentation of business concerns and recommendations:

- (i) Inconsistency between regulations and practice in obtaining planning permission;
- (ii) Unclear procedures of landscaping;
- (iii) Delay in obtaining BOMBA and DOSH clearance;



Mohamad Muzaffar Abdul Hamid
Timbalan Pengarah
MPC

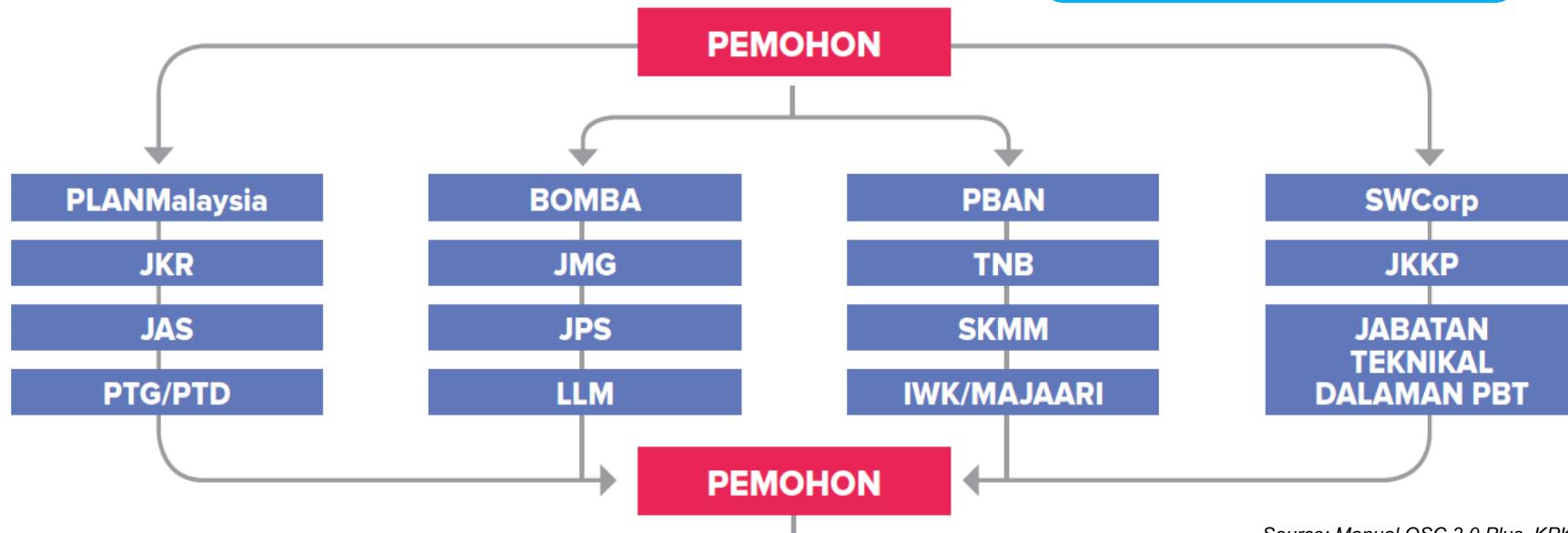
Issues of Concern

Inconsistency between regulations and practice in obtaining planning permission.

PROCESS 1: TECHNICAL DATA GATHERING

Some Local Authority make P1 compulsory.

Contradictory practices between the manual and practice on the ground.



Source: Manual OSC 3.0 Plus, KPKT

Issues:

- Proses 1 is not mandatory, but many PBTs make it compulsory to obtain clearance before submission.
- Flowchart error – the data gathering should be one-to-one process optionally, but not sequential.
- It is not required to obtain technical information from JKR, JPS, LLM and etc because design can be done using standard guidelines and 'Arahan Teknik' prepared by JKR.

PROCESS 2: PROCESSING DEVELOPMENT PLAN

Does OSC staff has knowledge to check / authority to reject applications?

