

Legal Insight – Foreign Investment

A PRACTICAL GUIDE TO ESTABLISHING A FOREIGN CONSTRUCTION BUSINESS IN INDONESIA

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Are you a foreign construction company looking to expand your business into Indonesia? Indonesia's continued infrastructure development has increased demand for construction services across various sectors, including energy, transportation, and urban development.

These developments have created opportunities for foreign construction companies to participate in construction projects in Indonesia. However, before starting any construction activities, foreign companies must first understand and comply with Indonesia's legal requirements.

The following are key aspects that foreign construction companies should know before entering Indonesia's construction sector.

Entry Options for Foreign Construction Companies in Indonesia

Foreign construction companies that intend to conduct construction activities in Indonesia must establish a presence in accordance with Indonesia's applicable regulations. There are two (2) options available for foreign construction companies to enter Indonesia's construction sector.

First, foreign construction companies may establish a representative office in Indonesia, known as a Representative Office of a Foreign Construction Services Business Entity (*Kantor Perwakilan Badan Usaha Jasa Konstruksi Asing* or "**KP BUJKA**"). KP BUJKA allows a foreign construction company to carry out construction business activities in Indonesia through a local presence. Under this option, the foreign construction company through its KP BUJKA must cooperate with an Indonesian construction company through a joint operation arrangement. The Indonesian partner must be a domestic investment company (*Perseroan Terbatas Penanaman Modal Dalam Negeri* or "**PT PMDN**") that provides construction services and holds the required construction business licenses (*Badan Usaha Jasa Konstruksi Nasional* or "**BUJKN**"). A KP BUJKA is not an Indonesian legal entity but serves as the local representative office of the foreign construction company.

Second, foreign construction companies may establish a foreign investment company (*Perseroan Terbatas Penanaman Modal Asing* or "**PT PMA**") in Indonesia. This option requires the foreign construction company to enter into a joint venture with an Indonesian construction company to establish a PT PMA. The Indonesian partner must be a PT PMDN engaged in construction services. Under this arrangement, foreign construction companies from ASEAN member states may own up to 70% of the shares in the PT PMA, while foreign construction companies from non-ASEAN countries may own up to 67%.

Who Can Establish a KP BUJKA: Eligibility Criteria

A KP BUJKA can be established by a foreign construction company that is legally established and based outside Indonesia and intends to carry out construction activities in Indonesia.

To be eligible, the foreign construction company must have a large-scale qualification, meaning that it is capable of undertaking high-value and high-risk construction projects involving advanced technology.

In principle, foreign construction companies operating through a KP BUJKA are intended to undertake construction projects that involve high complexity, high risk, advanced technology, and/or significant project value rather than ordinary construction project. This requirement reflects Indonesia's policy of encouraging technology transfer while strengthening the capacity of domestic construction companies through cooperation between foreign and Indonesian construction business entities.

Key Requirements for Setting Up a KP BUJKA

In addition to the eligibility criteria above, foreign construction companies are required to fulfill the following requirements to establish a KP BUJKA:

- a. Business Requirements
 - i. hold a qualification equivalent to a large-scale construction business entity;
 - ii. obtain the required business licenses; and
 - iii. establish a joint operation with an Indonesian construction company that has a large-scale qualification and the required business licenses.
- b. Employment Requirements
 - i. employ more Indonesian workers than foreign workers; and
 - ii. appoint an Indonesian citizen as the person in charge of the KP BUJKA.
- c. Technology Requirements
 - i. prioritize the use of domestic construction materials and technology;
 - ii. use advanced, efficient, and environmentally friendly technology while considering local needs and practices; and
 - iii. carry out technology transfer.