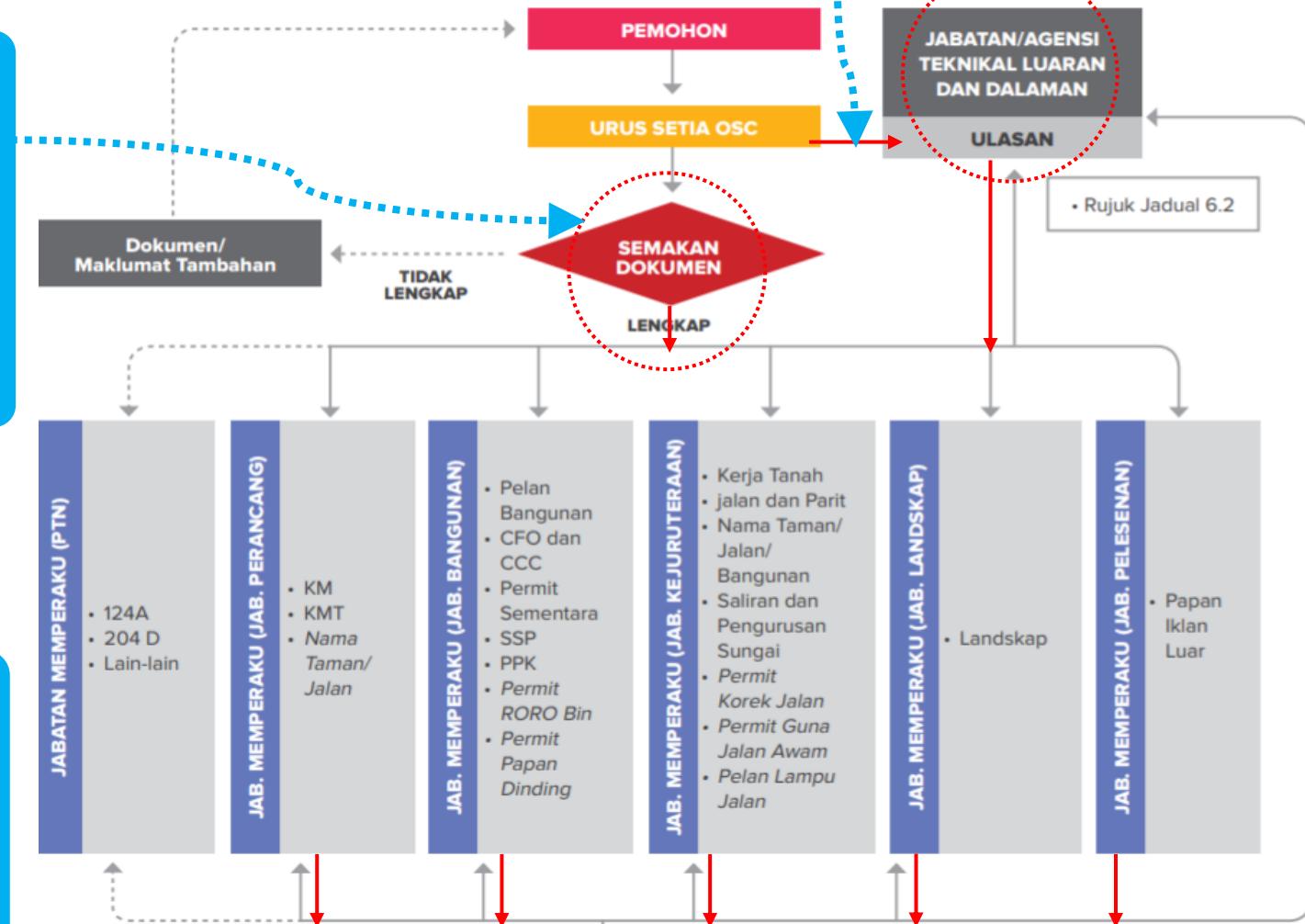
- OSC does not register application and refuse to accept incomplete application to their interpretation.
- It causes many applications are rejected at OSC counter.

KM Submission

- The flow chart referring to external Technical Agency is confusing.
- Who is responsible to send the information to external agencies? OSC or applicant?
- There is no clear list of technical agencies to refer to.

Missing link

- Who is responsible to send the information to external agencies? OSC or applicant?



Issues:

- OSC does not register application and refuse to accept 'incomplete application' to their interpretation.
- Suggestion: OSC to accept application and to distribute to technical agencies / dept for comments.

PROCESS 2: PROCESSING DEVELOPMENT PLAN

Flowchart error?

- From 'Agenzi Memperaku' send to 'Agenzi Memperaku' again?

Nota :

KM - Kebenaran Merancang
 KMT - Kebenaran Merancang Terhad
 SSP - Struktur Sistem Pemancar
 PPK - Permit Pembinaan Kecil
 (Renovation)

Flowchart error?

- Missing link. What is the process flow for 'Lulus Dengan Pindaan Pelan'?

Conditions to Comply in 28d

- OSC to issue the KM approval, compliance amendment conditions to be issued by OSC.
- If OSC does not provide the conditions for applicant to comply, will conditions be waived?

PTN

PEMAKLUMAN KELULUSAN KM BAGI KELULUSAN HAL TANAH

AGENSI MEMPERAKU

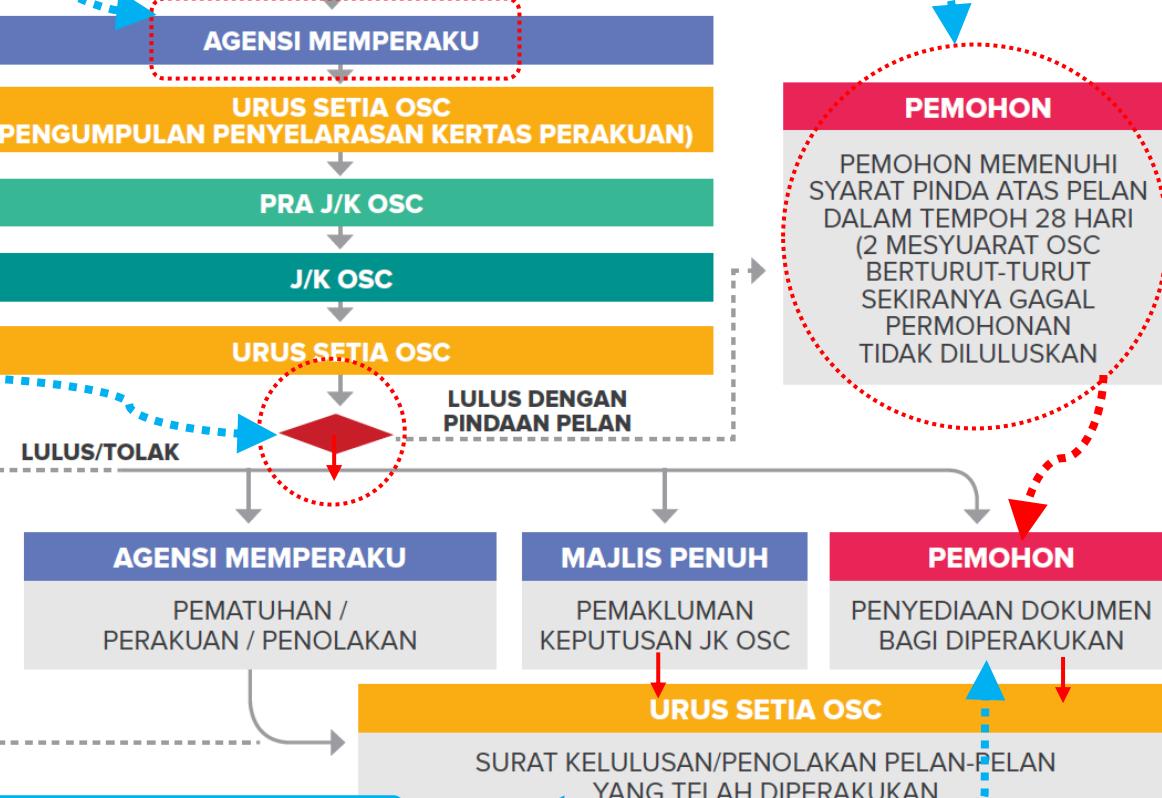
PEMATUHAN / PERAKUAN / PENOLAKAN

MAJLIS PENUH

PEMAKLUMAN KEPUTUSAN JK OSC

PEMOHON

PENYEDIAAN DOKUMEN BAGI DIPERAKUKAN



Flowchart error?

- Penolakan Pelan yang diperakui?
- 'Penyediaan Dokumen' submit to whom? OSC or Planning?
- Development charges / C1 form issuance to applicant is not shown.

EXPA was not implemented by Local Authorities

2.3 PEMAJUAN YANG BOLEH DIKECUALIKAN KEBENARAN MERANCANG (EXPA)