Required Documents for KP BUJKA Establishment

Foreign construction companies must prepare several documents to establish a KP BUJKA. The required documents include the following:

- a. Corporate documents of the foreign company, such as:
 - i. the deed of establishment of the foreign company; and
 - ii. approval of the company's constitutional documents in accordance with the laws of its home country.
- b. Appointment and representative office documents, such as:
 - i. letter of appointment signed by the head of the foreign construction company in its home country or its authorized representative; and

- ii. confirmation letter issued by the Indonesian representative office in the foreign company's home country.
- c. Documents relating to the KP BUJKA in Indonesia, such as:
 - i. valid lease agreement between the KP BUJKA and the building owner or office building manager;
 - ii. business information;
 - iii. proof of payment of Non-Tax State Revenue (*Penerimaan Negara Bukan Pajak* or "**PNBP**"); and
 - iv. self-declaration regarding safety, security, health, and environmental protection (*Keamanan, Keselamatan, Kesehatan, dan Pelestarian Fungsi Lingkungan* or "**K3L**").
- d. Supporting information for the Construction Business Entity Certificate application, such as:
 - i. annual sales;
 - ii. financial capability;
 - iii. construction workforce;
 - iv. construction equipment;
 - v. anti-bribery management system;
 - vi. construction association membership; and
 - vii. beneficial ownership.

Main Licenses Required to Establish a KP BUJKA

As part of the establishment process, foreign construction companies are required to obtain the following licenses:

- a. Business Identification Number (*Nomor Induk Berusaha* or "**NIB**")

The NIB is the official business identification number obtained through the Online Single Submission ("**OSS**") system. It serves as the primary business identification number for the KP BUJKA and forms part of the business licensing process required to conduct construction business activities in Indonesia. The NIB is valid as long as the business continues to operate in accordance with the applicable laws and regulations.
- b. Construction Business Entity Certificate (*Sertifikat Badan Usaha* or "**SBU**")

The SBU is a certificate that confirms the classification and qualification of a foreign construction company to conduct construction business in Indonesia. It is issued through an accredited Construction Business Entity Certification Body (*Lembaga Sertifikasi Badan Usaha* or "**LSBU**"). The SBU is valid for three (3) years and may be extended or amended. For a KP BUJKA, the SBU must be issued with a large-scale qualification.
- c. Standard Certificate (*Sertifikat Standar*)

The Standard Certificate confirms that a KP BUJKA has met the required business standards to conduct construction business activities in Indonesia. It is issued through the OSS system. The Standard Certificate must be renewed every three (3) years for each registered sub-classification.

Steps to Establish a KP BUJKA in Indonesia

Once a foreign construction company has decided to establish a KP BUJKA in Indonesia, the process generally involves the following steps:

First, prepare the required documents. Foreign construction companies must prepare the corporate and supporting documents required for the application.

Second, obtain the NIB. The application for the NIB must be submitted through the OSS system by completing the required information and uploading the supporting documents. Once the application is approved, the NIB will be issued to the KP BUJKA. After obtaining the NIB, the KP BUJKA is required to enter into a joint operation arrangement with a qualified Indonesian construction company in accordance with the applicable regulations.

Third, apply for the SBU. The application must be submitted through the licensing portal of the Ministry of Public Works and Housing, which is connected to the Integrated Construction Services Information System (*Sistem Informasi Jasa Konstruksi* or “**SIJK**”). The application will then be processed by an accredited LSBU, and the certification process must be completed within 15 days after the payment has been verified.

Fourth, obtain the Standard Certificate. After the SBU has been issued, the KP BUJKA must fulfill the Standard Certificate requirements through the OSS system by entering the SBU number corresponding to its Indonesian Standard Industrial Classification (*Klasifikasi Baku Lapangan Usaha Indonesia* or “**KBLI**”). The Standard Certificate will be issued within 15 days after the required documents have been correctly submitted through the OSS system.

As discussed above, understanding the key requirements and procedures can help foreign construction companies navigate the establishment process more efficiently. Proper legal planning and regulatory compliance are essential to establishing and operating a foreign construction business in Indonesia successfully.

If you have any questions about establishing a foreign construction business in Indonesia, please feel free to contact our team.



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