Subseksyen 19(2) Akta 172, telah memberi pengecualian kepada beberapa bentuk atau jenis pemajuan. Berdasarkan Panduan Pelaksanaan Pengecualian Kebenaran Merancang yang diterbitkan pada tahun 2011 oleh PLANMalaysia, beberapa cadangan pemajuan yang boleh dikecualikan KM termasuklah :

- i. PENDIRIAN, PEROBOHAN, PENDIRIAN SEMULA ATAU PENGUBAHAN SATU UNIT RUMAH KEDIAMAN SESEBUAH;
- ii. PENDIRIAN, PEROBOHAN, PENDIRIAN SEMULA ATAU PENGUBAHAN SATU UNIT BANGUNAN INDUSTRI RINGAN SESEBUAH;
- iii. PENDIRIAN, PEROBOHAN, PENDIRIAN SEMULA ATAU PENGUBAHAN SUATU BANGUNAN HARTA BERSAMA DALAM KAWASAN PERUMAHAN STRATA;
- iv. PENGUBAHAN UNTUK MENAIKTARAF DAN MEMBAIKPULIH FASAD BANGUNAN;
- v. PENDIRIAN, PEROBOHAN, PENDIRIAN SEMULA ATAU PENGUBAHAN SUATU BANGUNAN UTILITI.

Issues:

The JPBD guidelines (2011) and OSC 3 plus manual allow exemption on planning approval for listed types of the development, but it is not implemented by PBT.

Example: KM is required for a bungalow although it is exempted under EXPA.

Question: Can existing poultry farmhouse be given EXPA status for modernisation?

CADANGAN PASUKAN MPH INISIATIF 7: PENGECUALIAN KEBENARAN MERANCANG (ExPA)

1. Pendirian Bangunan Rumah Sesebuah Bertanah.
2. Pendirian Semula Bangunan Rumah Sesebuah Bertanah.
3. Tambahan Dan Ubahsuaian Rumah Sesebuah.
4. Pindaan Kepada KM Pendirian Bangunan Sekiranya Tidak Melibatkan Peningkatan Intensiti.
5. Cadangan Bangunan Guna Sama Dalam Skim Perumahan Strata.
6. Menaik Taraf Bangunan Termasuk Pembangunan Fasad.
7. Pembinaan Struktur Utiliti Yang Telah mendapat Kebenaran Merancang seperti PMU, PPU, SSU dan PE, Pembinaan “Permanent Telecommunications Exchange”, Loji Rawatan Kumbahan (STP).

Note: The recommended list of types of the development to be exempted from Planning Approval no.4 was not included in the implementation by Plan Malaysia. Can it be included?

OSC 3.0 plus submission and online system implementation issues are not monitored.

i

Ulasan³

Agensi/ Jabatan Teknikal hendaklah mengeluarkan ulasan berdasarkan skop dan bidang kuasa masing-masing yang hanya perlu mengandungi keperluan teknikal dan bukan teknikal bagi diselaraskan dan pertimbangan PBT. Agensi/ Jabatan Teknikal TIDAK PERLU mengeluarkan SYOR bagi kelulusan atau penolakan permohonan pelan pemajuan seperti 'Tiada Halangan', 'Menyokong', 'Tidak Menyokong' dan seumpamanya. Mekanisma ini adalah selaras dengan ketetapan perkara 8 Kaedah Pengawalan Perancangan Am (KPPA).

Agensi/ Jabatan Teknikal tidak digalakkan memberi salinan ulasan teknikal kepada pemohon (PSP/ SP/ Pemaju) bagi mengelakkan sebarang keputusan dibuat secara UNILATERAL tanpa pengetahuan dan pertimbangan Jawatankuasa OSC yang dipertanggungjawabkan untuk membuat keputusan muktamad.

Sekiranya terdapat sebarang keputusan yang dibuat secara unilateral antara pemohon dengan Agensi/ Jabatan Teknikal ia hendaklah dibentangkan bagi pertimbangan dan keputusan secara KOLEKTIF oleh Jawatankuasa OSC.

3.2. PERANAN DAN TUGAS

Bagi tujuan meningkatkan sistem penyampaian prosedur dan proses permohonan cadangan pemajuan, semua permohonan akan diterima melalui Pusat Setempat.

Peranan Pusat Setempat adalah seperti berikut :

- i. Menyelaras dan memantau permohonan cadangan pemajuan dan permohonan-permohonan lain yang diterima;
- ii. Memaklumkan keputusan kelulusan permohonan cadangan pemajuan kepada pemohon;
- iii. Membuat perakuan permohonan pembangunan tanah kepada Pejabat Tanah; dan
- iv. Menyediakan pelaporan berkala.

Recommendations

- The OSC 3.0 plus manual needs to be improved and information on the procedure and process flow must be made clear to applicants and processing authorities;
- Formal hardcopy submission can be submitted only after 3-7 days obtaining OSC Online clearance;
- Building Plan could not be submitted pending engineering infra-structure plan approval;
- OSC 3.0 plus manual and online system need to be reviewed accordingly;
- KPKT to monitor the implementation of OSC 3.0 plus to ensure compliance with the manual;
- KPKT to include the tracking system for OSC 3.0 plus;
- JKT, KPKT to set up inspectorate team to monitor its implementation;
- To establish referee system to mediate the disputes between regulators and applicants.

Unclear procedures of Landscape Approval requirements

Issues of Concern

- Status of Guidelines for *10% Open Space* in Selangor / MBPJ.
- Large Landscape Area Requirement for *TOD Development*.

Challenges: 10% open space

- The agreed positions between PEMUDAH and PLAN Malaysia at the meeting on 29 October 2017 on Open Space calculations and its requirements has **not been implemented on the ground**.
- PLAN Malaysia agreed that where the approved layout plan have provided the **10% open space** , the plots only need to provide **5% of the plot area as open space**. Further to that, **50% on podium and roof**. Vertical planting cannot be counted in the open space requirement.
- **No detail description and explanation issued** for implementation on this revised 10% landscape / open space requirement.
- Different **interpretations and disputes on its calculation still happen**: either can it be a combination of roof garden, podium top, top of basement slab or on ground?

Challenges: Perimeter planting

- PLAN Malaysia **has agreed not to impose perimeter planting** anymore so long an area equivalent to 5% the plot area is provided as open space (50% at podium & roof level, 50% at ground level).
- The 50% open space at ground level can be above the basement deck in planter's box. PLAN Malaysia find that it is not suitable now to impose perimeter planting around the building.
- The **decision has not been implemented on the ground**. Requirements for 3.1 meter perimeter planting still being implemented.
- **Different interpretations on the 10% landscape** area calculation whether it is inclusive of the perimeter planting or not.

Nisbah Plot	<ul style="list-style-type: none"> ◦ Lembah Klang ◦ Luar Lembah Klang <ul style="list-style-type: none"> ▪ 1:4 ▪ 1:2 <p><i>(Nisbah plot yang sebenar tertakluk kepada RT atau RKK sesuatu kawasan berkenaan)</i></p>
Kawasan Plinth (Maksimum)	<ul style="list-style-type: none"> ▪ 60% <i>(Tertakluk juga kepada RT atau RKK sesuatu kawasan berkenaan)</i>
Jalan Perkhidmatan	<ul style="list-style-type: none"> ▪ Minimum 66' (20.1 m)
Lebar Laluan Keluar-Masuk (ingress/egress)	<ul style="list-style-type: none"> ▪ Minimum 50' (15.2 m)
Anjakan Bangunan	<p>Rujuk Rajah PD4 (i)</p> <ul style="list-style-type: none"> ▪ 40' (12.2m) ▪ 20' (6.1m) ▪ 10' (3.1m)
Kawasan Landskap/Taman/ Rekreasi	<p>▪ 5% daripada keluasan tapak termasuk <i>perimeter planting</i>.</p> <ul style="list-style-type: none"> ◦ 70% daripada keluasan Kawasan Landskap/Taman/Rekreasi hendaklah disediakan di atas tanah secara berpusat yang berfungsi sebagai kawasan lapang dan tempat berkumpul. ◦ 30% boleh disediakan sebagai <i>indoor</i> dan <i>rooftop garden</i> dan boleh disediakan dalam bentuk laman luaran dataran/ plaza atau laman dataran/<i>courtyard</i>. <p>▪ Menyediakan tempat permainan kanak-kanak, tempat berteduh dan berehat.</p>
Perimeter Planting	<p>▪ Minimum 10' (3.1m) di sekeliling kawasan pembangunan dan termasuk anjakan bangunan. <i>[Rujuk Rajah PD4 (i)]</i></p>

Manual Garis Panduan Dan Piaawaian Perancangan Negeri Selangor (Edisi Ketiga) ini telah diluluskan pemakaianya di MMKN ke 35/2016 pada 19hb. Oktober 2016 dan disahkan di MMKN ke 36/2016 pada 26hb. Oktober 2016.

Source: Manual Garispanduan Perancangan JPBD Selangor (Edisi Ketiga)

Transit Oriented Development (TOD) Challenges:

- **No clear guidelines** on landscape requirement for Transit Oriented Development (TOD).
- Allowing plot ratio 1:8 for TOD with inclusion of public facilities and spaces for social and conveniences are justifiable and acceptable.
- However, the required provision for **40% Open Space on Ground Floor** is too stringent and affecting development and impractical in achieving the allowable plot ratio.

- Instead of 40% open space, the provision for TOD should be based on minimum **5% open space** area with 2.5% on the ground and 2.5% can be on the Podium and/or Roof (*based on PLAN Malaysia Guidelines on non-TOD Developments*).
- For full TOD plot ratio entitlement, it is proposed the open space to be minimum of **5% on the ground floor** and **another 5% on the podium and/or roof**. Effectively, double the standard requirements of non-TOD developments.

Delay in obtaining BOMBA and DOSH clearance

PROCESS 5: FINAL INSPECTION

Physical Completion

IWK

TNB

SYABAS

*Essential services installations deemed to be accepted by service providers after 28 days.

Note: *28 Days deeming clause applicable only for clearance of the utilities services, to ensure that CCC can be issued after completion of P5: Stage 2 inspection without the need to wait for clearance letters from the utility providers.

Final Inspection P5:
Stage 1 for utilities services to be completed in 14 days.

DOSH

BOMBA

PBT/JKR/LLM

*No deeming clause implemented for DOSH and BOMBA clearance

*Road & Drainage deemed to be accepted after 14 days.

Final Inspection P5:
Stage 2 for DOSH, BOMBA and R&D to be completed in 14 days.

Compliance audit can be done at any time within 365 days from date of CCC.

* After 365 days period is over, the building owner will perpetually responsible to ensure the building is safe and properly maintained as required under statutory requirements.



PROCESS 5: FINAL INSPECTION

Collaboration with private-sector building professionals through self-regulations.

Building Inspection Delay



Completed buildings cannot be occupied pending authorities' clearance letter for CCC

Self-Regulations



To resolve CCC delays via professional self-regulation for issuance of CCC by Architects & Engineers

Risk-based Inspection



Deeming clauses for DOSH and BOMBA Clearance letter after **14 days.**

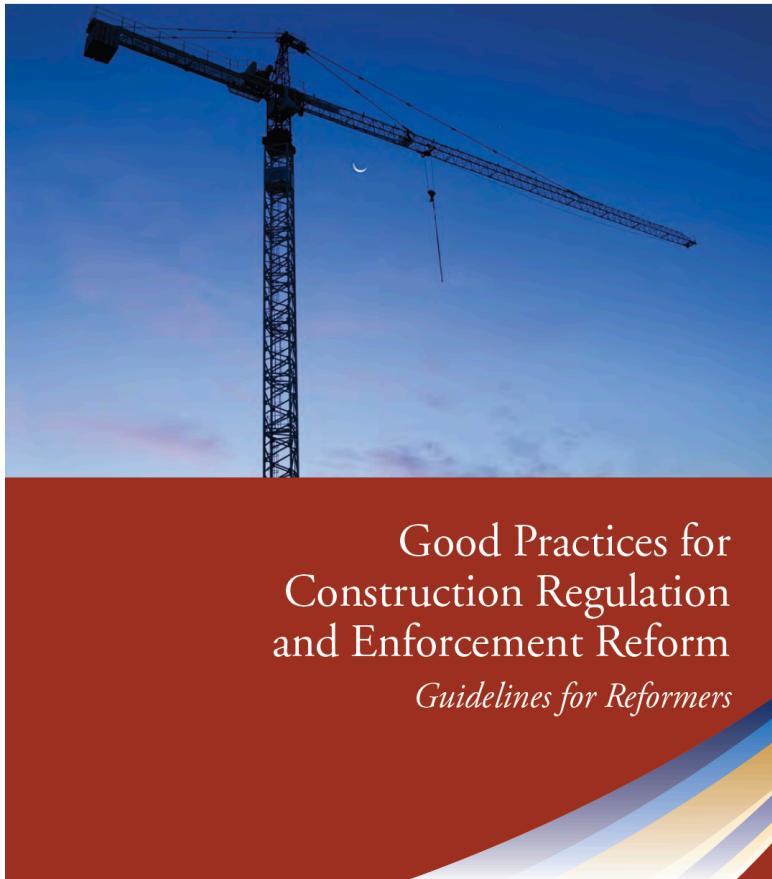
Recommendations

CCC for completed buildings with essential services connected, shall be issued by PSP based on professional judgement and declarations by PSP and SP, with provision for clearance letter to be deemed have be given, if no comment given after 14 days from the date of request for inspection.

Regulatory Reforms

JANUARY 2013

INVESTMENT CLIMATE



The enforcement of construction permits continues to be complex the world over, creating **opportunities for widespread discretion** and **corruption** and ultimately leading to high numbers of informal buildings.

The World Bank Enterprise Survey Index provides a measure of the challenges end users face from this exposure to different bureaucracies. Globally, **23.2 percent** of firms are expected to **give gifts to get a construction permit**.

This rate is 67 percent in India and 91.6 percent in Cambodia. **More complex building regulations are associated with higher perceptions of corruption.**

Reforms as Good Regulation, Not Deregulation

Major strategies to meet the challenge of improving compliance by shifting from traditional **control-and-command** regulations to better, **more effective** regulations:

- Seeking new **collaboration with private-sector building professionals**;
- Focusing on risk-management;
- Leveraging information and communications technology (ICT) solutions.

Investment Climate | World Bank Group



MPC PEMUDAH

Technical Working Group in
Dealing with Construction Permit